

Deanne Benos
Domestic Policy Council
Box 2 of 12

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Enclosures filed in
Oversize Attachments #

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ARA 18507

complete?

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A BILL

To Strengthen America's Firearms and Explosives Laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as "The Youth Gun Crime Enforcement Act of 1999."

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

Sec. 1 – Short Title.

Sec. 2 – Table of Contents.

TITLE I – EXTENDING AND STRENGTHENING THE BRADY LAW

SUBTITLE A – EXTENDING THE BRADY ACT TO GUN SHOWS

Sec. 101 – Regulation of Gun Shows – Findings.

Sec. 102 – Extension of Brady Checks to Gun Shows.

SUBTITLE B – ESTABLISHING A MANDATORY HANDGUN WAITING PERIOD AND GIVING LAW ENFORCEMENT MORE TIME TO COMPLETE BACKGROUND CHECKS

Sec. 103 – Mandatory Waiting Period and Additional Time for Background Checks.

SUBTITLE C – KEEPING GUNS OUT OF THE HANDS OF DANGEROUS JUVENILE OFFENDERS

Sec. 104 – Permanent Prohibition on Firearms Transfers to or Possession by Dangerous Juvenile Offenders.

TITLE II – RESTRICTING YOUTH ACCESS TO FIREARMS

Sec. 201 – Increasing Youth Gun Safety by Raising the Age of Handgun Eligibility and Prohibiting Youth from Possessing Semiautomatic Assault Weapons.

Sec. 202 – Enhanced Penalty for Youth Possession of Handguns and Semiautomatic Assault Weapons and for the Transfer of Such Weapons to Youth.

Sec. 203 – Gun Storage and Safety Devices for All Firearms.

Sec. 204 – Responsibility of Adults for Death and Injury Caused by Child Access to Firearms.

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- Sec. 301 – Preventing Gun Trafficking by Restricting Handgun Transfers to One Per Month.
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- Sec. 308 – Increasing the Penalties on Gun Kingpins.
- Sec. 309 – Serious Recordkeeping Offenses that Aid Gun Trafficking.
- Sec. 310 – Suspension of Firearms Dealer's Licenses and Civil Penalties for Violations of the Gun Control Act.
- Sec. 311 – Termination of Firearms Dealer's License upon Felony Conviction.
- Sec. 312 – Increased Penalty for Transactions Involving Firearms with Obliterated Serial Numbers.
- Sec. 313 – Forfeiture for Gun Trafficking.
- Sec. 314 – Authorization of Appropriations.

TITLE IV – STRENGTHENING THE ASSAULT WEAPONS BAN

- Sec. 401 – Ban on Importing Large Capacity Ammunition Feeding Devices.

TITLE V – COMBATING CRIMINAL MISUSE OF FIREARMS

- Sec. 501 – Certain Gang-Related Firearms Offenses as RICO Predicates.
- Sec. 502 – Increased Penalty for Firearms Conspiracy.
- Sec. 503 – Gun Convictions as Predicate Crimes for Armed Career Criminal Act.
- Sec. 504 – Serious Juvenile Drug Trafficking Offenses as Armed Career Criminal Act Predicates.
- Sec. 505 – Limitation Period for National Firearms Act Prosecutions.
- Sec. 506 – Forfeiture of Firearms Used in Crimes of Violence and Felonies.
- Sec. 507 – Separate Licenses for Gunsmiths.

TITLE VI – ENHANCING FIREARMS ENFORCEMENT

- Sec. 601 – Additional Support for Enhanced Firearms Prosecution Projects.
- Sec. 602 – Youth Crime Gun Interdiction Initiative (YCGII).

TITLE VII – COMBATING CRIMINAL MISUSE OF EXPLOSIVES

- Sec. 701 – Permits and Background Checks for Purchases of Explosives.
- Sec. 702 – Persons Prohibited from Receiving or Possessing Explosives.
- Sec. 703 – Prohibiting Possession of Explosives by Juveniles.
- Sec. 704 – Requirements Concerning Black Powder and Bulk Smokeless Powder.
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THE YOUTH GUN CRIME ENFORCEMENT ACT OF 1999

SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE.

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SEC. 2 TABLE OF CONTENTS.

This provision contains the table of contents for the Act.

TITLE I - EXTENDING AND STRENGTHENING THE BRADY LAW.

SUBTITLE A - EXTENDING THE BRADY ACT TO GUN SHOWS.

SEC. 101. REGULATION OF GUN SHOWS - FINDINGS.

This section contains legislative findings establishing that Congress has the power to regulate gun shows as proposed in the Act.

SEC. 102. EXTENSION OF BRADY BACKGROUND CHECKS TO GUN SHOWS.

The primary purpose of this section is to close the Brady Act's "gun show loophole" by requiring Brady Act background checks for all non-licensed persons who purchase firearms at gun shows and records that enable tracing of the firearms sold. There are more than 4,400 gun shows held annually in this country, as well as countless more flea markets and other events where guns can be traded anonymously because no background checks or records of the firearms transferred required. Consequently, gun shows provide a forum for illegal firearms sales to prohibited persons and gun trafficking.

Reasonable regulation of gun shows is required to close this loophole and prevent gun shows from continuing to serve as a source of firearms to persons who wish to avoid background checks. This proposal accomplishes this goal by requiring: 1) all persons to undergo Brady instant background checks, with the assistance of federally-licensed firearms dealers, in connection with the acquisition of a firearm; 2) all vendors to report limited information about the firearms sold at gun shows, so that the guns can be traced by law enforcement if they are subsequently used in crimes; and 3) all gun show promoters to take responsibility for ensuring that the above requirements are met by requiring promoters to register with ATF and notify ATF of all gun shows.

Registration of Gun Show Promoters

This section would make it unlawful for any person to hold a "gun show" prior to registering with the Secretary. The Secretary would be authorized to charge a fee for the registration.

Definition of Gun Show

Section 921 would define the term "gun show" as any event:

(1) at which 50 or more firearms are offered or exhibited for sale, transfer or exchange if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce; and (2) at which two or more persons are offering or exhibiting firearms for sale, transfer, or exchange.

The definition is drafted broadly to include traditional gun shows, flea markets, swap meets, and any other public market where significant numbers of firearms are offered for sale, transfer, or exchange.

A corresponding amendment would be made to section 923(j), which allows licensees to make off-premises sales of firearms at gun shows. The amendment would delete the term "gun show" so that the only definition of the term would be in section 921. The intent of this amendment is to allow off-premises sales only at events that are sponsored by organizations devoted to the collection, competitive use, or other sporting use of firearms in the community. Such "events" would include gun shows if they are sponsored by one of the specified organizations. Thus, the amendment would not extend the privilege of making off-premises sales to all "gun shows" as defined in the proposed legislation, but would allow licensees to make such sales at the same venues as allowed under current law.

