

118TH CONGRESS 2d Session	HOUSE OF REPRESENTATIVES	REPORT 118-
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LEOSA REFORM ACT OF 2024

MAY --, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JORDAN, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

VIEWS

[To accompany H.R. 354]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 354) to amend title 18, United States Code, to improve the Law Enforcement Officer Safety Act and provisions relating to the carrying of concealed weapons by law enforcement officers, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all that follows after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “LEOSA Reform Act of 2024”.

SEC. 2. CONFORMING THE LAW ENFORCEMENT OFFICER SAFETY ACT AND THE GUN-FREE SCHOOL ZONES ACT OF 1990.

Section 922(q)(2)(B) of title 18, United States Code, is amended—

- (1) by striking “or” at the end of clause (vi);
- (2) by striking the period at the end of clause (vii) and inserting “; or”; and
- (3) by adding at the end the following:
“(viii) by an individual authorized by section 926B or 926C to carry a concealed firearm.”.

SEC. 3. MAKING IMPROVEMENTS TO THE LAW ENFORCEMENT OFFICER SAFETY ACT.

(a) Each of sections 926B(a) and 926C(a) of title 18, United States Code, is amended by inserting “or any other provision of Federal law, or any regulation prescribed

by the Secretary of the Interior pertaining to a unit of the National Park System” after “thereof”.

(b) Each of sections 926B(b) and 926C(b) of such title are amended—

(1) in paragraph (1), by inserting “, except to the extent that the laws apply on property used by a common or contract carrier to transport people or property by land, rail, or water or on property open to the public (whether or not a fee is charged to enter the property)” before the semicolon; and

(2) in paragraph (2), by inserting “, except to the extent that the laws apply on property used by a common or contract carrier to transport people or property by land, rail, or water or on property open to the public (whether or not a fee is charged to enter the property)” before the period.

(c) Each of sections 926B(e)(2) and 926C(e)(1)(B) of such title is amended by inserting “any magazine and” after “includes”.

(d) Section 926C(c)(4) of such title is amended to read as follows:

“(4) has met the standards for qualification in firearms training during the most recent period of 12 months (or, at the option of the State in which the individual resides, a greater number of months, not exceeding 36 months), and for purposes of this paragraph, the term ‘standards for qualification in firearms training’ means—

“(A) the standards for active duty law enforcement officers as established by the former agency of the individual;

“(B) the standards for active duty law enforcement officers as established by the State in which the individual resides;

“(C) the standards for active duty law enforcement officers employed by any law enforcement agency in the State in which the individual resides; or

“(D) any standard for active duty law enforcement officers for firearms qualification conducted by any certified firearms instructor within the State in which the individual resides;”.

(e) Section 926C(d) of such title is amended—

(1) in paragraph (1), by striking “not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the active duty standards for qualification in firearms training as established by the agency to carry” and inserting “met the standards for qualification in firearms training required by subsection (c)(4) for”; and

(2) in paragraph (2), by striking subparagraph (B) and inserting the following:

“(B) a certification issued by the former agency of the individual, the State in which the individual resides, any law enforcement agency within the State in which the individual resides, or any certified firearms instructor within the State in which the individual resides that indicates that the individual has met the standards for qualification in firearms training required by subsection (c)(4).”.

SEC. 4. PERMITTING QUALIFIED CURRENT AND RETIRED LAW ENFORCEMENT OFFICERS TO CARRY FIREARMS IN CERTAIN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking “or” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(4) the possession of a firearm or ammunition in a Facility Security Level I or II civilian public access facility by a qualified law enforcement officer (as defined in section 926B(c)) or a qualified retired law enforcement officer (as defined in section 926C(c)).”; and

(2) in subsection (g), by adding at the end the following:

“(4) The term ‘Facility Security Level’ means a security risk assessment level assigned to a Federal facility by the security agency of the facility in accordance with the biannually issued Interagency Security Committee Standard.

“(5) The term ‘civilian public access facility’ means a facility open to the general public.”.

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Purpose and Summary

H. R. 354, the LEOSA Reform Act, introduced by Rep. Don Bacon (R-NE), would allow qualified active and retired law enforcement officers to carry concealed firearms and ammunition in school zones, national parks, private property that is open to the public, and in some federal facilities that are open to the public. The bill also reduces the frequency with which retired law enforcement officers are required to meet certain qualification standards.

Background and Need for the Legislation

In 2004, President George W. Bush signed the Law Enforcement Officers' Safety Act (LEOSA) into law.¹ The purpose of LEOSA is to exempt qualified active and retired law enforcement officers carrying a LEOSA photographic identification card from local and state prohibitions on the carrying of concealed firearms, with certain restrictions and exceptions.² LEOSA was amended by the Law Enforcement Officers' Safety Act Improvement Act of 2010 and the National Defense Authorization Act of 2013.³ These amendments clarified who can qualify as a law enforcement officer under LEOSA and also made minor changes to the certification requirements for qualified retired law enforcement officers.⁴ For example, the LEOSA Improvements Act of 2010 reduced the number of years of service needed for a retired law enforcement officer to be qualified under LEOSA from 15 to 10 years.⁵

LEOSA preempts state and local laws with two important exceptions. LEOSA does not supersede or limit state laws that "permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property,"⁶ such as bars, amusement parks, and clubs.⁷ Additionally, LEOSA does not supersede or limit state laws that "prohibit or restrict the possession of firearms on any state or local government property, installation, building, base, or park."⁸

Qualified Active or Retired Law Enforcement Officer

In order to have the right to carry a concealed firearm under LEOSA, a person must be either a "qualified active law enforcement officer" or a "qualified retired law enforcement officer." LEOSA defines a "qualified active law enforcement officer" as an employee of a governmental agency who: (1) is authorized by law to engage in or supervise the prevention,

¹ Law Enforcement Officer Safety Act, Pub. L. 108-277 (2004).

