

106TH CONGRESS
1ST SESSION

H. R. 2443

To amend chapter 44 of title 18, United States Code, relating to the regulation of firearms dealers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 1999

Mrs. LOWEY (for herself, Mrs. MCCARTHY of New York, Ms. DELAURO, Ms. JACKSON-LEE of Texas, Ms. SCHAKOWSKY, Mrs. MALONEY of New York, Mrs. NAPOLITANO, Ms. CARSON, Ms. NORTON, Ms. WOOLSEY, Ms. LOFGREN, Ms. MILLENDER-MCDONALD, Ms. LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MINK of Hawaii, and Mr. WEINER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 44 of title 18, United States Code, relating to the regulation of firearms dealers, and for other purposes.

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 “Targeted Gun Dealer
5 Enforcement Act of 1999”.

6 **SEC. 2. REGULATION OF LICENSED DEALERS.**

7 (a) PROHIBITION ON STRAW PURCHASES.—

1 (1) IN GENERAL.—Section 922(a)(6) of title
2 18, United States Code, is amended by inserting “,
3 or with respect to the identity of the person in fact
4 purchasing or attempting to purchase such firearm
5 or ammunition,” before “under the”.

6 (2) PENALTIES.—Section 924(a)(3) of title 18,
7 United States Code, is amended by adding at the
8 end the following: “Notwithstanding the preceding
9 sentence, a violation in relation to section 922(a)(6)
10 or 922(d) by a licensed dealer, licensed importer, li-
11 censed manufacturer, or licensed collector shall be
12 subject to the penalties under paragraph (2) of this
13 subsection.”.

14 (b) NOTIFICATION OF STATE LAW REGARDING CAR-
15 RYING CONCEALED FIREARMS.—Section 922 of title 18,
16 United States Code, is amended by inserting after sub-
17 section (y) the following:

18 “(z) NOTIFICATION OF STATE REQUIREMENTS.—It
19 shall be unlawful for a licensed dealer to transfer a firearm
20 to any person, unless the dealer notifies that person
21 whether applicable State law requires persons to be li-
22 censed to carry concealed firearms in the State, or pro-
23 hibits the carrying of concealed firearms in the State.”.

24 (c) REVOCATION OR SUSPENSION OF LICENSE; CIVIL
25 PENALTIES.—Section 923 of title 18, United States Code,

1 is amended by striking subsections (e) and (f) and insert-
2 ing the following:

3 “(e) REVOCATION OR SUSPENSION OF LICENSE;
4 CIVIL PENALTIES.—

5 “(1) IN GENERAL.—The Secretary may, after
6 notice and opportunity for hearing—

7 “(A) suspend or revoke any license issued
8 under this section, if the holder of such
9 license—

10 “(i) willfully violates any provision of
11 this chapter or any rule or regulation pre-
12 scribed by the Secretary under this chap-
13 ter; or

14 “(ii) fails to have secure gun storage
15 or safety devices available at any place in
16 which firearms are sold under the license
17 to persons who are not licensees (except
18 that in any case in which a secure gun
19 storage or safety device is temporarily un-
20 available because of theft, casualty loss,
21 consumer sales, backorders from a manu-
22 facturer, or any other similar reason be-
23 yond the control of the licensee, the li-
24 censed dealer shall not be considered to be

1 in violation of the requirement to make
2 available such a device);

3 “(B) suspend or revoke the license issued
4 under this section to a dealer who willfully
5 transfers armor piercing ammunition; and

6 “(C) assess and collect a civil penalty of
7 not more than \$10,000 per violation against
8 any holder of a license, if the Secretary is au-
9 thorized to suspend or revoke the license of that
10 holder under subparagraph (A) or (B).

11 “(2) LIABILITY.—The Secretary may at any
12 time compromise, mitigate, or remit the liability with
13 respect to any willful violation of this subsection or
14 any rule or regulation prescribed by the Secretary
15 under this subsection.

16 “(3) REVIEW.—An action of the Secretary
17 under this subsection may be reviewed only as pro-
18 vided in subsection (f).

19 “(4) NOTIFICATION REQUIREMENT.—Not less
20 than once every 6 months, the Secretary shall notify
21 each licensed manufacturer and each licensed dealer
22 of the name, address, and license number of each
23 dealer whose license was suspended or revoked under
24 this section during the preceding 6-month period.

