

108TH CONGRESS  
1ST SESSION

# H. R. 2946

To combat illegal gun trafficking, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2003

Mr. KING of New York (for himself and Mr. MEEHAN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To combat illegal gun trafficking, 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 “Detectives Nemorin  
5 and Andrews Anti-Gun Trafficking Act of 2003”.

6 **SEC. 2. FINDINGS.**

7        The Congress finds the following:

8            (1) Illegal gun traffickers are a principal source  
9 of firearms for criminals.

10           (2) Illegal gun traffickers are often criminals in  
11 other respects, and gun trafficking investigations

1 provide another means to prevent them from harm-  
2 ing the community.

3 (3) Criminals obtain their guns from the illegal  
4 market by a variety of sources, such as from—

5 (A) corrupt Federal firearm licensees, who  
6 are associated with the largest number of ille-  
7 gally trafficked firearms—nearly 40,000 fire-  
8 arms over the 30-month period from July 1996  
9 through December 1998;

10 (B) straw purchasers, who buy firearms  
11 for persons prohibited from receiving firearms,  
12 and who are the most common channel in gun  
13 trafficking investigations, accounting for almost  
14 half of all such investigations over the 30-  
15 month period from July 1996 through Decem-  
16 ber 1998; and

17 (C) firearms thefts, with investigations in-  
18 volving firearms stolen from residences or feder-  
19 ally licensed firearms dealers being associated  
20 with over 9,000 trafficked firearms over the 30-  
21 month period from July 1996 through Decem-  
22 ber 1998.

23 (4) The Bureau of Alcohol, Tobacco, Firearms,  
24 and Explosives has discerned significant interstate  
25 patterns in illegal gun trafficking, including the traf-

1       ficking of firearms between the Southeast and  
2       Northeast; from the South into the Midwest and  
3       from California into other western States. Nation-  
4       ally, slightly less than half of all gun trafficking in-  
5       vestigations involve interstate gun trafficking.

6       **SEC. 3. ILLEGAL GUN TRAFFICKING.**

7       Section 924 of title 18, United States Code, is  
8       amended by adding at the end the following:

9       “(p)(1) Whoever, in or affecting interstate or foreign  
10      commerce in violation of subsection (a)(6), (g), or (n) of  
11      section 922 or subsection (c) of this section—

12             “(A) offers for sale, transfer, or barter 2 or  
13             more firearms, at least 2 of which are handguns,  
14             semiautomatic assault weapons, short-barreled shot-  
15             guns, short-barreled rifles, or machineguns; and

16             “(B) at least 1 of the firearms—

17                     “(i) is transported, received, or possessed  
18                     by the person, and—

19                             “(I) is stolen; or

20                             “(II) has had the importer’s or manu-  
21                             facturer’s serial number removed, obliterated,  
22                             or altered; or

23                     “(ii) is offered by the person for sale,  
24                     transfer, or barter to another person who—

1           “(I) is prohibited from possessing a  
2           firearm under subsection (g) or (n) of sec-  
3           tion 922;

4           “(II) is prohibited by State law from  
5           possessing a firearm;

6           “(III) has not attained 18 years of  
7           age, except as otherwise allowed under  
8           Federal or State law;

9           “(IV) is in a school zone; or

10           “(V) has travelled from any State into  
11           any other State, and acquires or attempts  
12           to acquire the firearm otherwise in viola-  
13           tion of Federal or State law,

14 shall be fined under this title, imprisoned not more than  
15 20 years, or both.

16           “(2) Paragraph (1) shall not apply to conduct of a  
17 licensed dealer at the premises from which the licensed  
18 dealer conducts business subject to the license, or pursu-  
19 ant to section 923(j).”.

20 **SEC. 4. EXPANSION OF PROJECT SAFE NEIGHBORHOODS.**

21           Section 104 of the 21st Century Department of Jus-  
22 tice Appropriations Authorization Act (Public Law 107-  
23 273) is amended—

24           (1) in subsection (a), by inserting “, illegal gun  
25           trafficking,” after “violence” ; and

1           (2) in subsection (b), by striking “2002” and  
2           inserting “2004”.

3 **SEC. 5. REPORT TO THE CONGRESS.**

4           Beginning in calendar year 2005, the Attorney Gen-  
5           eral shall submit biennially to the Congress a written re-  
6           port, covering the preceding 2 years, which specifies—

7           (1) the State of origin for each firearm, used in  
8           a crime, that was traced by the Bureau of Alcohol,  
9           Tobacco, Firearms, and Explosives, and the State in  
10          which the firearm was recovered;

11          (2) the total number of firearms so traced, by  
12          manufacturer, model, and type of firearm;

13          (3) the name of Federal firearms licensees who  
14          have had more than 50 firearms, used in a crime,  
15          traced back to them in a single year; and

16          (4) the number of prosecutions for each indi-  
17          vidual offense under sections 922, 923, and 924 of  
18          title 18, United States Code.