Gun Show Notification Requirements

Thirty days prior to the date of a gun show, gun show promoters would be required to notify the Secretary of the date, time, duration, and location of the gun show and to supply any other information concerning the gun show as the Secretary may require by regulation. No later than 72 hours prior to the date of a gun show, the promoter would be required to provide the Secretary with a list of persons who will be selling firearms at the gun show and other information concerning the sellers as specified by regulation. In the case of flea markets and other types of recurring events at which firearms are sold, regulations implementing these provisions may provide for a single annual notice, or notices at other specified intervals, with additional notifications when changes in vendors occur.

In addition, gun show promoters must verify the identity of all persons selling firearms at the gun show by examining a photographic identification document, require that all such sellers sign a ledger with identifying information concerning the sellers, and require the sellers to sign a notice acknowledging that they have been advised of their obligations under the law. The

records created by these requirements must be delivered to the Secretary within 5 business days of the end of each gun show. The Secretary may also require gun show promoters to retain a copy of these records.

Finally, gun show promoters must advise all attendees of their legal obligation to undergo a Brady background check or face possible criminal penalties.

Penalties for Noncompliance by Gun Show Promoters

Gun show promoters who fail to register prior to holding a gun show would be subject to a fine of not more than \$250,000, imprisonment for not more than 5 years, or both. The remaining obligations imposed on promoters would be punishable by imprisonment for not more than 2 years, a fine of not more than \$250,000, or both. For a second or subsequent conviction, gun show promoters would be subject to imprisonment for not more than 5 years, a fine of \$250,000, or both. In addition, registered gun show promoters who fail to carry out their obligations under the law would be subject to suspension or revocation of their registration, a civil fine of not more than \$10,000, or both.

Requirements for Non-licensed Persons at Gun Shows

Non-licensed persons who sell firearms to other non-licensed persons at a gun show would be required to transfer the firearms through a federal firearms licensee. Non-licensed sellers would violate the law if they transfer the firearm prior to notification from the licensee that the licensee has complied with the requirements of the Brady Act and has not received any information indicating that the receipt or possession of the firearm by the purchaser would be unlawful. This section would impose the same responsibilities on non-licensed purchasers prior to their receipt of a firearm from a non-licensed seller. It is anticipated that licensees would charge a fee for this service.

Penalties for Noncompliance by Non-licensed Persons

Non-licensed sellers and non-licensed transferees who failed to contact the national instant criminal background check system prior to transfer of a firearm at a gun show would be subject to penalties of not more than 2 years imprisonment, a fine of \$250,000, or both. For a second or subsequent conviction, such persons would be subject to penalties of not more than 5 years imprisonment, a fine of \$250,000, or both. Criminal penalties are available against non-licensed transferees for willful violations.

Requirements for Federal Firearms Licensees at Gun Shows

Licensees who agree to perform a Brady background check on the transferee would make a record of the sale on a form to be specified by the Secretary. Licensees would also prepare and send in multiple sales reports if they assist in the transfer of 2 or more handguns during 5 business days to a non-licensed transferee. The licensees would also send in reports of firearms sales that do not include the names or identifying information concerning the non-licensed seller

or purchaser. Licensees would retain a copy of the form used to record the sale as part of their permanent records. This record would allow the tracing of the firearms sold.

It should be noted that the legislation does not provide any exceptions for licensees who sell their personal collections of firearms at gun shows. Under existing law, 18 U.S.C. § 923(c), licensees may maintain and dispose of a personal collection of firearms in the same manner as a non-licensee. The regulations implementing this provision of the law allow licensees to enter firearms maintained as part of a personal collection into a separate record and, once the firearms have been held for at least one year, dispose of them in the same manner as a non-licensee. Since this section would require non-licensees to transfer firearms sold gun shows through an FFL, a licensee disposing of firearms from a personal collection at a gun show would also be required to transfer such firearms as if they are part of the FFL's inventory or through another FFL in the same manner as a non-licensee.

Many used firearms are sold by licensees at gun shows. These firearms may have passed through the hands of several non-licensed purchasers so that the firearms are no longer traceable through the records of federal firearms licensees. In order to enable the tracing of the large numbers of used firearms sold by licensees at guns shows, this section would require that licensees provide reports to the Secretary of all the firearms they sell at gun shows. However, the reports would not include the names or identifying information concerning the non-licensed purchasers.

Penalties for Noncompliance by Licensees

Penalties for licensees who agree to act as “transfer” licensees to assist non-licensed persons in transferring firearms at gun shows but who fail to carry out their obligations under the law would be imprisonment for not more than 5 years, a fine of \$250,000, or both. The same penalties would apply to licensees who sell firearms from their inventories at gun shows and fail to send in the reports of transfer required by section 931(f) of the bill. In addition, a licensee who violated these requirements would be subject to license revocation under existing provisions of the law.

This section would also increase the penalties available for licensees who transfer firearms in violation of the Brady Act. Current law provides for license suspension or revocation and/or civil penalties of not more than \$5,000. Given the importance of conducting background checks on all firearms purchasers, this section would add a criminal penalty of up to 5 years imprisonment for licensees who knowingly fail to contact the national instant criminal background check system prior to transferring a firearm to a non-licensed purchasers. This will give the Government a wider range of penalties to choose from in punishing licensees who fail in their obligations under the Brady Act.

This bill in section 309 would also increase the penalties for licensees who commit more serious recordkeeping violations to make them consistent with the new penalties created by this section. The recordkeeping violations that would give rise to the increased penalties are those that are tantamount to aiding and abetting unlawful deliveries or purchases of firearms. Sections

922(b)(1) and (3) proscribe sales of firearms to persons known to be juveniles or to reside out of state, respectively. Each carries a five-year maximum sentence for a willful violation under 18 U.S.C. § 924(a)(1)(D). Sections 922(a)(6) and (d) proscribe, respectively, making false statements to a licensee in relation to the acquisition of a firearm and knowingly selling a firearm to a felon or other prohibited person. Each is punishable by up to ten years imprisonment.

At present, all recordkeeping violations by licensees are misdemeanors carrying a maximum of one year in prison. This is insufficient in the situations where the knowingly false recordkeeping entry is serious and closely associated with or in the nature of aiding and abetting a violation involving the provision of a firearm to a person not legally entitled to possess it. Accordingly, the amendment would increase the penalty for such recordkeeping violations to the same as would attach to the underlying violation.

This section would also give the Secretary the right to conduct warrantless inspections of the business premises of gun show promoters, sites where gun shows are held, and the records and inventory of licensees selling firearms at gun shows for purposes of determining compliance with the law.

SUBTITLE B - ESTABLISHING A MANDATORY HANDGUN WAITING PERIOD AND GIVING LAW ENFORCEMENT MORE TIME TO COMPLETE BACKGROUND CHECKS.

SEC. 103. MANDATORY WAITING PERIOD AND ADDITIONAL TIME FOR BACKGROUND CHECKS.