25 “(f) RIGHTS OF APPLICANTS AND LICENSEES.—

1 “(1) IN GENERAL.—If the Secretary denies an
2 application for, or revokes or suspends a license, or
3 assesses a civil penalty under this section, the Sec-
4 retary shall provide written notice of such denial,
5 revocation, suspension, or assessment to the affected
6 party, stating specifically the grounds upon which
7 the application was denied, the license was sus-
8 pended or revoked, or the civil penalty was assessed.
9 Any notice of a revocation or suspension of a license
10 under this paragraph shall be given to the holder of
11 such license before the effective date of the revoca-
12 tion or suspension, as applicable.

13 “(2) APPEAL PROCESS.—

14 “(A) HEARING.—If the Secretary denies
15 an application for, or revokes or suspends a li-
16 cense, or assesses a civil penalty under this sec-
17 tion, the Secretary shall, upon request of the
18 aggrieved party, promptly hold a hearing to re-
19 view the denial, revocation, suspension, or as-
20 sessment. A hearing under this subparagraph
21 shall be held at a location convenient to the ag-
22 grieved party.

23 “(B) NOTICE OF DECISION; APPEAL.—If,
24 after a hearing held under subparagraph (A),
25 the Secretary decides not to reverse the decision

1 of the Secretary to deny the application, revoke
2 or suspend the license, or assess the civil pen-
3 alty, as applicable—

4 “(i) the Secretary shall provide notice
5 of the decision of the Secretary to the ag-
6 grievied party;

7 “(ii) during the 60-day period begin-
8 ning on the date on which the aggrieved
9 party receives a notice under clause (i), the
10 aggrieved party may file a petition with the
11 district court of the United States for the
12 judicial district in which the aggrieved
13 party resides or has a principal place of
14 business for a de novo judicial review of
15 such denial, revocation, suspension, or as-
16 sessment;

17 “(iii) in any judicial proceeding pursu-
18 ant to a petition under clause (ii)—

19 “(I) the court may consider any
20 evidence submitted by the parties to
21 the proceeding, regardless of whether
22 or not such evidence was considered
23 at the hearing held under subpara-
24 graph (A); and

1 “(II) if the court decides that the
2 Secretary was not authorized to make
3 such denial, revocation, suspension, or
4 assessment, the court shall order the
5 Secretary to take such actions as may
6 be necessary to comply with the judg-
7 ment of the court.

8 “(3) STAY PENDING APPEAL.—If the Secretary
9 suspends or revokes a license under this section,
10 upon the request of the holder of the license, the
11 Secretary shall stay the effective date of the revoca-
12 tion, suspension, or assessment.”.

13 (d) EFFECT OF CONVICTION.—Section 925(b) of title
14 18, United States Code, is amended by striking “until any
15 conviction pursuant to the indictment becomes final” and
16 inserting “until the date of any conviction pursuant to the
17 indictment”.

18 (e) REGULATION OF HIGH-VOLUME CRIME GUN
19 DEALERS.—Section 923(g) of title 18, United States
20 Code, is amended by adding at the end the following:

21 “(8) HIGH-VOLUME CRIME GUN DEALERS.—

22 “(A) DEFINITION.—In this paragraph, the
23 term ‘high-volume crime gun dealer’ means any
24 licensed dealer with respect to which a designa-

1 tion under subparagraph (B)(i) is in effect, as
2 provided in subparagraph (B)(ii).

3 “(B) DESIGNATION OF HIGH-VOLUME
4 CRIME GUN DEALERS.—

5 “(i) IN GENERAL.—The Secretary
6 shall designate a licensed dealer as a high-
7 volume crime gun dealer—

8 “(I) as soon as practicable, if the
9 Secretary determines that the licensed
10 dealer sold, delivered, or otherwise
11 transferred to 1 or more persons not
12 licensed under this chapter not less
13 than 25 firearms that, during the pre-
14 ceding calendar year, were used dur-
15 ing the commission or attempted com-
16 mission of a criminal offense under
17 Federal, State, or local law, or were
18 possessed in violation of Federal,
19 State, or local law; or

20 “(II) immediately upon the expi-
21 ration date of a suspension of the li-
22 cense of that dealer for a willful viola-
23 tion of this chapter, if such violation
24 involved 1 or more firearms that were
25 subsequently used during the commis-

1 sion or attempted commission of a
2 criminal offense under Federal, State,
3 or local law.