² *Id.*; 18 U.S.C. § 926(B)-(C).

³ Law Enforcement Officers' Safety Act Improvements Act, Pub. L. 111-272 (2010); National Defense Authorization Act, Pub. L. 112-239 (2013); National Fraternal Order of Police, Law Enforcement Officers' Safety Act FAQ, <https://files.fop.net/wp-content/uploads/2021/03/leosa-faq.pdf> (last visited Apr. 25, 2024).

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

detection, investigation, prosecution or the incarceration of any person for any violation of law; (2) has statutory powers of arrest or apprehension under the Uniform Code of Military Justice (UCMJ); (3) is authorized by the agency to carry a firearm; (4) is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers; (5) meets the standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm; (6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and (7) is not prohibited by Federal law from possessing a firearm.⁹

LEOSA defines a “qualified retired law enforcement officer” as an individual who: (1) separated from service in good standing from a public agency as a law enforcement officer; (2) was authorized by law to engage in or supervise the prevention, detection, investigation, prosecution or the incarceration of any person for any violation of law; (3) served as a law enforcement officer for an aggregate of 10 years or more or was separated from service due a service-connected disability; (4) in the past 12 months has met the standards for qualification in firearms training for active law enforcement officers as determined by the former agency of the individual or the state in which the individual resides or, if the state has not established such standards, either a law enforcement agency within the state in which the individual resides or the standards used by a certified firearms instructor qualified to conduct a firearms qualification test for active duty LEOs within that state; (5) has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health; (6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and (7) is not prohibited by federal law from possessing a firearm.¹⁰

LEOSA Reform Act

The LEOSA Reform Act will make several necessary and important changes to LEOSA to support America’s active and retired law enforcement officers.

- First, it amends the Gun-Free School Zones Act (GFSZA) to provide an exemption for law enforcement officers certified under LEOSA to carry a concealed firearm in a gun-free school zone. Some states currently allow individuals with a concealed carry license to carry a concealed firearm in a gun-free school zone in the state they are licensed.¹¹ However, under current law, LEOSA-certified law enforcement officers are prohibited from carrying a concealed firearm in a gun-free school zone. For example, a law enforcement officer who retired from the police force after twenty-five years and is otherwise in good standing and compliant under LEOSA would be prohibited by federal law from carrying a concealed firearm to his son’s baseball game at a local high school

⁹ *Id.*; 18 U.S.C. § 926(B).

¹⁰ *Id.*; 18 U.S.C. § 926(C).

¹¹ Kelly Puente and Stephen Gruber-Miller, *What states allow teachers to carry guns at school? Tennessee and Iowa weigh joining team*, USA TODAY (Apr. 19, 2024).

even though the state's concealed carry law would allow it. This legislation would fix this discrepancy.

- Second, the LEOSA Reform Act would allow law enforcement officers certified under LEOSA to carry concealed firearms on “common or contract carriers” like public transportation and also allow them to carry concealed firearms in national parks.
- Third, it would clarify that law enforcement officers who are certified under LEOSA are not subject to state or local laws that restrict magazine capacity.
- Fourth, the bill allows states to require LEOSA-certified retired law enforcement officers to certify in firearms training up to every 36 months, as opposed to current law which requires a certification in firearms training every 12 months.
- Fifth, the bill allows LEOSA-certified law enforcement officers to carry in certain federal facilities that are determined to be a Facility Security Level I or II civilian public access facility. The facility security level (FSL) is set by the Department of Homeland Security (DHS) Federal Protective Service (FPS) and the General Services Administration (GSA) in consultation with the client agency.¹² A facility that receives a Level I or Level II determination are deemed to be low or medium risk for adversarial threats.¹³ These facilities include U.S. Post Offices or Social Security Administration Offices. Currently, law enforcement officers can only enter these federal facilities while armed when acting in an “official capacity,” such as a call for service.¹⁴

Hearings

For the purposes of clause 3(c)(6)(A) of House rule XIII, the following hearings were used to develop H. R. 354: “Victims of Violent Crime in Manhattan” a hearing held on April 17, 2023, before Committee on the Judiciary. The Committee heard testimony from the following witnesses:

- Jose Alba, former Manhattan bodega clerk;
- Madeline Brame, Chairwoman of the Victims Rights Reform Council and mother of a homicide victim;
- Jennifer Harrison, Founder of Victims Rights NY;
- Paul DiGiacomo, President of the New York City's Detectives' Endowment Association;
- Robert F. Holden, New York City Council (D-District 30);

¹² INTERAGENCY SECURITY COMMITTEE (ISC) THE RISK MANAGEMENT PROCESS FOR FEDERAL FACILITIES: AN INTERAGENCY SECURITY COMMITTEE STANDARD (Aug. 2013), available at

https://www.dhs.gov/sites/default/files/publications/ISC_Risk-Management-Process_Aug_2013_0.pdf.