This section would create a mandatory 72-hour (three-day) waiting period for all purchases of handguns and semiautomatic assault weapons (a so-called "cooling-off" period). Under the permanent provision of the Brady Law, which went into effect with the National Instant Criminal Background Check System (NICS), a firearms transfer can be delayed for up to three days to allow law enforcement to determine whether the prospective purchaser is disqualified. And under the interim provision of Brady, law enforcement had up to five days to complete background checks.

This amendment would require a gun dealer to wait three days from the date that the transaction is initiated and the NICS check is requested before transferring the handgun or semiautomatic assault weapon to the buyer. The three-day cooling off period is designed to prevent crimes of passion and those murders and suicides, which occur in the heat or despair of the moment.

The mandatory waiting period provided in this section contains one exception. If a prospective purchaser presents a written statement from his or her local chief law enforcement officer stating that a handgun is needed immediately because of a threat to that person's life or that of his or her family, then the prospective purchaser, if otherwise eligible, will not be subject to the mandatory waiting period. There is no exception to the waiting period for semiautomatic assault weapons.

In addition to creating a mandatory cooling off period for handguns and semiautomatic assault weapons, this section would also extend -- by an additional two business days -- law enforcement's "window" to make a final determination on the eligibility of a prospective purchaser to buy a gun. Pursuant to the interim provisions of the Brady Act, which expired with the advent of the NICS, law enforcement had up to five days to make eligibility determinations. However, the permanent provisions of the Brady Act, which became effective November 30, 1998, provide for only three days.

Under the NICS, more than 70 percent of prospective firearms purchasers have received approval for their firearms purchases virtually immediately. Some background checks, however, require additional time for the FBI analyst or state point of contact to conduct a follow-up investigation.

Usually, follow-up investigations involve one or more of the following: identifying whether a record is actually that of the prospective purchaser, identifying whether a record constitutes a disqualification under the Brady Act, and -- potentially most time consuming of all -- locating a disposition for a state criminal history record that is incomplete. Although many of these follow-up investigations can be completed within the three days currently provided for in the Brady Act, some of them cannot. In particular, when the FBI calls upon state courts for assistance in determining the disposition of an incomplete record, the state's response time sometimes exceeds three business days. The proposed amendment would prevent the sale of many guns to prohibited persons whose proposed purchases would otherwise be approved simply because their background checks could not be completed within the three days allotted under current law.

The amendment also requires firearms dealers to provide notice of firearms transfers to the chief law enforcement officer of the transferee's place of residence. The Secretary of the Treasury will exempt dealers from the notice requirement when that notice does not further the purposes of this section (for example, if the statewide chief law enforcement officer is already receiving notice of firearms transactions as a point of contact for NICS checks). A chief law enforcement officer who accepts notice of firearms transfers must destroy such records, unless it is determined that the transfer would violate federal, state, or local law.

SUBTITLE C -- KEEPING GUNS OUT OF THE HANDS OF DANGEROUS JUVENILE OFFENDERS

SEC. 104. PERMANENT PROHIBITION ON FIREARMS TRANSFERS TO OR POSSESSION BY DANGEROUS JUVENILE OFFENDERS.

This provision will make it unlawful for any person adjudicated a juvenile delinquent for serious drug offenses or violent felonies to possess firearms. It would also make it unlawful for anyone to transfer a firearm to a person adjudicated a juvenile delinquent for such crimes when the transferor knows or has reason to know of the adjudication. Under current law, any person adjudicated a juvenile delinquent, even for the most violent crimes, like murder, may possess

firearms when they become adults. This provision will ensure that the most dangerous juvenile offenders may not lawfully possess firearms.

Persons who were adjudicated delinquent but had their firearms rights restored based upon an individualized determination by an appropriate authority of the state of their suitability for such restoration will not be subject to this prohibition.

This provision also modifies the definition of "conviction" for purposes of the federal firearms laws to respond to a serious problem in the current definition. The current definition allows potentially dangerous individuals, who in fact have been convicted, lawfully to possess firearms, notwithstanding the prohibition in 18 U.S.C. § 922(g) on possession of firearms by convicted felons. The problem arises because the current definition of the term "crime punishable by imprisonment for a term exceeding one year" in 18 U.S.C. § 921(a)(20) gives effect to state laws that restore civil rights to convicted felons, including the right to possess firearms.

Several states have laws that do not restore firearms rights to felons based on a process for individualized consideration, but instead automatically restore firearms rights and other civil rights immediately upon completion of a felon's sentence, or within a fixed time period thereafter. Moreover, many states have laws that permit even dangerous felons convicted of crimes of violence or drug offenses to have their firearms rights restored. Thus, the present law needlessly endangers public safety and requires change.

TITLE II - RESTRICTING YOUTH ACCESS TO FIREARMS

SEC. 201. INCREASING YOUTH GUN SAFETY BY RAISING THE AGE OF HANDGUN ELIGIBILITY AND PROHIBITING YOUTH POSSESSION OF SEMIAUTOMATIC ASSAULT WEAPONS.

This provision would amend the Youth Handgun Safety Act, 18 U.S.C. § 922(x) to make it unlawful for persons less than 21 years of age to possess "semiautomatic assault weapons" and "large capacity ammunition feeding devices." These terms are already defined in the law in 18 U.S.C. §§ 921(a)(30) and (31). The amendment would also make it unlawful for persons to transfer such devices and weapons to persons less than 21 years of age. The current exceptions to 18 U.S.C. § 922(x) -- which allow juveniles to temporarily possess handguns for certain purposes -- would not apply to "semiautomatic assault weapons" or "large capacity ammunition feeding devices."

It should be noted that section 401 of the bill amends the definition of "large capacity ammunition feeding device" to delete the language limiting the definition to those devices manufactured after September 13, 1994. Thus, possession of such devices by persons under 21 would be unlawful regardless of their date of manufacture. Accordingly, unlike the offenses in 18 U.S.C. §§ 922(v) and (w), persons under 21 would commit an offense even if they possess "grandfathered" assault weapons or feeding devices.

SEC. 204. RESPONSIBILITY OF ADULTS FOR DEATH AND INJURY CAUSED BY CHILD ACCESS TO FIREARMS.

This proposal would hold adults responsible for knowingly or recklessly allowing children access to firearms if those children use the firearm to cause death or serious bodily injury to themselves or others. The purpose of this provision is to make clear that when an adult fails to prevent a child from obtaining access to a firearm for example, by storing their firearms securely, and the child uses the firearm to cause serious injury, criminal penalties will be available to punish the adult's knowing or reckless conduct. In addition, the provision will help to prevent the accidental shootings that can result when children obtain access to firearms and the use of firearms in crime by young juveniles.

The proposal would make it unlawful for persons to store loaded firearms or unloaded firearms and ammunition within any premises under their control -- unless they secure the firearm with a secure gun storage or safety device -- when they know or recklessly disregard the risk that a child under the age of 18 is capable of gaining access to the firearm and the child uses it to cause death or serious bodily injury to the child or any other person. The violation would be punishable by a prison sentence of not more than 3 years.