19 **SEC. 6. ADDITIONAL PENALTY FOR POSSESSION OF A STO-**  
20 **LEN FIREARM DURING THE COMMISSION OF**  
21 **A FELONY.**

22          Section 924 of title 18, United States Code is amend-  
23          ed by adding at the end the following:

24          “(q)(1) Whoever, during and in relation to the com-  
25          mission of a crime punishable by imprisonment for a term

1 exceeding one year, receives, possesses, conceals, barter,  
2 sells, or disposes of any stolen firearm or stolen ammuni-  
3 tion, in or affecting interstate or foreign commerce, wheth-  
4 er or not the person is aware that the firearm or ammuni-  
5 tion is stolen, shall, in addition to the punishment pro-  
6 vided for the crime so punishable, be sentenced to a term  
7 of imprisonment of not more than 5 years.

8 “(2) Paragraph (1) shall not apply if the person ob-  
9 tained the firearm or ammunition from a licensed dealer  
10 at the place of business specified on the license of the deal-  
11 er issued under this chapter.”.

12 **SEC. 7. NATIONAL CRIME INFORMATION CENTER STOLEN**  
13 **GUN FILE.**

14 (a) AVAILABILITY.—The Federal Bureau of Inves-  
15 tigation shall make available to the Bureau of Alcohol, To-  
16 bacco, Firearms, and Explosives the National Crime Infor-  
17 mation Center Gun File for the purpose of enabling the  
18 Bureau of Alcohol, Tobacco, Firearms, and Explosives to  
19 access the file while completing a crime gun trace.

20 (b) USE.—The Bureau of Alcohol, Tobacco, Fire-  
21 arms, and Explosives shall conduct a search of the Na-  
22 tional Crime Information Center Stolen Gun File with re-  
23 spect to each firearm submitted to the Bureau of Alcohol,  
24 Tobacco, Firearms, and Explosives for tracing.

1           (c) NOTIFICATION REGARDING STOLEN FIRE-  
2 ARMS.—If a law enforcement agency requests the Bureau  
3 of Alcohol, Tobacco, Firearms, and Explosives to trace a  
4 firearm, and the National Crime Information Center Sto-  
5 len Gun File indicates that the firearm is stolen, then the  
6 Bureau of Alcohol, Tobacco, Firearms, and Explosives  
7 shall notify the law enforcement agency of that informa-  
8 tion and provide the law enforcement agency with any  
9 available information regarding the owner of the firearm.

10           (d) RETURN OF STOLEN FIREARMS POSSESSED BY  
11 BATFE.—If the Bureau of Alcohol, Tobacco, Firearms,  
12 and Explosives possesses a firearm which the National  
13 Crime Information System Gun File indicates is stolen,  
14 the Bureau shall return the firearm to the person who re-  
15 ported the firearm stolen, when the Bureau determines  
16 that—

17                   (1) the firearm is no longer needed for criminal  
18 investigation or evidentiary purposes; and

19                   (2) the person is entitled to possess the firearm.

20           (e) USE BY FEDERAL FIREARMS LICENSEES EN-  
21 ROLLED IN THE NICS SYSTEM.—Within 2 years after the  
22 date of the enactment of this Act, the Federal Bureau of  
23 Investigation, shall allow all Federal firearms licensees en-  
24 rolled in the National Instant Criminal Background Check  
25 System to conduct a search of the National Crime Infor-

1 mation Center Stolen Gun File with respect to any firearm  
2 the licensee purchases, receives, possesses, or accepts as  
3 security for a loan, from any person not licensed under  
4 section 923 of title 18, United States Code.

5 **SEC. 8. ADDITIONAL PENALTY FOR POSSESSION OF A FIRE-**  
6 **ARM WITH AN OBLITERATED SERIAL NUM-**  
7 **BER DURING THE COMMISSION OF A FELONY.**

8 Section 924 of title 18, United States Code, is  
9 amended by adding at the end the following:

10 “(r) Whoever, during and in relation to the commis-  
11 sion of a crime punishable by imprisonment for a term  
12 exceeding one year, transports, possesses, or receives, in  
13 or affecting interstate or foreign commerce, a firearm  
14 which has had the importer’s or manufacturer’s serial  
15 number removed, obliterated, or altered, regardless of  
16 whether or not the person is aware of the removal, obliter-  
17 ation, or alteration, shall, in addition to the punishment  
18 provided for the crime so punishable, be sentenced to a  
19 term of imprisonment of not more than 5 years.”.

1 **SEC. 9. ENHANCED PENALTIES FOR THE USE OF A STOLEN**  
2 **FIREARM OR A FIREARM WITH AN OBLITER-**  
3 **ATED SERIAL NUMBER DURING THE COMMIS-**  
4 **SION OF A CRIME OF VIOLENCE OR DRUG**  
5 **TRAFFICKING CRIME.**

6 Section 924(c)(1)(A) of title 18, United States Code,  
7 is amended—

8 (1) in clause (i), by inserting “, or if the fire-  
9 arm was stolen or had the manufacturer’s serial  
10 number removed, obliterated, or altered, not less  
11 than 7 years” after “years”;

12 (2) in clause (ii), by inserting “, or if the fire-  
13 arm was stolen or had the manufacturer’s serial  
14 number removed, obliterated, or altered, not less  
15 than 9 years” after “years”; and

16 (3) in clause (iii), by inserting “, or if the fire-  
17 arm was stolen or had the manufacturer’s serial  
18 number removed, obliterated, or altered, not less  
19 than 12 years” after “years”.

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