¹³ *Id.*

¹⁴ National Fraternal Order of Police, Law Enforcement Officers' Safety Act FAQ, <https://files.fop.net/wp-content/uploads/2021/03/leosa-faq.pdf> (last visited Apr. 25, 2024).

- Barry Borgen, father of a victim of anti-Semitic hate crime;
- Jim Kessler, Co-Founder and Senior Vice President for Policy of Third Way; and
- Rebecca Fischer, Executive Director of New Yorkers Against Gun Violence.

The hearing examined the rising crime rates in Manhattan and how they have made Manhattan a more dangerous place for residents and visitors, including law enforcement officers.

A related hearing includes “Victims of Violent Crime in the District of Columbia on October 12, 2023, before the Subcommittee on Crime and Federal Government Surveillance of the House Committee on the Judiciary. The Subcommittee heard from the following witnesses:

- Gaynor Jablonski, Washington, D.C. business owner attacked on June 29, 2023, inside of his business in front of his 4-year-old son;
- Charles Stimson, crime control, national security, homeland security, and drug policy expert at the Heritage Foundation, Deputy Director of the Edwin Meese III Center for Legal and Judicial Studies;
- Mitchell Sobolevsky, victim of robbery at gunpoint in Washington, D.C.;
- Greg Pemberton, Metropolitan Police Department Detective, Chairman of the D.C. Police Union;
- Lindsey Appiah, Deputy Mayor for Public Safety and Justice; and
- Myisha Richards, firefighter paramedic, District of Columbia Fire and Emergency Medical Services Department.

The hearing examined the rise of violent crime in Washington, D.C., and the lack of prosecutions and prosecutorial accountability.

Committee Consideration

On May 8, 2024, the Committee met in open session and ordered the bill, H.R. 354, favorably reported with an amendment in the nature of a substitute, by a roll call vote of 15-9, a quorum being present.

Committee Votes

In compliance with clause 3(b) of House rule XIII, the following roll call votes occurred during the Committee’s consideration of H.R 354:

1. Vote on Amendment #1 to the H.R. 354 ANS, offered by Mr. Ivey—failed 7 ayes to 13 nays.
2. Vote on favorably reporting H.R. 354, as amended—passed 15 ayes to 9 nays.

[INSERT “B” – ROLL CALL VOTE SHEETS]

COMMITTEE ON THE JUDICIARY

Date: 5/8/24

118th CONGRESS

24-19

ROLL CALL

Vote on: Ivey Amndt #1 to HR 354 ANS

Roll Call #: 1

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) <i>Chairman</i>		✓		MR. NADLER (NY) <i>Ranking Member</i>	✓		
MR. ISSA (CA)				MS. LOFGREN (CA)			
MR. GAETZ (FL)				MS. JACKSON LEE (TX)			
MR. BIGGS (AZ)		✓		MR. COHEN (TN)			
MR. McCLINTOCK (CA)				MR. JOHNSON (GA)	✓		
MR. TIFFANY (WI)		✓		MR. SCHIFF (CA)			
MR. MASSIE (KY)		✓		MR. SWALWELL (CA)			
MR. ROY (TX)				MR. LIEU (CA)			
MR. BISHOP (NC)		✓		MS. JAYAPAL (WA)			
MS. SPARTZ (IN)				MR. CORREA (CA)			
MR. FITZGERALD (WI)		✓		MS. SCANLON (PA)	✓		
MR. BENTZ (OR)				MR. NEGUSE (CO)			
MR. CLINE (VA)				MS. McBATH (GA)			
MR. ARMSTRONG (ND)		✓		MS. DEAN (PA)	✓		
MR. GOODEN (TX)				MS. ESCOBAR (TX)			
MR. VAN DREW (NJ)		✓		MS. ROSS (NC)	✓		
MR. NEHLS (TX)		✓		MS. BUSH (MO)			
MR. MOORE (AL)		✓		MR. IVEY (MD)	✓		
MR. KILEY (CA)				MS. BALINT (VT)	✓		
MS. HAGEMAN (WY)							
MR. MORAN (TX)		✓					
MS. LEE (FL)		✓					
MR. HUNT (TX)							
MR. FRY (SC)		✓					
VACANT							

Roll Call Totals:

Ayes:

7

Nays:

13

Present:

X

Passed: _____

Failed: _____

COMMITTEE ON THE JUDICIARY

Date: 5/8/24

118th CONGRESS

24-19

ROLL CALL

Vote on: Final Passage of HR 354, as amended

Roll Call #: 2

REPUBLICANS	AYE	NO	PRESENT	DEMOCRATS	AYE	NO	PRESENT
MR. JORDAN (OH) <i>Chairman</i>	✓			MR. NADLER (NY) <i>Ranking Member</i>		✓	
MR. ISSA (CA)	✓			MS. LOFGREN (CA)			
MR. GAETZ (FL)				MS. JACKSON LEE (TX)			
MR. BIGGS (AZ)	✓			MR. COHEN (TN)			
MR. McCLINTOCK (CA)				MR. JOHNSON (GA)		✓	
MR. TIFFANY (WI)	✓			MR. SCHIFF (CA)			
MR. MASSIE (KY)	✓			MR. SWALWELL (CA)		✓	
MR. ROY (TX)				MR. LIEU (CA)			
MR. BISHOP (NC)	✓			MS. JAYAPAL (WA)			
MS. SPARTZ (IN)	✓			MR. CORREA (CA)			
MR. FITZGERALD (WI)	✓			MS. SCANLON (PA)		✓	
MR. BENTZ (OR)	✓			MR. NEGUSE (CO)			
MR. CLINE (VA)				MS. McBATH (GA)			
MR. ARMSTRONG (ND)	✓			MS. DEAN (PA)		✓	
MR. GOODEN (TX)				MS. ESCOBAR (TX)		✓	
MR. VAN DREW (NJ)	✓			MS. ROSS (NC)		✓	
MR. NEHLS (TX)	✓			MS. BUSH (MO)			
MR. MOORE (AL)	✓			MR. IVEY (MD)		✓	
MR. KILEY (CA)				MS. BALINT (VT)		✓	
MS. HAGEMAN (WY)							
MR. MORAN (TX)	✓						
MS. LEE (FL)							
MR. HUNT (TX)							
MR. FRY (SC)	✓						
VACANT							

Roll Call Totals:

Ayes: 15

Nays: 9

Present:

Passed: X

Failed: _____

Committee Oversight Findings

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974* and with respect to the requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

Congressional Budget Office Cost Estimate

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

Committee Estimate of Budgetary Effects

With respect to the requirements of clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the *Congressional Budget Act of 1974*.

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 354 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H.R. 354 would

amend the Law Enforcement Officer Safety Act to allow qualified active and retired law enforcement officers to carry concealed firearms and ammunition in school zones, national parks, private property that is open to the public, and in some federal facilities that are open to the public.

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H.R. 354 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clauses 9(d), 9(e), or 9(f) of House Rule XXI.

Federal Mandates Statement

An estimate of federal mandates prepared by the Director of the Congressional Budget office pursuant to section 423 of the *Unfunded Mandates Reform Act* was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

Advisory Committee Statement

No advisory committees within the meaning of section 5(b) of the *Federal Advisory Committee Act* were created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the *Congressional Accountability Act* (Pub. L. 104-1).

Section-by-Section Analysis

Sec. 1. Short Title. The “LEOSA Reform Act.”

Sec. 2. Conforming the Law Enforcement Officer Safety Act and the Gun-Free School Zones Act of 1990. This section amends the Gun-Free School Zones Act to allow qualified active and retired law enforcement officers authorized to carry under LEOSA the ability to carry a concealed firearm in a gun-free school zone.

Sec. 3. Making Improvements to the Law Enforcement Officer Safety Act. This section amends LEOSA to allow qualified active and retired law enforcement officers to carry concealed firearms on “common or contract carriers,” such as public transportation and also allows qualified active and retired law enforcement officers to carry concealed firearms in national parks. This section also clarifies that qualified active and retired law enforcement officers are exempt from magazine capacity restrictions imposed by state and local law. Furthermore, this

section allows states to require qualified retired law enforcement officers to certify every 36 months, as opposed to current law which requires a certification in firearms training every 12 months. Lastly, this section clarifies that a certification in firearms training can be conducted by (1) the officer's former agency, (2) the state in which the officer resides, (3) any law enforcement agency within the state in which the officer resides, or (4) a firearms instructor certified by the state in which the officer resides to conduct active-duty firearms training.

Sec. 4. Permitting Qualified Current and Retired Law Enforcement Officers to Carry Firearms in Certain Federal Facilities. This section allows qualified active and retired law enforcement officers to carry a concealed firearm in certain federal facilities, including a U.S. Post Office, Social Security Administration Office, Veterans Affairs Office, or similar federal facilities.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

PART I—CRIMES

* * * * *

CHAPTER 44—FIREARMS

* * * * *

§ 922. Unlawful acts

(a) It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant

to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to de-

ceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, unless—

(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) the manufacture of such ammunition is for the purpose of exportation; or

(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) is for the purpose of exportation; or

(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;

(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal condi-

tions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

“Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are

Signature _____ Date _____.”

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the trans-

feree's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement. A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person, including as a juvenile—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution at 16 years of age or older;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury;

(9) has been convicted in any court of a misdemeanor crime of domestic violence;

(10) intends to sell or otherwise dispose of the firearm or ammunition in furtherance of a felony, a Federal crime of terrorism, or a drug trafficking offense (as such terms are defined in section 932(a)); or

(11) intends to sell or otherwise dispose of the firearm or ammunition to a person described in any of paragraphs (1) through (10).