In order for an adult to be held responsible under this provision, the child's possession of the firearm either must be unlawful under federal or state law (for example, federal law prohibits a child from possessing a handgun, except in limited circumstances), or the adult must have known or recklessly disregarded the risk that the child would use the firearm to cause death or serious bodily injury.

No violation would result if at the time the child obtains access to the firearm, the firearm was secured by a secure gun storage or safety device. This term is defined to include safety locks, storage in a locking gun case or box, or devices incorporated into the firearm that prevent operation of the firearm by anyone not having access to the device. Exceptions are also provided for firearms belonging to peace officers or members of the armed forces when the child obtains access to the gun while the adult is performing official duties, firearms obtained by children in a lawful act of self-defense or defense of others, and instances when there is no reasonable expectation that children are likely to be present on the premises where the firearm is stored.

TITLE III - COMBATING ILLEGAL TRAFFICKING IN GUNS

SUBTITLE A -- RESTRICTING THE SOURCES OF ILLEGAL GUNS.

SEC. 301. PREVENTING GUN TRAFFICKING BY RESTRICTING HANDGUN TRANSFERS TO ONE PER MONTH.

The purpose of this legislation is to make it more difficult for gun runners to stockpile weapons rapidly through bulk purchases. By limiting handgun sales to one handgun per month per person, this law will allow law-abiding persons to obtain handguns, while curtailing handgun trafficking. The findings establish that the regulation of interstate commerce in handguns falls

squarely within both federal responsibility and Congressional authority under Article I of the Constitution.

The prohibition on multiple gun purchases is limited to handguns because: 1) due to their relatively small size, low cost, and the fact that they are easily concealed, handguns are a favorite weapon of gun traffickers and criminals; 2) the federal law would closely track state legislation on this subject (three states have banned multiple handgun sales but none have banned multiple sales of all guns); and 3) given the connection between handguns and violent crime, reasonable limitations on handgun purchases to one per month will contribute to public safety and reduce gun violence.

One-Gun-A-Month Provision

This section prohibits any person from knowingly transferring more than one handgun in any 30-day period to another person, unless the transferee is a licensed importer, licensed manufacturer, or licensed dealer. Also, this section prohibits any person from receiving more than one handgun in any 30-day period, unless the person is a licensed importer, licensed manufacturer, or licensed dealer.

Exceptions

Recognizing that there are a few situations in which there may be a legitimate need for more than one handgun in any 30-day period, this section provides limited exceptions, similar to those contained in the laws of the states that presently have a one-handgun-per-month law. A number of these exceptions will apply only if the handgun is transferred through a federal firearms licensee, to allow a Brady background check to be performed before the transfer. An exception for law enforcement officials already exists by operation of other provisions of the Gun Control Act. The remaining exceptions are provided in this section.

Private security companies. There is an exception for private security companies that may have a need to transfer or receive more than one handgun in any 30-day period. To qualify for this exception, the private security must be licensed to do business in the state where the transfer of more than one handgun occurs. In addition, the exception applies only when the transfer is for the use by the private security company in its security operations and when the transfer is made through a licensed dealer located in the state in which the security company is licensed.

Exchange, return or replacement of a handgun. As with any retail purchase, a person may occasionally wish to return a defective handgun for exchange, repair or customizing. If this return occurs within a 30-day period, the exception allows the person to return the handgun and receive another handgun of the same kind and type.

Rented or loaned handguns. A person may wish to rent or borrow a handgun for target shooting or for some other temporary activity. The exception allows a person to rent or borrow

more than one handgun in any 30-day period, provided that the person possesses only one loaned or rented handgun at any one time.

Redemption of pawned handguns. This exception allows a person to pawn and redeem more than one handgun in a 30-day period.

Receipt of curio or relic handguns by a licensed collector. Federally licensed collectors may receive more than one curio or relic handgun in a 30-day period.

Replacement of a lost or stolen handgun. If a person's handgun is lost or stolen, the exception allows the person to obtain a single replacement handgun of the same kind and type from a federal firearms licensee, provided that the person provides the licensee with a copy of an official police report that establishes the loss or theft of the handgun.

Transfer of handguns by bequest. This exception allows more than one handgun to be transferred during a 30-day period by bequest.

Transfers between immediate family members. Immediate family members may wish to transfer more than one handgun in a 30-day period. For example, a person may wish to entrust several handguns to an immediate family member for safe keeping. Alternatively, there may be situations in which a person wants to give more than one handgun to an immediate family member as a gift. Therefore, this section includes an exception for the transfer of a handgun to a member of the transferor's immediate family and defines immediate family to include the transferor's spouse, child, parent, stepparent, grandparent, grandchild, brother, or sister.

Transfers of a personal collection. A person may wish to transfer all or part of a personal firearms collection that includes more than one handgun. There may be reasons to keep together multiple handguns in a single firearms collection, such as when the handguns are consecutively sequenced. Therefore, the exception allows transfers of all or part of a personal firearms collection. To effectuate this exception, the Secretary will promulgate regulations defining a "personal firearms collection" to prevent the exception from becoming a loophole to avoid compliance with the one-gun-a-month law. In addition, the collection must be transferred through a federal firearms licensee to enable the prospective transferee to undergo an instant background check.

Penalties

This section increases the penalty applicable to firearms licensees who knowingly make false statements in required records. Licensees are the first line of defense in the effort to ensure that felons and other prohibited persons do not purchase firearms. Accordingly, the penalty for knowingly making a false statement with respect to information required to be kept in the licensee's records should be severe. This section increases the penalty from one year to five years imprisonment.

Conforming Changes to the Brady Act

Current law requires that all persons who seek to obtain a handgun from a federal firearms licensee must undergo an instant background check. This section will use that check to determine if the proposed handgun purchaser has already purchased another handgun within the preceding 30 days. The licensee will contact the National Instant Criminal Background Check System (NICS) and, if the system informs the licensee that the transferee has received another handgun within the previous 30 days, the licensee is prohibited from transferring the handgun unless the transferee qualifies for one of the exceptions.

The Brady Act's requirement that a background check be conducted in connection with handgun purchases currently does not apply to purchasers who present the firearms dealer with a valid permit in states with permitting schemes that have been approved by ATF. Because a background check must be performed in connection with every purchase of a handgun to verify that a person has not received more than one handgun in any 30-day period, this section repeals the Brady Law's permit exception. The permit exception creates a significant loophole in the Brady Act, because the exception allows a person with a qualifying permit to evade a background check for up to five years from the date that the permit was issued. In states that issue permits and do not attempt to verify the ongoing validity of a permit, persons who have been disqualified from possessing a firearm after they receive their permit may do so anyway by presenting a permit to the licensee and avoiding a background check at the time of purchase.

