

108TH CONGRESS
1ST SESSION

S. 1807

To require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 31, 2003

Mr. MCCAIN (for himself, Mr. REED, Mr. DEWINE, Mr. LIEBERMAN, Mr. CHAFEE, Mr. LAUTENBERG, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, 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 “Gun Show Loophole
5 Closing Act of 2003”.

6 **SEC. 2. DEFINITIONS.**

7 Section 921(a) of title 18, United States Code, is
8 amended by adding at the end the following:

1 “(36) SPECIAL FIREARMS EVENT.—The term
2 ‘special firearms event’—

3 “(A) means any event at which 75 or more
4 firearms are offered or exhibited for sale, ex-
5 change, or transfer, if 1 or more of the firearms
6 has been shipped or transported in, or other-
7 wise affects, interstate or foreign commerce;

8 “(B) does not include an offer or exhibit of
9 firearms for sale, exchange, or transfer by an
10 individual from the personal collection of that
11 individual, at the private residence of that indi-
12 vidual, if the individual is not required to be li-
13 censed under section 923 or 932; and

14 “(C) does not include an offer or exhibit of
15 firearms for sale, exchange, or transfer at
16 events conducted and attended by permanent or
17 annual dues paying members, and their imme-
18 diate family, of private, not-for-profit organiza-
19 tions whose primary purpose is owning and
20 maintaining real property for the purpose of
21 hunting activities.

22 “(37) SPECIAL FIREARMS EVENT LICENSEE.—
23 The term ‘special firearms event licensee’ means any
24 person who has obtained and holds a valid license in
25 compliance with section 932(d) and who is author-

1 ized to contact the national instant criminal back-
 2 ground check system on behalf of another individual,
 3 who is not licensed under this chapter, for the pur-
 4 pose of conducting a background check for a poten-
 5 tial firearms transfer at a special firearms event in
 6 accordance with section 932(c).

7 “(38) SPECIAL FIREARMS EVENT VENDOR.—
 8 The term ‘special firearms event vendor’ means any
 9 person who is not required to be licensed under sec-
 10 tion 923 and who exhibits, sells, offers for sale,
 11 transfers, or exchanges 1 or more firearms at a spe-
 12 cial firearms event, regardless of whether or not the
 13 person arranges with the special firearms event pro-
 14 moter for a fixed location from which to exhibit, sell,
 15 offer for sale, transfer, or exchange 1 or more fire-
 16 arms.”.

17 **SEC. 3. REGULATION OF FIREARMS TRANSFERS AT SPE-**
 18 **CIAL FIREARMS EVENTS.**

19 (a) IN GENERAL.—Chapter 44 of title 18, United
 20 States Code, is amended by adding at the end the fol-
 21 lowing:

22 **“§ 932. Regulation of firearms transfers at special**
 23 **firearms events**

24 “(a) SPECIAL FIREARMS EVENTS OPERATORS.—

1 “(1) NOTIFICATION TO ATTORNEY GENERAL OF
2 SPECIAL FIREARMS EVENT OPERATORS.—

3 “(A) IN GENERAL.—It shall be unlawful
4 for any person to operate a special firearms
5 event unless that person notifies the Attorney
6 General in accordance with regulations promul-
7 gated by the Attorney General.

8 “(B) FEES.—The Attorney General shall
9 be prohibited from imposing or collecting any
10 fee from special firearms event operators in
11 connection with the notification requirement in
12 subparagraph (A).

13 “(2) RESPONSIBILITIES OF SPECIAL FIREARMS
14 EVENTS OPERATORS.—It shall be unlawful for a spe-
15 cial firearms events operator to organize, plan, pro-
16 mote, or operate a special firearms event unless that
17 operator—

18 “(A) not later than 30 days before the
19 commencement of the special firearms event,
20 notifies the Attorney General, in writing, of the
21 date, time, duration, and location of the special
22 firearms event, and the special firearms event
23 vendors planning to participate;

24 “(B) before the commencement of the spe-
25 cial firearms event, or in the case of a vendor

1 who arrives after the commencement of the
2 event, upon the arrival of the vendor, verifies
3 the identity of each special firearms event ven-
4 dor participating in the special firearms event
5 by examining a valid identification document
6 (as defined in section 1028(d)(2)) of the vendor
7 containing a photograph of the vendor;