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

- (B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
- (6) who has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) who is subject to a court order that—
- (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
- (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
- (C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
- (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
- (9) who has been convicted in any court of a misdemeanor crime of domestic violence,
- to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
- (h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—
- (1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or
- (2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.
- (i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.
- (j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.
- (k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number re-

moved, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to—

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection—

(A) the term “firearm” does not include the frame or receiver of any such weapon;

(B) the term “major component” means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

(C) the term “Security Exemplar” means an object, to be fabricated at the direction of the Attorney General, that is—

(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7

ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and

(ii) suitable for testing and calibrating metal detectors: *Provided, however,* That at the close of such 12-month period, and at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a "Security Exemplar" which contains 3.7 ounces of material type 17-4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

(5) This subsection shall not apply to any firearm which—

(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

(q)(1) The Congress finds and declares that—

(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary the House of Representatives and the Committee on the Judiciary of the Senate;

(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm—

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is—

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; **[or]**

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities~~...~~; *or*

(viii) by an individual authorized by section 926B or 926C to carry a concealed firearm.

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the

safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm—

- (i) on private property not part of school grounds;
- (ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;
- (iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
- (iv) by a law enforcement officer acting in his or her official capacity.

(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 923, unless—

(A) after the most recent proposal of such transfer by the transferee—

(i) the transferor has—

(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

(II) verified the identity of the transferee by examining the identification document presented;

(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

(C)(i) the transferee has presented to the transferor a permit that—

(I) allows the transferee to possess or acquire a handgun; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

(E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

(B) a statement that the transferee—

(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;

(ii) is not a fugitive from justice;

(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

(v) is not an alien who—

(I) is illegally or unlawfully in the United States;

or

(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—

(A) the chief law enforcement officer of the place of business of the transferor; and

(B) the chief law enforcement officer of the place of residence of the transferee.

(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(8) For purposes of this subsection, the term “chief law enforcement officer” means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

(B)(i) the system provides the licensee with a unique identification number; or

(ii) subject to subparagraph (C), 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section, or State, local, or Tribal law;

(C) in the case of a person less than 21 years of age, in addition to all other requirements of this chapter—

(i) the system provides the licensee with a unique identification number;

(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that cause exists to further investigate a possibly disqualifying juvenile record under subsection (d); or

(iii) in the case of such a person with respect to whom the system notifies the licensee in accordance with clause (ii) that cause exists to further investigate a possibly disqualifying juvenile record under subsection (d), 10 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that—

(I) transferring the firearm to the other person would violate subsection (d) of this section; or

(II) receipt of a firearm by the other person would violate subsection (g) or (n) of this section, or State, local, or Tribal law; and

(D) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d) of this title) of the transferee containing a photograph of the transferee.

(2) If transfer or receipt of a firearm would not violate subsection (d), (g), or (n) (as applicable) or State, local or Tribal law, the system shall—

(A) assign a unique identification number to the transfer;

(B) provide the licensee with the number; and

(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

(A)(i) such other person has presented to the licensee a permit that—

(I) allows such other person to possess or acquire a firearm; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not

indicate that possession of a firearm by such other person would be in violation of law;

(B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the transfer of a firearm to or receipt of a firearm by such other person would violate subsection (d), (g), or (n) (as applicable) or State local, or Tribal law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that transfer of a firearm to or receipt of a firearm by such other person would violate subsection (d), (g), or (n) (as applicable) of this section or State⁵ local, or Tribal law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than \$5,000.

(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to—

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not

in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

(5) For purposes of this subsection, the term “juvenile” means a person who is less than 18 years of age.

(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant’s parent or legal guardian at all proceedings.

(B) The court may use the contempt power to enforce subparagraph (A).

(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.

(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NON-IMMIGRANT VISAS.—

(1) DEFINITIONS.—In this subsection—

(A) the term “alien” has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

(B) the term “nonimmigrant visa” has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(B) an official representative of a foreign government who is—

(i) accredited to the United States Government or the Government’s mission to an international organization having its headquarters in the United States; or

(ii) en route to or from another country to which that alien is accredited;

(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

(3) WAIVER.—

(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

(ii) the Attorney General approves the petition.

(B) PETITION.—Each petition under subparagraph (B) shall—

(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

(i) would be in the interests of justice; and

(ii) would not jeopardize the public safety.

(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

(B) the transfer to, or possession by, a rail police officer directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within

10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

(3) LIABILITY FOR USE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

(C) DEFINED TERM.—As used in this paragraph, the term “qualified civil liability action”—

(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.

* * * * *

§ 926B. Carrying of concealed firearms by qualified law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof *or any other provision of Federal law, or any regulation prescribed by the Secretary of the Interior pertaining to a unit of the National Park System*, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, *except to the extent that the laws apply on property used by a common or contract carrier to transport people or property by land, rail, or water or on property open to the public (whether or not a fee is charged to enter the property)*; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base,

or park, *except to the extent that the laws apply on property used by a common or contract carrier to transport people or property by land, rail, or water or on property open to the public (whether or not a fee is charged to enter the property).*

(c) As used in this section, the term “qualified law enforcement officer” means an employee of a governmental agency who—

(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice);

(2) is authorized by the agency to carry a firearm;

(3) is not the subject of any disciplinary action by the agency which could result in suspension or loss of police powers;

(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

(5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(6) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed that identifies the employee as a police officer or law enforcement officer of the agency.