In some cases, a licensee will request an instant background check for a prospective handgun transferee, who, although approved for the transfer, subsequently elects not to receive the gun. In order to assure that this incomplete transaction will not prevent the acquisition of another handgun within 30 days, this section requires the licensee, at the request of the transferee, to inform the NICS that a background check was requested that did not result in the transfer of a handgun.

This section also authorizes the use of information contained in the NICS to effectuate the one-gun-a-month provision.

Effective Date

This section provides that the effective date of the one-gun-a-month provision will be established by the Secretary in consultation with the Attorney General and published in the Federal Register.

SEC. 302. SECURE STORAGE OF FIREARMS INVENTORIES.

This amendment would require federal firearms licensees other than collectors and gunsmiths to store their firearms inventory in accordance with regulations issued by the Secretary. The purpose of the amendment is to provide security requirements for the firearms industry. Thefts of firearms from dealers is a growing problem and contributes to the number of firearms available to juvenile youth gangs and other criminals. In issuing the storage regulations,

the Secretary would be required to consider the standards of safety and security used by the firearms industry. The industry, as well as other interested persons, could participate in the rulemaking process and have input into the regulations.

SEC. 303. REQUIRING THEFTS FROM COMMON CARRIERS TO BE REPORTED.

The proposed legislation would amend the Gun Control Act to impose a responsibility upon common or contract carriers to report the theft or loss of a firearm within 48 hours after the theft or loss is discovered. This is similar to the responsibility already imposed on firearms licensees.

The new reporting requirement would enhance the ability of law enforcement agencies to trace stolen firearms. A knowing violation of this requirement is punishable by a civil fine of not more than \$10,000.

SEC. 304. INCREASING THE NUMBER OF ALLOWED COMPLIANCE INSPECTIONS OF FIREARMS DEALERS.

The proposed amendment would allow the Bureau of Alcohol, Tobacco and Firearms to conduct three compliance inspections annually of licensed firearms dealers, importers, and manufacturers.

Existing law restricts ATF to one annual inspection of firearms licensees. In ATF's experience, it is sometimes necessary to conduct multiple compliance inspections of a firearms licensee within a one-year period, particularly if the licensee has a poor compliance record.

SEC. 305. TRANSFER OF A FIREARM TO COMMIT A CRIME OF VIOLENCE.

Present 18 U.S.C. § 924(h) makes it unlawful to transfer a firearm "knowing" that the firearm will be used to commit a crime of violence or drug trafficking crime. However, 18 U.S.C. § 924(b) makes it unlawful to transport or receive a firearm in interstate commerce "with knowledge or reasonable cause to believe" that any felony is to be committed therewith. Both statutes carry the same maximum penalty.

There is no reason why section 924(h) should be limited to instances in which the actor has knowledge that a crime of violence or drug trafficking crime will be committed, as opposed to having "reasonable cause to believe" that such is the case. Indeed, the offenses covered by section 924(h) -- violent felonies and drug trafficking felonies -- are inherently more serious than the offenses covered by section 924(b), which extends to all felonies. Accordingly, this section would conform the scienter element in section 924(h) by adding "reasonable cause to believe" to that statute.

SEC. 306. LICENSEE REPORTS OF SECONDHAND FIREARMS.

The purpose of this section is to provide the Secretary of the Treasury with information to enable the tracing of secondhand firearms. When federal firearms licensees sell secondhand firearms, these firearms are often not traceable because they have passed through the hands of several non-licensed purchasers before the licensee obtains them. Once the chain from manufacturer or importer, wholesaler, and retailer is broken, it is extremely difficult to trace a firearm through the records licensees are required to make and keep under the Gun Control Act. Accordingly, the amendment requires licensees to report to the Secretary any secondhand firearms that are obtained by the licensee from anyone other than another licensee. However, such reports shall not include names of or identifying information about firearms purchasers.

SEC. 307. VOLUNTARY SUBMISSION OF DEALER'S RECORDS.

This provision will allow federal firearms licensees to voluntarily submit business records to ATF. Currently, if a licensee's records are greater than 20 years old, the licensee has the option of continuing to retain the records or destroying them; he or she may not transfer them to ATF. Some licensees would prefer not to destroy their records -- which would make the guns identified in the records untraceable if the guns are later used in crime -- but instead, would prefer to transfer the old records to ATF. This proposal would also allow a successor licensee to either submit the predecessor's records to ATF or retain them. This proposal will assist ATF with the tracing of crime guns.

SUBTITLE B -- ENHANCING PENALTIES FOR GUN TRAFFICKING

SEC. 308. INCREASING PENALTIES ON GUN KINGPINS.

Under current law, engaging in the firearms business without a license (18 U.S.C. § 922(a)(1)) carries a maximum penalty of 5 years of imprisonment. This amendment would increase the maximum penalty to 10 years of imprisonment. This is appropriate given the seriousness of the offense. It also is consistent with the penalties for other Gun Control Act trafficking offenses such as 18 U.S.C. § 922(a)(6) and 18 U.S.C. § 924(n).

The provision also directs the United States Sentencing Commission to review and amend the federal sentencing guidelines to provide an appropriate enhancement for a section 922(a)(1) violation. Presently, United States Sentencing Guideline § 2K2.1(b)(1) provides for an increase in the base offense level for firearms offenses if the crime involved 3 or more firearms. However, the guidelines reach their peak with respect to firearms involvement at 50 firearms, with 6 levels added for crimes involving "50 or more" firearms. This amendment directs the Sentencing Commission to review and amend the guidelines to provide additional sentencing increases, as appropriate, for offenses involving more than 50 firearms.

SEC. 309. SERIOUS RECORDKEEPING OFFENSES THAT AID GUN TRAFFICKING.

This section would increase the punishment for the most serious recordkeeping violations committed by federal firearms licensees, which are tantamount to aiding and abetting unlawful deliveries or purchases of firearms, to the same level of offense as that committed by the unlawful provider or receiver. Sections 922(a)(6) and (d) proscribe, respectively, making false statements to a licensee in relation to the acquisition of a firearm and knowingly selling a firearm to a convicted felon or other prohibited category of firearm recipient. Each is punishable by up to ten years' imprisonment.

Some courts have held that recordkeeping violations by licensees are misdemeanors carrying a maximum of one year in prison. This is insufficient in certain situations, such as those described above, where the knowingly false recordkeeping entry is very serious and closely associated with or in the nature of aiding and abetting a violation involving the provision of a firearm to a person not entitled to obtain it. Accordingly, the amendment in this section would increase the penalty for such recordkeeping violations to make it the same as the penalty that would attach to the underlying violation.

SEC. 310. SUSPENSION OF FIREARMS DEALER'S LICENSE AND CIVIL PENALTIES FOR VIOLATIONS OF THE GUN CONTROL ACT.