4 “(ii) EFFECTIVE PERIOD OF DESIGNA-
5 TION.—A designation under clause (i) shall
6 remain in effect during the period begin-
7 ning on the date on which the designation
8 is made and ending on the later of—

9 “(I) the expiration of the 18-
10 month period beginning on that date;
11 or

12 “(II) the date on which the li-
13 cense issued to that dealer under this
14 section expires.

15 “(C) NOTIFICATION REQUIREMENT.—
16 Upon the designation of a licensed dealer as a
17 high-volume crime gun dealer under subpara-
18 graph (B), the Secretary shall notify the appro-
19 priate United States attorney’s office, the ap-
20 propriate State and local law enforcement agen-
21 cies (including the district attorney’s offices and
22 the police or sheriff’s departments), and each
23 State and local agency responsible for the
24 issuance of business licenses in the jurisdiction

1 in which the high-volume crime gun dealer is lo-
2 cated of such designation.

3 “(D) REPORTING AND RECORDKEEPING
4 REQUIREMENTS.—Notwithstanding any other
5 provision of this paragraph—

6 “(i) not later than 10 days after the
7 date on which a handgun is sold, delivered,
8 or otherwise transferred by a high-volume
9 crime gun dealer to a person not licensed
10 under this chapter, the high-volume crime
11 gun dealer shall submit to the Secretary
12 and to the department of State police or
13 State law enforcement agency of the State
14 or local jurisdiction in which the sale, de-
15 livery, or transfer took place, on a form
16 prescribed by the Secretary, a report of the
17 sale, delivery, or transfer, which report
18 shall include—

19 “(I) the manufacturer or im-
20 porter of the handgun;

21 “(II) the model, type, caliber,
22 gauge, and serial number of the hand-
23 gun; and

1 “(III) the name, address, date of
2 birth, and height and weight of the
3 purchaser or transferee, as applicable;

4 “(ii) each high-volume crime gun deal-
5 er shall submit to the Secretary, on a form
6 prescribed by the Secretary, a monthly re-
7 port of each firearm received and each fire-
8 arm disposed of by the dealer during that
9 month, which report shall include only the
10 name of the manufacturer or importer and
11 the model, type, caliber, gauge, serial num-
12 ber, date of receipt, and date of disposition
13 of each such firearm, except that the initial
14 report submitted by a dealer under this
15 clause shall include such information with
16 respect to the entire inventory of the high-
17 volume crime gun dealer; and

18 “(iii) a high-volume crime gun dealer
19 may not destroy any record required to be
20 maintained under paragraph (1)(A).

21 “(E) INSPECTION.—Notwithstanding para-
22 graph (1), the Secretary may inspect or exam-
23 ine the inventory and records of a high-volume
24 crime gun dealer at any time without a showing
25 of reasonable cause or a warrant for purposes

1 of determining compliance with the require-
2 ments of this chapter.

3 “(F) RECORDKEEPING BY LOCAL POLICE
4 DEPARTMENTS.—Notwithstanding paragraph
5 (3)(B), a State or local law enforcement agency
6 that receives a report under subparagraph
7 (D)(i) may retain a copy of that record for not
8 more than 5 years.

9 “(G) LICENSE RENEWAL.—Notwith-
10 standing subsection (d)(2), the Secretary shall
11 approve or deny an application for a license
12 submitted by a high-volume crime gun dealer
13 before the expiration of the 120-day period be-
14 ginning on the date on which the application is
15 received.

16 “(H) EFFECT OF FAILURE TO COMPLY.—

17 “(i) IN GENERAL.—Notwithstanding
18 subsection (e), the Secretary shall, after
19 notice and an opportunity for a hearing—

20 “(I) suspend for not less than 90
21 days any license issued under this sec-
22 tion to a high-volume crime gun deal-
23 er who willfully violates any provision
24 of this section (including any require-
25 ment of this paragraph);

1 “(II) revoke any license issued
 2 under this section to a high-volume
 3 crime gun dealer who willfully violates
 4 any provision of this section (includ-
 5 ing any requirement of this para-
 6 graph) and who has committed a
 7 prior willful violation of any provision
 8 of this section (including any require-
 9 ment of this paragraph); and

10 “(III) revoke any license issued
 11 under this section to a high-volume
 12 crime gun dealer who willfully violates
 13 any provision of section 922 or 924.