(e) As used in this section, the term “firearm”—

(1) except as provided in this subsection, has the same meaning as in section 921 of this title;

(2) includes *any magazine and* ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

(3) does not include—

(A) any machinegun (as defined in section 5845 of the National Firearms Act);

(B) any firearm silencer (as defined in section 921 of this title); and

(C) any destructive device (as defined in section 921 of this title).

(f) For the purposes of this section, a law enforcement officer of the Amtrak Police Department, a law enforcement officer of the Federal Reserve, or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice).

§ 926C. Carrying of concealed firearms by qualified retired law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof *or any other provision of Federal law, or any regulation prescribed by the Secretary of the Interior pertaining to a unit of the National Park System*, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, *except to the extent that the laws apply on property used by a common or contract carrier to transport people or property by land, rail, or water or on property open to the public (whether or not a fee is charged to enter the property);* or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park, *except to the extent that the laws apply on property used by a common or contract carrier to transport people or property by land, rail, or water or on property open to the public (whether or not a fee is charged to enter the property).*

(c) As used in this section, the term “qualified retired law enforcement officer” means an individual who—

(1) separated from service in good standing from service with a public agency as a law enforcement officer;

(2) before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice);

(3)(A) before such separation, served as a law enforcement officer for an aggregate of 10 years or more; or

(B) separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

[(4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State;]

(4) *has met the standards for qualification in firearms training during the most recent period of 12 months (or, at the option of the State in which the individual resides, a greater*

number of months, not exceeding 36 months), and for purposes of this paragraph, the term “standards for qualification in firearms training” means—

(A) the standards for active duty law enforcement officers as established by the former agency of the individual;

(B) the standards for active duty law enforcement officers as established by the State in which the individual resides;

(C) the standards for active duty law enforcement officers employed by any law enforcement agency in the State in which the individual resides; or

(D) any standard for active duty law enforcement officers for firearms qualification conducted by any certified firearms instructor within the State in which the individual resides;

(5)(A) has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in subsection (d)(1); or

(B) has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons will not receive or accept the photographic identification as described in subsection (d)(1);

(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is—

(1) a photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that identifies the person as having been employed as a police officer or law enforcement officer and indicates that the individual has, **[not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the active duty standards for qualification in firearms training as established by the agency to carry]** *met the standards for qualification in firearms training required by subsection (c)(4) for a firearm of the same type as the concealed firearm; or*

(2)(A) a photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that identifies the person as having been employed as a police officer or law enforcement officer; and

[(B) a certification issued by the State in which the individual resides or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State or a certified firearms instructor that is qualified to

conduct a firearms qualification test for active duty officers within that State to have met—

【(I) the active duty standards for qualification in firearms training, as established by the State, to carry a firearm of the same type as the concealed firearm; or

【(II) if the State has not established such standards, standards set by any law enforcement agency within that State to carry a firearm of the same type as the concealed firearm.】

(B) a certification issued by the former agency of the individual, the State in which the individual resides, any law enforcement agency within the State in which the individual resides, or any certified firearms instructor within the State in which the individual resides that indicates that the individual has met the standards for qualification in firearms training required by subsection (c)(4).

(e) As used in this section—

(1) the term “firearm”—

(A) except as provided in this paragraph, has the same meaning as in section 921 of this title;

(B) includes *any magazine and* ammunition not expressly prohibited by Federal law or subject to the provisions of the National Firearms Act; and

(C) does not include—

(i) any machinegun (as defined in section 5845 of the National Firearms Act);

(ii) any firearm silencer (as defined in section 921 of this title); and

(iii) any destructive device (as defined in section 921 of this title); and

(2) the term “service with a public agency as a law enforcement officer” includes service as a law enforcement officer of the Amtrak Police Department, service as a law enforcement officer of the Federal Reserve, or service as a law enforcement or police officer of the executive branch of the Federal Government.

* * * * *

§ 930. Possession of firearms and dangerous weapons in Federal facilities

(a) Except as provided in subsection (d), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.

(b) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

(c) A person who kills any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal

facility involving the use of a firearm or other dangerous weapon, or attempts or conspires to do such an act, shall be punished as provided in sections 1111, 1112, 1113, and 1117.

(d) Subsection (a) shall not apply to—

(1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;

(2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; **[or]**

(3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes**[.]**; or

(4) the possession of a firearm or ammunition in a Facility Security Level I or II civilian public access facility by a qualified law enforcement officer (as defined in section 926B(c)) or a qualified retired law enforcement officer (as defined in section 926C(c)).

(e)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (d).

(f) Nothing in this section limits the power of a court of the United States to punish for contempt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.

(g) As used in this section:

(1) The term “Federal facility” means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.

(2) The term “dangerous weapon” means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.

(3) The term “Federal court facility” means the courtroom, judges’ chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.

(4) The term “Facility Security Level” means a security risk assessment level assigned to a Federal facility by the security agency of the facility in accordance with the biannually issued Interagency Security Committee Standard.

(5) The term “civilian public access facility” means a facility open to the general public.

(h) Notice of the provisions of subsections (a) and (b) shall be posted conspicuously at each public entrance to each Federal facility, and notice of subsection (e) shall be posted conspicuously at each public entrance to each Federal court facility, and no person shall be convicted of an offense under subsection (a) or (e) with respect to a Federal facility if such notice is not so posted at such facility, unless such person had actual notice of subsection (a) or (e), as the case may be.