8 “(C) before the commencement of the spe-
9 cial firearms event, or in the case of a vendor
10 who arrives after the commencement of the
11 event, upon the arrival of the vendor, requires
12 each special firearms event vendor to sign—

13 “(i) a ledger with identifying informa-
14 tion concerning the vendor; and

15 “(ii) a notice advising the vendor of
16 the obligations of the vendor under this
17 chapter;

18 “(D) notifies each person who attends the
19 special firearms event of the requirements of
20 this chapter, in accordance with such regula-
21 tions as the Attorney General shall prescribe;

22 “(E) not later than 5 days after the last
23 day of the special firearms event, submits to the
24 Attorney General a copy of the ledger and no-
25 tice described in subparagraph (C)(i); and

1 “(F) maintains a copy of the records de-
 2 scribed in subparagraphs (B) and (C) at the
 3 permanent place of business of the operator for
 4 such period of time and in such form as the At-
 5 torney General shall require by regulation.

6 “(b) RESPONSIBILITIES OF TRANSFERORS OTHER
 7 THAN LICENSEES.—

8 “(1) IN GENERAL.—If any part of a firearm
 9 transaction takes place at a special firearms event,
 10 or on the curtilage of the event, it shall be unlawful
 11 for any person who is not licensed under this chap-
 12 ter to transfer a firearm to another person who is
 13 not licensed under this chapter, unless the firearm
 14 is transferred through a licensed importer, licensed
 15 manufacturer, licensed dealer, or a special firearms
 16 event licensee in accordance with subsection (c).

17 “(2) CRIMINAL BACKGROUND CHECKS.—A per-
 18 son who is subject to the requirement of paragraph
 19 (1) shall not—

20 “(A) transfer the firearm to the transferee
 21 until the licensed importer, licensed manufac-
 22 turer, licensed dealer, or a special firearms
 23 event licensee through which the transfer is
 24 made makes the notification described in sub-
 25 section (c)(2)(A); or

1 “(B) transfer the firearm to the transferee
2 if the person has been notified under subsection
3 (c)(2)(B) that the transfer would violate section
4 922 or State law.

5 “(3) ABSENCE OF RECORDKEEPING REQUIRE-
6 MENTS.—Nothing in this section shall permit or au-
7 thorize the Attorney General to impose record-
8 keeping requirements on any nonlicensed special
9 firearms event vendor.

10 “(c) RESPONSIBILITIES OF LICENSEES.—A licensed
11 importer, licensed manufacturer, licensed dealer, or special
12 firearms event licensee who agrees to assist a person who
13 is not licensed under this chapter in carrying out the re-
14 sponsibilities of that person under subsection (b) with re-
15 spect to the transfer of a firearm shall—

16 “(1) except as provided in paragraph (2), com-
17 ply with section 922(t) as if transferring the firearm
18 from the inventory of the licensed importer, licensed
19 manufacturer, or licensed dealer to the designated
20 transferee (although a licensed importer, licensed
21 manufacturer, or licensed dealer complying with this
22 subsection shall not be required to comply again
23 with the requirements of section 922(t) in delivering
24 the firearm to the nonlicensed transferor);

1 “(2) not later than 3 business days (meaning
2 days on which State offices are open) after the date
3 of the agreement to purchase, or if the event is held
4 in a State that has been certified by the Attorney
5 General under section 4 of the Gun Show Loophole
6 Closing Act of 2003, not later than 24 hours after
7 such date (or 3 business days after such date if ad-
8 ditional information is required in order to verify
9 disqualifying information from a State that has not
10 been certified by the Attorney General), notify the
11 nonlicensed transferor and the nonlicensed trans-
12 feree—

13 “(A) of any response from the national
14 criminal background check system, or if the li-
15 censee has had no response from the national
16 criminal background check system within the
17 applicable time period under this paragraph,
18 notify the nonlicensed transferor that no re-
19 sponse has been received and that the transfer
20 may proceed; and

21 “(B) of any receipt by the licensed im-
22 porter, licensed manufacturer, or licensed dealer
23 of a notification from the national instant
24 criminal background check system that the