Under current law, the only available administrative remedies to deal with licensees' violations are the extreme measures of denying license renewal applications and license revocation. There may be certain minor violations of the Gun Control Act, *e.g.*, the failure to timely record information in required records, that may not warrant license revocation or license denial. This amendment provides new administrative sanctions, less severe than current administrative remedies, including license suspension, civil money penalties, and authority to accept monetary offers in compromise of violations of the law and regulations.

SEC. 311. TERMINATION OF FIREARMS DEALER'S LICENSE UPON FELONY CONVICTION.

This amendment would remove the right of federal firearms licensees to continue to operate their licensed businesses after a felony conviction. Under current law, a licensee convicted of a felony may continue to conduct business under the license until appeal rights are exhausted. Under the amendment, the license would terminate upon conviction.

SEC. 312. INCREASED PENALTY FOR TRANSACTIONS INVOLVING FIREARMS WITH AN OBLITERATED SERIAL NUMBER.

The current maximum penalty for knowingly transporting, shipping, possessing or receiving a firearm with an obliterated or altered serial number in violation of 18 U.S.C. § 922(k) is five years. Transactions involving weapons with obliterated serial numbers, like transactions involving stolen guns, are indicative of an intent to use the firearm for a criminal purpose. However, transactions involving stolen guns carry a higher maximum penalty of ten years.

Accordingly, this section would increase the maximum penalty for transactions involving firearms with obliterated or altered serial numbers to ten years.

SEC. 313. FORFEITURE FOR GUN TRAFFICKING.

This section provides for the forfeiture, under 18 U.S.C. §§ 981 and 982, of vehicles used to commit gun running crimes, such as transporting stolen firearms, and for the proceeds of such offenses. The provision is limited to instances in which five or more firearms are involved, thus making it clear that it is not intended to be used in instances where an individual commits a violation involving a small number of firearms in his or her personal possession.

TITLE IV - STRENGTHENING THE ASSAULT WEAPONS BAN

SEC. 401. BAN ON IMPORTING LARGE CAPACITY AMMUNITION FEEDING DEVICES.

The purpose of this proposal is to prohibit the importation of large capacity ammunition feeding devices into the United States.

Existing law, 18 U.S.C. § 922(w), prohibits the transfer and possession of "large capacity ammunition feeding devices." An exception is provided for the possession or transfer of any such device lawfully possessed on or before the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994, September 13, 1994. The term "large capacity ammunition feeding device" is defined in existing law, 18 U.S.C. § 921(a)(31) as a magazine, belt, drum, feed strip, or similar device manufactured after September 13, 1994, that has a capacity of, or can be readily restored or converted to accept, more than 10 rounds of ammunition.

Since existing law excludes from the definition any device manufactured on or before September 13, 1994, such devices have been approved for importation into the United States if the importer submits evidence establishing that the devices were manufactured on or before September 13, 1994. This section would amend the definition of "large capacity ammunition feeding device" to delete the language limiting the definition to devices manufactured after September 13, 1994. Thus, all devices with a capacity of more than 10 rounds of ammunition would be subject to the restrictions of the law. However, the proposal would retain the existing "grandfather" exception in the law for devices lawfully possessed on or before the date of enactment. In addition, this section would add a provision making it unlawful for any person to import a large capacity ammunition feeding device.

The effect of the amendments would be to bar the importation of all feeding devices with a capacity of more than 10 rounds of ammunition, regardless of their date of manufacture. Such devices that were lawfully possessed in the United States on or before September 13, 1994, would be covered under the "grandfather" provision of the law and could continue to be possessed and transferred without restriction. The proposal would also add language to section 922(w) to make it clear that devices lawfully imported from September 13, 1994, to the present may also continue to be lawfully possessed and transferred.

Given the vast worldwide supply of magazines with a capacity of more than 10 rounds, the amendment is necessary to limit the commercial sale of these devices. This is consistent with the congressional intent to limit the general public's access to magazines with a capacity of more than 10 rounds.

TITLE V - COMBATING CRIMINAL MISUSE OF FIREARMS

SEC. 501. CERTAIN GANG-RELATED FIREARMS OFFENSES AS RICO PREDICATES.

This section would add a number of title 18 firearms offenses that are related to gang activity to the RICO statute. The covered offenses would be: section 922(a)(1) (illegally engaging in business of dealing in firearms); section 922(a)(6) (knowingly making false statement to a licensee in order to acquire a firearm); section 922(i) (transporting a firearm in interstate or foreign commerce knowing it to have been stolen); section 922(j) possession or disposition of a firearm or ammunition knowing it to have been stolen); section 922(k) (transporting or receiving a firearm interstate with an obliterated serial number); section 922(o) (unlawful possession or transfer of a machinegun); section 922(q) (unlawful possession of a firearm that affects or has moved in interstate commerce in a school zone); section 922(u) (theft from a licensee of a firearm that has moved in interstate commerce); section 922(v) (illegal transfer or possession of a semiautomatic assault weapon); section 922(x)(1) (sale or transfer of a firearm to a person known to be a juvenile); section 924(b) (transporting or receiving a firearm in interstate commerce with intent to commit therewith a felony); section 924(g) (traveling interstate to acquire a firearm with intent to commit a crime of violence, drug trafficking offense, or other enumerated felony); section 924(h) (transferring a firearm with knowledge it will be used to commit a crime of violence or drug trafficking offense); section 924(k) (smuggling a firearm into the United States with intent to commit a crime of violence or drug trafficking offense); section 924(m) (theft of a firearm from a licensee); and section 924(n) (traveling in interstate or foreign commerce to acquire a firearm, with intent to engage illegally in business of dealing in firearms).

SEC. 502. INCREASED PENALTY FOR FIREARMS CONSPIRACY.

This section would amend the firearms chapter of title 18 to provide that a conspiracy to commit any violation of that chapter is punishable by the same maximum term that applies to the substantive offense that was the object of the conspiracy. An identical amendment was enacted to the explosives chapter of title 18 by section 701 of the Antiterrorism and Effective Death Penalty Act of 1996 (P.L. 104-132). This also accords with several other recent congressional enactments, including 21 U.S.C. § 846 (applicable to drug conspiracies) and 18 U.S.C. § 1956(h) (applicable to money laundering conspiracies). This trend in federal law, which is emulated in the penal codes of many states, recognizes that, as the Supreme Court has observed, "collective criminal agreement -- partnership in crime -- presents a greater potential threat to the public than individual delicts." Callanan v. United States, 364 U.S. 587, 593 (1961); *accord* United States v. Feola, 420 U.S. 671, 693-94 (1975).

SEC. 503. GUN CONVICTIONS AS PREDICATE CRIMES FOR ARMED CAREER CRIMINAL ACT.

Under current law, violent felonies and serious drug offenses are the only predicate offenses under the Armed Career Criminal Act (ACCA). This amendment would add to the list of predicate offenses in the ACCA prior convictions for violations of § 922(g)(1) of the Gun Control Act of 1968 (GCA). This provision of the GCA prohibits the possession of a firearm by a convicted felon.