14 “(ii) STAY PENDING APPEAL.—Not-
 15 withstanding subsection (f)(3), the Sec-
 16 retary may not stay the effective date of a
 17 suspension or revocation under this sub-
 18 paragraph pending an appeal.”.

19 **SEC. 3. ENHANCED ABILITY TO TRACE FIREARMS.**

20 (a) VOLUNTARY SUBMISSION OF DEALER’S
 21 RECORDS.—Section 923(g)(4) of title 18, United States
 22 Code, is amended to read as follows:

23 “(4) VOLUNTARY SUBMISSION OF DEALER’S
 24 RECORDS.—

25 “(A) BUSINESS DISCONTINUED.—

1 “(i) SUCCESSOR.—When a firearms or
2 ammunition business is discontinued and
3 succeeded by a new licensee, the records
4 required to be kept by this chapter shall
5 appropriately reflect that fact and shall be
6 delivered to the successor. Upon receipt of
7 those records, the successor licensee may
8 retain the records of the discontinued busi-
9 ness or submit the discontinued business
10 records to the Secretary.

11 “(ii) NO SUCCESSOR.—When a fire-
12 arms or ammunition business is discon-
13 tinued without a successor, records re-
14 quired to be kept by this chapter shall be
15 delivered to the Secretary within 30 days
16 after the business is discontinued.

17 “(B) OLD RECORDS.—A licensee maintain-
18 ing a firearms business may voluntarily submit
19 the records required to be kept by this chapter
20 to the Secretary if such records are at least 20
21 years old.

22 “(C) STATE OR LOCAL REQUIREMENTS.—
23 If State law or local ordinance requires the de-
24 livery of records regulated by this paragraph to
25 another responsible authority, the Secretary

1 may arrange for the delivery of records to such
2 other responsible authority.”

3 (b) CENTRALIZATION AND MAINTENANCE OF
4 RECORDS.—Section 923(g) of title 18, United States
5 Code, is amended by adding at the end the following:

6 “(9) CENTRALIZATION AND MAINTENANCE OF
7 RECORDS BY SECRETARY.—Notwithstanding any
8 other provision of law, the Secretary—

9 “(A) may receive and centralize any infor-
10 mation or records submitted to the Secretary
11 under this chapter and maintain such informa-
12 tion or records in whatever manner will enable
13 their most efficient use in law enforcement in-
14 vestigations; and

15 “(B) shall retain a record of each firearms
16 trace conducted by the Secretary, unless the
17 Secretary determines that there is a valid law
18 enforcement reason not to retain the record.”.

19 (c) LICENSEE REPORTS OF SECONDHAND FIRE-
20 ARMS.—Section 923(g) of title 18, United States Code,
21 is amended by adding at the end the following:

22 “(10) LICENSEE REPORTS OF SECONDHAND
23 FIREARMS.—A licensed importer, licensed manufac-
24 turer, and licensed dealer shall submit to the Sec-
25 retary, on a form prescribed by the Secretary, a

1 monthly report of each firearm received from a per-
2 son not licensed under this chapter during that
3 month, which report shall not include any identifying
4 information relating to the transferor or any subse-
5 quent purchaser.”.

6 **SEC. 4. GENERAL REGULATION OF FIREARMS TRANSFERS.**

7 (a) TRANSFERS OF CRIME GUNS.—Section 924(h) of
8 title 18, United States Code, is amended by inserting “or
9 having reasonable cause to believe” after “knowing”.

10 (b) INCREASED PENALTIES FOR TRAFFICKING IN
11 FIREARMS WITH OBLITERATED SERIAL NUMBERS.—Sec-
12 tion 924(a) of title 18, United States Code, is amended—

13 (1) in paragraph (1)(B), by striking “(k),”; and

14 (2) in paragraph (2), by inserting “(k),” after
15 “(j),”.

16 **SEC. 5. AMENDMENT OF FEDERAL SENTENCING GUIDE-**
17 **LINES.**

18 The United States Sentencing Commission shall
19 amend the Federal sentencing guidelines to reflect the
20 amendments made by this Act.

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