1 transfer would violate section 922 or would vio-
2 late State law;

3 “(3) in the case of a transfer at one time or
4 during any 5 consecutive business days, of 2 or more
5 pistols or revolvers, or any combination of pistols
6 and revolvers totaling 2 or more, to the same non-
7 licensed person, in addition to the record keeping re-
8 quirements described in paragraph (4), prepare a re-
9 port of the multiple transfers, which report shall
10 be—

11 “(A) on a form specified by the Attorney
12 General; and

13 “(B) not later than the close of business
14 on the date on which the multiple transfer oc-
15 curs, forwarded to—

16 “(i) the office specified on the form
17 described in subparagraph (A); and

18 “(ii) the appropriate State law en-
19 forcement agency of the jurisdiction in
20 which the transfer occurs; and

21 “(4) comply with all record keeping require-
22 ments under this chapter.

23 “(d) SPECIAL FIREARMS EVENT LICENSE.—

24 “(1) IN GENERAL.—The Attorney General shall
25 issue a special firearms event license to a person

1 who submits an application for a special firearms
2 event license in accordance with this subsection.

3 “(2) APPLICATION.—The application required
4 by paragraph (1) shall be approved if—

5 “(A) the applicant is 21 years of age or
6 over;

7 “(B) the application includes a photograph
8 and the fingerprints of the applicant;

9 “(C) the applicant (including, in the case
10 of a corporation, partnership, or association,
11 any individual possessing, directly or indirectly,
12 the power to direct or cause the direction of the
13 management and policies of the corporation,
14 partnership, or association) is not prohibited
15 from transporting, shipping, or receiving fire-
16 arms or ammunition in interstate or foreign
17 commerce under subsection (g) or (n) of section
18 922;

19 “(D) the applicant has not willfully vio-
20 lated any of the provisions of this chapter or
21 regulations issued thereunder;

22 “(E) the applicant has not willfully failed
23 to disclose any material information required,
24 or has not made any false statement as to any

1 material fact, in connection with the applica-
2 tion; and

3 “(F) the applicant certifies that—

4 “(i) the applicant meets the require-
5 ments of subparagraphs (A) through (D)
6 of section 923(d)(1);

7 “(ii) the business to be conducted
8 under the license is not prohibited by State
9 or local law in the place where the licensed
10 premises is located; and

11 “(iii) the business will not be con-
12 ducted under the license until the require-
13 ments of State and local law applicable to
14 the business have been met.

15 “(3) APPLICATION AND APPROVAL.—

16 “(A) IN GENERAL.—Upon the approval of
17 an application under this subsection and pay-
18 ment by the applicant of a fee of \$200 for 3
19 years, and upon renewal of a valid registration
20 and payment of a fee of \$90 for 3 years, the
21 Attorney General shall issue to the applicant an
22 instant check registration, and advise the Attor-
23 ney General of that registration.

24 “(B) NICS.—A special firearms event li-
25 censee may contact the national instant crimi-

1 nal background check system established under
2 section 103 of the Brady Handgun Violence
3 Prevention Act (18 U.S.C. 922 note) for infor-
4 mation about any individual desiring to obtain
5 a firearm at a special firearms event from any
6 special firearms event vendor who has requested
7 the assistance of the registrant in complying
8 with subsection (c) with respect to the transfer
9 of the firearm, during the 3-year period that
10 begins on the date on which the registration is
11 issued.

12 “(4) REQUIREMENTS.—The requirements for a
13 special firearms event licensee shall not exceed the
14 requirements for a licensed dealer and the record
15 keeping requirements shall be the same.

16 “(5) RESTRICTIONS.—

17 “(A) BACKGROUND CHECKS.—A special
18 firearms event licensee may have access to the
19 national instant criminal background check sys-
20 tem to conduct a background check only at a
21 special firearms event and only on behalf of an-
22 other person.

23 “(B) TRANSFER OF FIREARMS.—A special
24 firearms event licensee shall not transfer a fire-
25 arm at a special firearms event.