Persons who have been convicted of a violent felony or serious drug offense and twice convicted of violating the felon-in-possession statute have demonstrated a propensity for violence deserving of sentencing under the ACCA. Thus, the amendment provides that a conviction under § 922(g)(1) would constitute a predicate offense for purposes of imposing a mandatory term of imprisonment of not less than 15 years under the ACCA. Under this proposal, no more than two prior convictions for violations of section § 922(g)(1) may be considered as predicate offenses for purposes of the ACCA.

SEC. 504. SERIOUS JUVENILE DRUG TRAFFICKING OFFENSES AS ARMED CAREER CRIMINAL ACT PREDICATES.

This section would amend the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), to permit the use of an adjudication of juvenile delinquency based on a serious drug trafficking offense as a predicate offense under the ACCA. The ACCA requires the imposition of a minimum 15-year term of imprisonment for those felons found in unlawful possession of a firearm who have proven records of involvement in serious acts of misconduct involving drugs or violence.

Youthful offenders are increasingly involved in serious drug offenses. Additionally, there is a known association of drug crimes with violence. Accordingly, it is appropriate to enlarge the scope of the predicate crimes under the ACCA to include acts of juvenile delinquency that, if committed by an adult, would meet the Act's requirements. This is also consistent with current law, under which a finding that a person has committed an act of juvenile delinquency involving a violent felony is a predicate offense.

SEC. 505. LIMITATION PERIOD FOR NATIONAL FIREARMS ACT PROSECUTIONS.

This amendment would extend the period of limitations for prosecutions of violations of the National Firearms Act (NFA), *e.g.*, the unlawful transfer of explosive or incendiary bombs, from 3 years to 5 years. The current 3-year period of limitations is applicable to NFA prosecutions because the NFA is part of the Internal Revenue Code. Otherwise, there is no reason why the periods should differ from the general 5-year period applicable to offenses under Title 18, United States Code. This amendment would lengthen the statute of limitations for the

unlawful making, transfer, and possession of the types of weapons preferred by terrorists, *e.g.*, bombs and other destructive devices.

SEC. 506. FORFEITURE OF FIREARMS USED IN CRIMES OF VIOLENCE AND FELONIES.

This section adds the authority to forfeit firearms used to commit crimes of violence and all felonies to 18 U.S.C. §§ 981 and 982. This authority would be in addition to the authority already available to Treasury under 18 U.S.C. § 924(d).

The purpose of the amendment is (1) to provide for criminal as well as civil forfeiture of firearms; and (2) to permit forfeiture actions to be undertaken by Department of Justice law enforcement agencies that have authority to enforce the statutes governing crimes of violence but that do not have authority to pursue forfeitures of firearms under the existing statutes.

Section 924(d) of title 18 already provides for the civil forfeiture of any firearm used or involved in the commission of any "violation of any . . . criminal law of the United States." The statute, however, is enforced only by the Treasury Department and its agencies; it provides no authority for the FBI, for example, to forfeit a gun used in the commission of an offense over which it has sole jurisdiction. Moreover, section 924(d) provides for civil forfeiture only.

Subsection (d) adds a provision to 18 U.S.C. § 924(d) intended to permit the Bureau of Alcohol, Tobacco and Firearms to forfeit property that otherwise would have to be forfeited by another agency. Under section 924(d), ATF is presently authorized to forfeit a firearm used or carried in a drug trafficking crime. Property involved in the drug offense itself, such as drug proceeds, may also be forfeitable under the Controlled Substances Act, 21 U.S.C. § 881, but ATF does not presently have authority to forfeit property under that statute and has to turn the forfeitable property over to another agency. The amendment does not expand the scope of what is forfeitable in any way, but does allow the forfeiture to be pursued by ATF when the agency is already involved in the forfeiture of a firearm in the same case. The amendment would eliminate the situations where two investigative agencies institute forfeitures of property originating in the same criminal case.

Finally, subsection (e) clarifies an ambiguity in the present statute relating to the 120-day period in which a forfeiture action must be filed. Presently, the statute says that a forfeiture proceeding must be filed within 120-days of the seizure of the property. This was intended to force the government to initiate a forfeiture action promptly. In one case, however, where the government did initiate an administrative forfeiture action within the 120-day period, the claimant filed a claim and cost bond, which required the government to begin the forfeiture action over again by filing a formal civil judicial proceeding in federal court. The claimant then moved to dismiss the judicial proceeding because the complaint was filed outside the 120-day period.

The court granted the motion to dismiss because the literal wording of 18 U.S.C. § 924(d) requires any forfeiture action against the firearm to be filed within 120 days of the seizure.

United States v. Fourteen Various Firearms, 889 F. Supp. 875 (E.D. Va. 1995). This interpretation, however, leads to unjust results in cases where the government promptly commences an administrative forfeiture action but the claimant waits the full time allotted to him to file a claim. In such cases, Congress could not have intended the 120-day period for filing a *judicial* complaint to count from the date of the seizure; indeed, it is often the case that the claimant does not even file the claim until more than 120 days have passed. Thus, the amendment clarifies the statute to make clear that the government must initiate its *administrative forfeiture* proceeding within 120 days of the seizure.

SEC. 507. SEPARATE LICENSES FOR GUNSMITHS.

The proposed bill would establish separate licenses for firearms dealers and gunsmiths, and lower the licensing fees for gunsmiths. As the federal firearms licensing provisions are presently structured, there is no distinction between licenses issued to gunsmiths and those issued to firearms dealers.

The establishment of separate licenses for firearms dealers and gunsmiths will allow an assignment of inspection priorities that will promote regulatory efficiency and significantly reduce inspection costs. The proposed legislation recognizes the lower costs associated with regulating gunsmiths by lowering the licensing fees for dealers who are only engaged in gunsmith activities.

TITLE VI -- ENHANCING FIREARMS ENFORCEMENT

SEC. 601. ADDITIONAL SUPPORT FOR ENHANCED FIREARMS PROSECUTION PROJECTS.

Although the nation's violent crime rate is down nearly 20% since 1992, and the number of violent crimes committed with firearms has dropped 27% during that same period, gun-related violence still represents a major threat to the health and safety of all Americans. Accordingly, this section authorizes the appropriation of \$5,000,000 for fiscal year 2000 to supplement funding provided to the Department of Justice's United States Attorneys. This funding is consistent with President's Budget Request for additional resources for United States Attorneys to conduct intensive firearms prosecution projects in districts where they are needed around the country in order to ensure the effective prosecution of firearms offenders, violent felons who possess guns, and armed drug traffickers, as well to prevent future firearms crimes through effective deterrence and disruption of illegal firearms markets through collaborative federal, state and local partnerships.