* * * * *

Dissenting Views

H.R. 354, the “LEOSA Reform Act”

The LEOSA Reform Act furthers the Republican agenda of “more guns for more people in more places.” It intrudes on the states’ ability to make their own judgments about public safety, concealed firearms, and the regulation of their own law enforcement, and would make us all less safe.

In 2004, Congress passed the Law Enforcement Officer Safety Act (LEOSA), permitting qualified active and retired law enforcement officers to carry concealed firearms and ammunition in certain places. Every state allows the concealed carry of firearms subject to certain conditions, but the original LEOSA overrode whatever permit, training, or other requirements might be in place—with important, commonsense exceptions for national parks, playgrounds, government buildings, private property, and other sensitive areas.

The LEOSA Reform Act would go even further than the original LEOSA by doing away with those exceptions and effectively eliminating a state’s ability to control the carrying of concealed firearms within its borders. It would also undermine state magazine capacity limits so that some people will be allowed to carry magazines that exceed state law. It would relax training standards so that a covered person could carry a concealed firearm even though it may have been 3 years since their last firearms training certification. Finally, the bill erodes federal prohibitions that have kept concealed firearms out of federal facilities except when they are used by on-duty law enforcement or carried incidental to hunting. The House should reject this dangerous, irresponsible bill.

I. Background

In 2004, Congress passed, and President Bush signed, the Law Enforcement Officer Safety Act, permitting qualified active and retired law enforcement officers to carry concealed firearms and ammunition in certain places.¹ Before its passage, only active federal law enforcement officers enjoyed nationwide concealed carry privileges. States could decide whether to allow out-of-state officers or retired law enforcement officers (federal or state, including their own retired officers) to carry concealed firearms within their borders. Every state allows individuals to carry a concealed firearm in public so long as they meet certain conditions, but LEOSA supersedes whatever permit, training, or other requirements might be in place.²

¹ 18 U.S.C. §926B applies to “qualified law enforcement officers” while 18 U.S.C §926C contains substantially similar language but applies to “qualified *retired* law enforcement officers” (emphasis added).

² <https://giffords.org/lawcenter/gun-laws/policy-areas/guns-in-public/concealed-carry/>

LEOSA's concealed carry authorization applies to certain active and retired law enforcement officers.³ Qualified active officers must carry a photo ID from their employing agency that identifies them as a law enforcement officer of the agency.⁴ Qualified retired officers must carry a photo ID from their former agency that identifies them as a former officer and indicates that they have met the firearms training qualification standards for active law enforcement within the last year, or a combination of documents that establish prior employment and having met state or agency firearms training standards within the last year.⁵

Police groups did not uniformly support LEOSA at the time it was passed. The Committee report on the bill noted that, at a hearing on the legislation, the "International Association of Chiefs of Police (IACP) argued that the variation among the States on firearms training and other policies and procedures regarding police officers, such as authority to carry firearms off duty and use-of-force policies, will create a dangerous environment for out-of-State officers and citizens. Laws regulating the carrying of firearms must remain within the jurisdiction of the State government where they can be more effectively monitored and enforced."⁶

Members of Congress from both parties also raised concerns. The Republican Chairman of the Committee at the time, James Sensenbrenner (WI), opposed the legislation, explaining that it "violate[d] the principles of federalism and undermine[d] the authorities of the States."⁷ He explained that its goals could be achieved in a way that respected a state's authority through concealed carry reciprocity agreements, and that many such agreements already existed. Congressman Robert "Bobby" Scott (D-VA) also opposed the legislation. During the hearing on the bill, he submitted "dozens of reports" of instances in which off-duty, plainclothes law enforcement officers shot other off-duty officers or were shot by uniformed officers who mistook the off-duty officers for criminals. He noted that many of these incidents involved shots fired between off-duty officers in their home jurisdiction and their fellow officers from that same jurisdiction. If even these officers made mistakes and shot each other, he argued, then encouraging out-of-state officers to use their firearms would certainly put more officers and the public at risk. Similarly, I also opposed the bill and expressed my concern that it would allow officers to carry concealed firearms nationwide despite the broad diversity in firearms training requirements across law enforcement agencies.

While LEOSA's concealed carry authorization applies "notwithstanding any other provision of the law of any State or any political subdivision thereof,"⁸ it still respects certain state restrictions. The law states that it "shall not be construed to supersede or limit the laws of any State that— (1) permit private persons or entities to prohibit or restrict the possession of concealed

³ See 18 U.S.C. §926B(c) and 18 U.S.C. §926C(c).

⁴ 18 U.S.C. §926B(d).

⁵ 18 U.S.C. §926C(d).

⁶ House Report 108-560, available at <https://www.congress.gov/108/crpt/hrpt560/CRPT-108hrpt560.pdf>.

⁷ Id.

⁸ 18 U.S.C. §926B(a), 18 U.S.C. §926C(a)

firearms on their property; or (2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.”⁹ This limitation preserved the right of states to maintain some limited control over the possession of concealed firearms within their borders and the right of private persons and entities to limit the possession of concealed firearms on their property. With this limitation in place, LEOSA was passed with significant bipartisan support. Congress amended LEOSA in 2010 and 2013 and retained this language.