1 “(e) FIREARM TRANSACTION DEFINED.—In this sec-
2 tion, the term ‘firearm transaction’—

3 “(1) includes the sale, offer for sale, transfer,
4 or exchange of a firearm; and

5 “(2) does not include—

6 “(A) the mere exhibition of a firearm; or

7 “(B) the sale, transfer, or exchange of fire-
8 arms between immediate family members, in-
9 cluding parents, children, siblings, grand-
10 parents, and grandchildren.”.

11 (b) PENALTIES.—Section 924(a) of title 18, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

14 “(8)(A) Whoever knowingly violates section 932(a)(1)
15 or 932(b)—

16 “(i) shall be fined under this title, imprisoned
17 not more than 2 years, or both; and

18 “(ii) in the case of a second or subsequent con-
19 viction, shall be fined under this title, imprisoned
20 not more than 5 years, or both.

21 “(B) Whoever knowingly violates section 932(a)(2) or
22 932(c) shall be fined under this title, imprisoned not more
23 than 5 years, or both.

1 “(C) Whoever knowingly violates section 932(a)(3)
2 shall be fined under this title, imprisoned not more than
3 2 years, or both.

4 “(D) In addition to any other penalties imposed
5 under this paragraph, the Attorney General may, with re-
6 spect to any person who violates any provision of section
7 932—

8 “(i) if the person is registered pursuant to sec-
9 tion 932(a), after notice and opportunity for a hear-
10 ing, suspend for not more than 6 months or revoke
11 the registration of that person under section 932(a);
12 and

13 “(ii) impose a civil fine in an amount equal to
14 not more than \$10,000.”.

15 (c) UNLAWFUL ACTS.—Section 922(b) of title 18,
16 United States Code, is amended in the matter preceding
17 paragraph (1), by striking “or licensed collector” and in-
18 serting “licensed collector, or special firearms event li-
19 censee”.

20 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
21 Chapter 44 of title 18, United States Code, is amended
22 in the chapter analysis, by adding at the end the following:

“932. Regulation of firearms transfers at special firearms events.”.

1 **SEC. 4. STATE OPTION FOR 24-HOUR BACKGROUND**
2 **CHECKS AT SPECIAL FIREARMS EVENTS FOR**
3 **STATES WITH COMPUTERIZED DISQUALI-**
4 **FYING RECORDS.**

5 (a) IN GENERAL.—Effective 3 years after the date
6 of enactment of this Act, a State may apply to the Attor-
7 ney General for certification of the 24-hour verification
8 authority of that State.

9 (b) CERTIFICATION.—The Attorney General shall
10 certify a State for 24-hour verification authority only upon
11 a clear showing by the State, and certification by the Bu-
12 reau of Justice Statistics, that—

13 (1) not less than 95 percent of all records con-
14 taining information that would disqualify an indi-
15 vidual under subsections (g) and (n) of section 922
16 of title 18, United States Code, or under State law,
17 is available on computer records in the State, and is
18 searchable under the national instant criminal back-
19 ground check system established under section 103
20 of the Brady Handgun Violence Prevention Act (18
21 U.S.C. 922 note);

22 (2) not less than 95 percent of all records con-
23 taining information that would disqualify an indi-
24 vidual under paragraphs (8) and (9) of subsection
25 922(g) of title 18, United States Code, or under
26 State law, is available on computer records in the

1 State, and is searchable under the national instant
2 criminal background check system established under
3 section 103 of the Brady Handgun Violence Protec-
4 tion Act (18 U.S.C. 922 note); and

5 (3) the chief judicial officer of the State re-
6 quires the courts of the State to use the toll-free
7 telephone number described in subsection (d)(1) to
8 immediately notify the National Instant Criminal
9 Background Check System each time a restraining
10 order (as described in section 922(g)(8) of title 18,
11 United States Code) is issued, lifted, or otherwise
12 removed by order of the court.

13 (c) CLARIFICATIONS.—

14 (1) DISQUALIFYING INFORMATION.—Disquali-
15 fying information for each State under subsection
16 (b) shall include the disqualifying records for that
17 State generated during the 30 years preceding the
18 date of application to the Attorney General for cer-
19 tification.

