

104TH CONGRESS
1ST SESSION

H. R. 2393

To restore the second amendment rights of all Americans.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 1995

Mr. STOCKMAN (for himself, Mr. FUNDERBURK, Mr. YOUNG of Alaska, Mrs. CHENOWETH, and Mr. HOSTETTLER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To restore the second amendment rights of all Americans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Second Amendment
5 Reaffirmation Act of 1995.”

6 **SEC. 2. FINDINGS.**

7 The Congress finds:

8 (1) Article I, section 8, of the Constitution of
9 the United States gives no authority to Congress to

1 require a waiting period or a background check be-
2 fore the sale of a firearm.

3 (2) The United States Supreme Court, in
4 United States v. Lopez, struck down gun control leg-
5 islation for lack of constitutional authority.

6 (3) A number of Federal district courts have
7 ruled that the Federal mandate imposed on the
8 States by Public Law 103–159 violates the tenth
9 amendment to the Constitution of the United States.

10 (4) Public Law 103–159 violates the second
11 amendment to the Constitution of the United States
12 because it impermissibly infringes on the right of the
13 people to secure a firearm when necessary for the
14 protection of person and property and for the pur-
15 suit of other constitutionally protected activities.

16 (5) Waiting periods and background checks
17 have produced devastating effects for law-abiding
18 citizens trying to acquire firearms for self-defense.
19 For example:

20 (A) Phillip Russell Coleman, a resident of
21 Louisiana, sought to buy a handgun for self-de-
22 fense, but was erroneously rejected after a
23 background check in August, 1995. The error
24 was later corrected—three days after Coleman
25 was murdered in his place of employment.

1 (B) Residents of Los Angeles were forced
2 to wait fifteen days during the 1992 riots be-
3 fore they could legally buy firearms for protec-
4 tion, in spite of the fact that police admitted
5 they could not protect them.

6 (C) In 1991, Bonnie Elmasri of Wisconsin
7 tried to purchase a handgun to protect herself
8 from her estranged husband, but he returned
9 home and killed her and her two children before
10 the forty-eight-hour waiting period required by
11 State law had expired.

12 (6) In addition to the problem of delays and er-
13 roneous denials for law-abiding citizens who need to
14 protect themselves, background checks can also lend
15 themselves to official abuse.

16 (A) In 1991, the office of Technology As-
17 sessment commented on the possibility of gun
18 owner registration under Virginia's instant
19 check system. It stated, "[T]he potential [for
20 registration] exists regardless of legal prohibi-
21 tions."

22 (B) A Justice Department Task Force
23 stated in 1989 that "[a]ny system that requires
24 a criminal record check prior to purchase of a
25 firearm creates the potential for the automated

1 tracking of individuals who seek to purchase
2 firearms.”

3 **SEC. 3. SECOND AMENDMENT RESTORATION.**

4 (a) Public Law 103–159 is hereby repealed, and any
5 provisions of law amended or repealed by such Act are
6 restored or revived as if such Act had not been enacted.

7 (b) The Assault Weapon Manufacturing Strict Liabil-
8 ity Act of 1990 (D.C. Act 8–289, signed by the Mayor
9 of the District of Columbia on December 17, 1990) is
10 hereby repealed, and any provisions of law amended or re-
11 pealed by such Act are restored or revived as if such Act
12 had not been enacted.

13 (c) The second sentence of paragraph (4) of sub-
14 section (g) of section 923 of title 18, United States Code,
15 is amended to read as follows: “Where discontinuance of
16 the business is absolute, such records shall be delivered
17 within thirty days after the business discontinuance to an-
18 other licensee.”.

19 (d) Subparagraph (2)(A) of subsection (d) of section
20 924 of title 18, United States Code, is amended by adding
21 after “chapter” the following: “or under chapter 53 of
22 subtitle E of title 26, United States Code, including a pro-
23 ceeding before an Administrative Law Judge”.