This approach recognizes that each United States Attorney must develop partnerships with their counterparts at the state and local levels, in other federal agencies, and in the community to identify crime problems and develop crime reduction strategies tailored to the needs and challenges of communities within their districts. United States Attorneys have successfully employed such collaborative strategies across the nation. These strategies vary substantially in structure, emphasis, and approach from district to district. Given the success of

these ongoing efforts and the Department of Justice's commitment to these collaborative approaches, additional funding should be provided, not to dictate specific strategies to be used by these partnerships, but to support the efforts of communities to implement the strategies that are most likely to have a positive impact on their firearm and other violent crime problems.

SEC. 602. YOUTH CRIME GUN INTERDICTION INITIATIVE (YCGII).

The amendment would authorize the Bureau of Alcohol, Tobacco and Firearms (ATF) to increase the number of cities participating in the Youth Crime Gun Interdiction Initiative (YCGII). By fiscal year 2000, federal, state, and local law enforcement agencies in 37 major cities will be employing ATF's expertise and resources to trace firearms used in crime, to identify sources and patterns of illegal firearms trafficking, and to develop enforcement strategies to reduce the flow of weapons to the youngest and most volatile members of our society, including by arresting illegal youth users of firearms and illegal traffickers of firearms to youth. The amendment provides that the Secretary of the Treasury shall expand to 75 the number of cities and counties with law enforcement agencies that submit and share identifying information about crime guns through YCGII and conduct law enforcement investigations. This provision also requires the Secretary of the Treasury to provide an annual report on the types and sources of recovered crime guns and the number of investigations associated with YCGII. By authorizing the expansion of this successful program to additional cities, this section extends valuable assistance to local governments in fighting youth crime.

TITLE VII -- COMBATING CRIMINAL MISUSE OF EXPLOSIVES

SEC. 701. PERMITS AND BACKGROUND CHECKS FOR PURCHASES OF EXPLOSIVES FROM FEDERAL EXPLOSIVES LICENSEES.

The purpose of this section is to reduce the availability of explosives to felons and others prohibited from possessing explosives, and to assure that explosives are stored safely. The section would require a criminal background check prior to the transfer of explosive materials to non-licensed purchasers by licensed dealers. The criminal background check requirement is based on the Brady law, which requires federal firearms dealers to conduct criminal background checks on prospective firearms purchasers. This section would also require persons obtaining explosive materials from federally-licensed explosives dealers to obtain a federal permit.

Under existing law, all persons are required to store explosive materials in accordance with regulations issued by the Secretary of the Treasury. However, consistent with the Fourth Amendment, warrantless inspections of explosives storage facilities may only be conducted of persons who are subject to federal regulation, *i.e.*, federal explosives licensees and permittees. Accordingly, requiring a federal permit for all persons who purchase explosives from licensees will make it easier for the Government to determine that explosive materials are stored safely and in accordance with the regulations. The instant check for all purchasers will ensure that a criminal records check is conducted each time any individual purchases explosives to prevent the acquisition of explosives by felons and other persons prohibited from possessing explosives under federal law.

SEC. 702. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVES.

The purpose of this section is to amend the federal explosives laws to include within the categories of "prohibited persons" who may not lawfully possess explosives the same persons who are prohibited from possessing firearms under the Gun Control Act of 1968 (GCA). The GCA has been amended a number of times since enactment to add to the list of prohibited persons, while the corresponding list in the federal explosives laws has remained unchanged since enactment in 1970. The dangers posed by the possession of firearms by illegal aliens, persons dishonorably discharged from the military, and the other persons listed in the proposal are equally present with regard to the possession of explosives.

SEC. 703. PROHIBITING POSSESSION OF EXPLOSIVES BY JUVENILES.

Current law makes it unlawful for any person to sell explosive materials to persons under the age of 21. This section would also make it unlawful for anyone under the age of 21 to ship, transport, receive or possess explosive materials in interstate or foreign commerce. This provision is necessary in light of the increased use of explosive materials by juveniles in criminal activity.

The amendment provides a limited exemption to allow individuals under the age of 21 to possess up to five pounds of commercially manufactured black powder and, if the person is less than 18 years of age, the person has the prior written consent of his or her parent or guardian. The person must have the written consent in his or her possession at all times when possessing the black powder. This exception would not preclude juveniles from possessing small quantities of black powder for sporting, recreational or cultural purposes in antique firearms. For example, juveniles could still participate in competitive target shooting using antique firearms.

SEC. 704. REQUIREMENTS CONCERNING BLACK POWDER AND BULK SMOKELESS POWDER.

This section would amend the federal explosives laws to make smokeless powder subject to the regulatory controls imposed on other explosive materials and assist in solving bombings. The amendments will be particularly helpful in identifying purchasers and in keeping explosives out of the hands of criminals.

Under current law, smokeless powder is exempt from federal explosives regulations. Thus, persons who import, manufacture, and deal in these materials are not required to have licenses or permits or keep records of their acquisition or disposition. Because smokeless powder is "ammunition" under the federal firearms laws, felons, and other prohibited persons may not lawfully possess smokeless powder.

The amendment would leave intact the exception in 18 U.S.C. § 845(a)(4) for small arms ammunition in an assembled state and primers not assembled into cartridges. Thus, smokeless

powder would continue to be exempt when assembled with other ammunition components into complete cartridges and shells.

Under current law, black powder in quantities of 50 pounds or less is exempt from regulation under the federal explosives laws. Thus, felons and other prohibited categories of persons may lawfully possess these quantities. In addition, while persons who manufacture, import, or deal in black powder must be licensed, their sales of exempt quantities are unregulated. Thus, the Government is precluded from requiring explosives licensees to identify purchasers or keep records of their sales of exempt quantities of black powder.

This section would largely repeal that exemption and would extend current law, which prohibits convicted felons and other dangerous persons from possessing explosive materials, to prohibit such persons from possessing black powder. The use of smokeless propellants and black powder in the unlawful making of bombs occurs on a frequent basis. There is no justification for allowing felons and other prohibited persons to possess black powder when they have been deemed, by statute, to be too dangerous to possess explosive materials.

The Gun Control Act, 18 U.S.C. § 926(c), precludes the Government from requiring federal explosives licensees to keep records of their sale of black powder in quantities of 50 pounds or less intended for sporting, recreational, or cultural purposes in antique firearms or devices. However, a significant number of bombing incidents involve explosive devices containing black powder, and this prohibition makes it difficult to identify persons who may be responsible for bombing incidents.

This amendment would permit the Bureau of Alcohol, Tobacco and Firearms (ATF) to require explosives licensees to maintain a record of their sale of these quantities of black powder. These records would assist ATF in identifying unlawful purchasers of black powder, *e.g.*, felons, and therefore facilitate the criminal prosecution of those responsible for such incidents.

The amendment does provide an exemption so that a purchaser of up to five pounds of black powder, or up to ten pounds of smokeless powder, would not be required to obtain a permit under section 701 of this Act. However, such persons would still be subject to the instant criminal background check when they acquire small quantities of black or smokeless powder.