20 (2) TOLL-FREE TELEPHONE NUMBER.—Upon a
21 showing by the State that a court of the State has
22 developed computer systems which permit the court
23 to immediately electronically notify the National In-
24 stant Criminal Background Check System with re-
25 spect to the issuance or lifting of restraining orders,

1 the use of the toll-free telephone number described
2 in subsection (d)(1) shall no longer be required
3 under subsection (b)(3).

4 (d) NOTIFICATION INFRASTRUCTURE.—Before certi-
5 fying any State under subsection (b), the Attorney Gen-
6 eral shall—

7 (1) create a toll-free telephone number through
8 which State and local courts may immediately notify
9 the National Instant Background Check System
10 whenever a restraining order (as described in section
11 922(g)(8) of title 18, United States Code) is issued,
12 lifted, or otherwise removed by order of the court;
13 and

14 (2) encourage States to develop computer sys-
15 tems that permit courts to immediately electronically
16 notify the National Instant Criminal Background
17 Check System whenever a restraining order (as de-
18 scribed in section 922(g)(8) of title 18, United
19 States Code) has been issued, lifted, or otherwise re-
20 moved by order of the court.

21 (e) 24-HOUR PROVISION.—Upon certification by the
22 Attorney General, the 24-hour provision in section
23 932(e)(2) of title 18, United States Code, shall apply to
24 the verification process (for transfers between unlicensed
25 persons) in that State unless additional information is re-

1 quired in order to verify disqualifying information from
 2 a State that has not been certified by the Attorney Gen-
 3 eral, in which case the 3 business day limit shall apply.

4 (f) ANNUAL REVIEW.—The Director of the Bureau
 5 of Justice Statistics shall annually review the certifications
 6 under this section.

7 (g) REVOCATION.—The Attorney General shall re-
 8 voke the certification required under this section for any
 9 State that is not in compliance with subsection (b).

10 **SEC. 5. INSPECTION AUTHORITY.**

11 Section 923(g)(1)(B), of title 18, United States Code,
 12 is amended by striking “or licensed dealer” and inserting
 13 “licensed dealer, or special firearms event operator”.

14 **SEC. 6. INCREASED PENALTIES FOR SERIOUS RECORD-**
 15 **KEEPING VIOLATIONS BY LICENSEES.**

16 Section 924(a)(3) of title 18, United States Code, is
 17 amended to read as follows:

18 “(3)(A) Except as provided in subparagraph
 19 (B), any licensed dealer, licensed importer, licensed
 20 manufacturer, licensed collector, or special firearms
 21 event licensee who knowingly makes any false state-
 22 ment or representation with respect to the informa-
 23 tion required by this chapter to be kept in the
 24 records of a person licensed under this chapter, or

1 violates section 922(m) shall be fined under this
2 title, imprisoned not more than 1 year, or both.

3 “(B) If the violation described in subparagraph
4 (A) is in relation to an offense—

5 “(i) under paragraph (1) or (3) of section
6 922(b), such person shall be fined under this
7 title, imprisoned not more than 5 years, or
8 both; or

9 “(ii) under subsection (a)(6) or (d) of sec-
10 tion 922, such person shall be fined under this
11 title, imprisoned not more than 10 years, or
12 both.”.

13 **SEC. 7. INCREASED PENALTIES FOR VIOLATIONS OF CRIMI-**
14 **NAL BACKGROUND CHECK REQUIREMENTS.**

15 Section 924(a) of title 18, United States Code, as
16 amended by section 3(b), is further amended—

17 (1) in paragraph (5), by striking “subsection
18 (s) or (t) of section 922” and inserting “section
19 922(s)”; and

20 (2) by adding at the end the following:

21 “(9) Whoever knowingly violates section 922(t)
22 shall be fined under this title, imprisoned not more
23 than 5 years, or both.”.

1 **SEC. 8. RULE OF INTERPRETATION.**

2 A provision of State law is not inconsistent with this
3 Act or an amendment made by this Act if the provision
4 imposes a regulation or prohibition of greater scope or a
5 penalty of greater severity than any prohibition or penalty
6 imposed by this Act or an amendment made by this Act.

7 **SEC. 9. EFFECTIVE DATE.**

8 This Act and the amendments made by this Act shall
9 take effect 180 days after the date of enactment of this
10 Act.

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