24 (e) Subparagraph (2)(B) of subsection (d) of section
25 924 of title 18, United States Code, is amended by adding

1 after “chapter” the following: “or under chapter 53 of
2 subtitle E of title 26, United States Code, including a pro-
3 ceeding before an Administrative Law Judge”.

4 (f) Subparagraph (2)(D) of subsection (d) of section
5 924 of title 18, United States Code, is amended by strik-
6 ing all after “(D)” and inserting in lieu thereof the follow-
7 ing: “Any person aggrieved by the violation of any civil
8 or constitutional right in connection with the lawful pos-
9 session or use of a firearm by the Government of the
10 United States or any official or employee thereof or the
11 government of any State or subdivision or any official em-
12 ployee thereof may bring an action for actual and punitive
13 damages in the Federal district court in which such person
14 resides or transacts business. The court may award a pre-
15 vailing plaintiff, other than the Government of the United
16 States or any State or any subdivision thereof, or any offi-
17 cial or employee thereof, reasonable attorneys’ fees and
18 costs. Nothing in this subparagraph shall be construed to
19 limit any remedies which may otherwise be available to
20 such person.”

21 (g) Section 926 of title 18, United States Code, is
22 amended by adding at the end thereof the following new
23 subsections:

24 “(d) No provision of law, nor any statute of any State
25 or subdivision thereof, enacted to regulate the level of any

1 pollutant or pollutants may be applied to the sale, trans-
2 portation, possession, importation, or use of any firearm
3 or ammunition.

4 “(e) No officer or employee of the Bureau of Alcohol,
5 Tobacco and Firearms may undertake any investigation
6 of a single individual, organization, or business which will
7 reasonably require expenditures in excess of \$4,000 with-
8 out prior written approval by the Deputy Secretary of the
9 Treasury.

10 “(f) No officer or employee of the Bureau of Alcohol,
11 Tobacco and Firearms may undertake any investigation
12 in consultation or cooperation with the Internal Revenue
13 Service without prior written approval by the Deputy Sec-
14 retary of the Treasury.

15 “(g) Whoever violates any provision of this section
16 shall be imprisoned for not more than two years, fined
17 not more than \$250,000, or both.

18 “(h)(1) No officer, agent, or employee of the United
19 States may list, record, copy, or computerize the names
20 of firearms owners, other than those required to be main-
21 tained under title 26, United States Code, nor shall such
22 officer, agent, or employee transfer information concern-
23 ing the identities of firearms owners to a facility owned,
24 managed, or controlled by the United States or any State
25 or political subdivision thereof, nor shall such officer,

1 agent, or employee participate in the establishment of any
2 system of registration of firearms, firearms owners, or
3 firearms transactions or dispositions. Any list, record,
4 copy, computerization, facility, or system which, had it
5 been created or expanded following the effective date of
6 this Act, would be in violation of this Act, together with
7 any records delivered to the Secretary pursuant to para-
8 graph (4) of subsection (g) of section 923 of title 18,
9 United States Code, shall be destroyed within ninety days
10 of the effective date of this Act.

11 “(2) Any person aggrieved by the violation of any
12 civil or constitutional right in connection with a violation
13 of the provisions or this subsection by the Government of
14 the United States or any official or employee thereof or
15 the government of any State or subdivision or any official
16 or employee thereof may bring an action for actual and
17 punitive damages in the Federal district court in which
18 such person resides or transacts business. The court may
19 award a prevailing plaintiff, other than the Government
20 of the United States or any subdivision thereof, or any
21 official or employee thereof, reasonable attorneys’ fees and
22 costs. Nothing in this subparagraph shall be construed to
23 limit any remedies which may otherwise be available to
24 such person.”.

1 **SEC. 4. SEVERABILITY.**

2 If any provision of this Act or the application thereof
3 to any person or circumstance is held invalid, the invalid-
4 ity does not affect other provisions or applications of the
5 Act which can be given effect without the invalid provi-
6 sions or applications, and to this end the provisions of this
7 Act are severable.

8 **SEC. 5. EFFECTIVE DATE.**

9 The provisions of this Act shall take effect imme-
10 diately upon enactment.

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