II. Concerns

The LEOSA Reform Act would all but eliminate the carveouts in the original legislation, erasing what little control LEOSA gave to states, private persons, and private entities who might want to limit concealed firearms within their borders or on their property. Many states have exercised this right and prohibit (or allow private entities to prohibit) the carrying of concealed firearms in parks, playgrounds, restaurants, theaters, or on buses, trains, or boats. Under the LEOSA Reform Act, all places open to the public and all common carriers must allow active and retired officers who meet the requirements of LEOSA to carry a concealed firearm, even if this is contrary to the judgment of the private property owner or the state or local government.

The bill also extends LEOSA privileges into Gun-Free School Zones. Under current law, a person can carry a concealed firearm in a Gun-Free School Zone only under limited circumstances, including if they are licensed to do so by the state, are acting in their official capacity as a law enforcement officer or are acting in accordance with a school security contract.

The bill also extends LEOSA privileges into federally controlled spaces, including national parks and certain federal facilities. Under current law, an individual may carry a concealed firearm in a national park if the possession of the firearm complies with the laws of the state where the park area is located.¹⁰ However, an individual generally may not carry a concealed firearm within a federal facility within that national park since federal law prohibits firearms in federal facilities except when used by on-duty law enforcement or incidental to hunting and other lawful purposes.¹¹ The LEOSA Reform Act would undo both aspects of current law, allowing concealed carry under LEOSA in national parks regardless of state law and allowing concealed carry under LEOSA within certain federal facilities, including those in national parks.

The LEOSA Reform Act’s expansion of LEOSA authority into federal facilities will create significant confusion. The bill extends LEOSA carry authority to include a “Facility Security Level I or II civilian public access facility.” However, there is no way to know which federal facilities are or are not included in this definition given that, as the bill itself states, the “Facility Security Level” is determined on a facility-by-facility basis by a particular facility’s security

⁹ 18 U.S.C. §926B(b), 18 U.S.C §926C(b)

¹⁰ 54 U.S.C. §104906; <https://www.nps.gov/articles/firearms-in-national-parks.htm>

¹¹ 18 U.S.C. §930(a), (d).

agency. We have found no listing of federal facilities that fall within Facility Security Level I or II.

The bill's definition of a "civilian public access facility" as "a facility open to the general public" is also ambiguous given that many federal facilities are open to the general public with certain restrictions and it is not clear what degree of public access brings a facility within this definition. For example, most areas of House office buildings are open to the public so long as a person goes through security screening and does not bring in prohibited items, including firearms. Many district offices are in federal buildings that are open to the public with even fewer restrictions. Even the Capitol building is open to the public provided that a member of the public is participating in a tour, has obtained a gallery pass, or has an appointment in the Capitol. Given that there is no central listing of security levels and the ambiguities of the definition of "civilian public access facility," it is not clear which congressional office buildings (including federal buildings that contain congressional district offices), federal historic places, or federal agency offices might fall within this exception. During the markup, we asked for clarification on which facilities would be affected by this provision and the Majority could not provide any. Congressman Glenn Ivey (D-MD) offered an amendment to strike the federal facility provision of the bill, given this uncertainty, but Republicans rejected that amendment.

The bill not only expands where LEOSA applies, but also impacts state regulation on ammunition. Under current law, a qualified officer or retired officer carrying under LEOSA must still abide by any state laws limiting magazine capacity. However, the bill allows an individual carrying a weapon under LEOSA to also carry "any magazine," eliminating any state limits as applied to concealed carry under LEOSA.

Finally, the bill would allow retired officers who carry concealed firearms under LEOSA to meet firearms training standards as infrequently as every 3 years, rather than every year, as required by current law. This means that more individuals, some who may have retired from law enforcement many years ago, will be allowed to carry a concealed firearm despite not having been trained in its proper use in as many as 3 years. Because this bill went forward without a hearing, the Committee did not have the opportunity to investigate the impact of this change in policy on overall public safety.

III. Conclusion

Yet again, my Republican colleagues are pushing guns everywhere as a solution for public safety, when we know that the presence of guns only escalates a situation and increases the potential for violence and deadly mistakes. This bill marks a radical abandonment of at least some Republicans' commitment to states' rights in favor of a national mandate to allow concealed firearms in virtually every place, regardless of the public safety judgments of local officials and private property owners. Unfortunately, this is just one bill of many in which Republicans are pursuing guns as their only answer for addressing crime—an approach that has contributed to record gun deaths in recent years.

Given that this proliferation of guns has taken its toll on law enforcement, I find it ironic that it is being moved during Police Week. More than 100 Americans die each day from gun violence and these deaths are preventable. I again call on Republicans to pass lifesaving bills like the Bipartisan Background Checks Act, the Enhanced Background Checks Act, the Assault Weapons Ban, and the Federal Extreme Risk Protection Order Act. By forcing more guns into more public spaces, this bill is a step backward that jeopardizes the safety of all Americans, including law enforcement.

For these reasons, I dissent, and I urge all my colleagues to oppose this legislation.

A handwritten signature in black ink, reading "Jerrold Nadler". The signature is fluid and cursive, with a long, sweeping underline that extends to the left.

Jerrold Nadler
Ranking Member