

The original documents are located in Box 9, folder “Crime - Meeting with Senator Hruska and Max Friedersdorf, July 14, 1975” of the James M. Cannon Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Justice

MEETING WITH SENATOR HRUSKA
MAX FRIEDERSDORF
(Senator's Office)
1:30 p.m. (Gun Control)
MONDAY, JULY 14, 1975



OUTLINE OF THE PRESIDENT'S HANDGUN LEGISLATION

The President's Handgun Bill would:

- Ban the import, domestic manufacture, and sale of cheap, highly concealable handguns -- "Saturday Night Specials" -- which have no apparent use other than against human beings;
- Restrict the issuance of Federal dealers' licenses to bona fide gun dealers;
- Restrict multiple sales of handguns (authorizing the purchase of no more than one handgun within a 30-day period);
- Impose a 14-day waiting period between the purchase and receipt of a handgun, during which time the dealer can check to determine whether the purchaser may lawfully own a handgun;
- Require the dealer to take reasonable steps to ensure that the purchaser of a handgun is not prohibited from possessing it under Federal, State or applicable local law; and
- Require the imposition of a mandatory minimum term of imprisonment on any person convicted of using or carrying a handgun in the commission of a Federal felony.

The President's Handgun Bill would not:

- Require a Federal license to purchase a handgun;
- Require that handguns be registered with the Federal government;
- Prohibit law-abiding citizens from possessing handguns;
- Authorize the Federal government to keep records of everyone who buys handguns;
- Apply to possession of long guns; or
- Prohibit collectors from purchasing and trading curio or antique handguns.



IN THE SENATE OF THE UNITED STATES

Mr. _____

introduced the following bill; which was read twice and referred to the Committee on

A BILL

To ban the importation, manufacture, sale, and transfer of Saturday Night Specials, to improve the effectiveness of the Gun Control Act of 1968, to ban possession, shipment, transportation, and (Insert title of bill here) receipt of all firearms by felons, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

That the Congress hereby finds and declares --

(a) that the traffic in cheap, low-quality, and easily concealable handguns, which are commonly known as "Saturday Night Specials" and which have no legitimate sporting or valid defensive purpose, constitutes a serious threat to general law enforcement, to the public safety, and to the integrity of State and local firearms control laws;

(b) that the criminal misuse of these handguns is a significant factor in the prevalence of lawlessness and violent crime in the United States, thus contributing greatly to the Nation's law enforcement problems;

(c) that the existing ban on importation of Saturday Night Specials has been effectively subverted by the importation of parts and the domestic assembly and manufacture of the weapons the Congress banned from importation; and

(d) that the absence of effective controls on domestic manufacture and sale of small, easily concealable,



and cheap handguns known as Saturday Night Specials constitutes a major shortcoming in existing law, circumvents the purpose of the import restrictions of existing law, and makes possible commercial traffic among the States and within the States in cheap and deadly weapons which serve no sporting or valid defensive purpose and which threaten the physical safety and well-being of all Americans.

SEC. 2. The Congress further finds and declares:

(a) that the receipt or possession of firearms and ammunition by persons barred by federal law from such receipt or possession constitutes:

(1) a burden on commerce within and among the States;

and

(2) a threat to ~~the~~ domestic tranquillity;

(b) that a person obtaining a federal license to import, manufacture, or deal in firearms should be a bona fide importer, manufacturer, or dealer operating not only within the federal laws but also within State and applicable local laws; and

(c) that the burden on commerce caused by illegal possession of handguns by felons and by persons barred from possession of handguns by federal, State, or local law requires an increased obligation on the transferor of handguns and on law enforcement agencies to assure that there is no sale or transfer of a handgun to a person not authorized to possess it.

SEC. 3. Section 842 of title 18, United States Code, is amended:

(a) by deleting "(as defined in section 4761 of the Internal Revenue Code of 1954)" in subsection (d)(5);

(b) by deleting "drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act)" in subsection (d)(5) and inserting in lieu thereof "substance";

(c) by deleting "(as defined in section 4721(a) of the Internal Revenue Code of 1954); or" in subsection (d)(5) and inserting in lieu thereof "as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";



(d) by deleting subsection (d)(6) and inserting in lieu thereof the following:

"(6) has been adjudicated as mentally incompetent or has been committed to a mental institution; or

"(7) being an alien, is illegally or unlawfully in the United States.";

(e) by deleting "(as defined in section 4761 of the Internal Revenue Code of 1954)" in subsection (i)(3);

(f) by deleting "drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act)" in subsection (i)(3) and inserting in lieu thereof "substance";

(g) by deleting "(as defined in section 4731(a) of the Internal Revenue Code of 1954); or" in subsection (i)(3) and inserting in lieu thereof "as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)"; and

(h) by deleting subsection (i)(4) and inserting in lieu thereof the following:

"(4) who has been adjudicated as mentally incompetent or has been committed to a mental institution; or

"(5) who, being an alien, is illegally or unlawfully in the United States;".

SEC. 4. Section 843 of title 18, United States Code, is amended:

(a) by deleting "forty-five" in subsection (c) and inserting in lieu thereof "ninety"; and

(b) by amending subsections (d) and (e) to read as follows:

"(d) (1) The Secretary may revoke a license or permit issued under this chapter if the person holding the license or permit is ineligible to acquire explosive materials under section 842(d).

"(2) A person who has a license or permit issued under this section and who violates a provision of this section

or a rule or regulation prescribed by the Secretary under this chapter, shall be subject to a civil penalty, to be imposed by the Secretary, of up to \$10,000 for each violation, or to suspension or revocation of his license or permit, or to both the civil penalty and revocation or suspension. The Secretary may at any time compromise, mitigate or remit such penalties. An action of the Secretary under this subsection is subject to review only as provided in subsection (e) of this section.

"(e) (1) Any person whose application is denied or whose license or permit is suspended or revoked or who is assessed a civil penalty shall receive a written notice from the Secretary stating the specific grounds upon which such denial, suspension, revocation, or civil penalty is based. Any notice of a suspension or revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrent with the effective date of the suspension or revocation.

"(2) If the Secretary denies any application for, or suspends or revokes, a license or permit, or assesses a civil penalty, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial, suspension, revocation, or assessment. In the case of a suspension or revocation, the Secretary may upon a request of the holder stay the effective date of the suspension or revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Secretary shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days after receipt of the Secretary's written decision, file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial, suspension, revocation, or assessment pursuant to sections 701 through 706 of title 5, United States Code."

SEC. 5. Section 921(a) of title 18, United States Code, is amended:

(a) by amending paragraph (11) to read as follows:

"(11) The term 'dealer' means any person who is (A) engaged in business as an ammunition retailer, (B) engaged in business as a gunsmith, (C) engaged in business as a firearms dealer, or (D) a pawnbroker. The term 'licensed dealer' means any dealer who is licensed under the provisions of this chapter.";

(b) by redesignating paragraphs (12), (13), (14), (15), (16), (17), (18), (19), and (20) as paragraphs (19), (20), (21), (22), (23), (24), (25), (26), and (27), respectively; and

(c) by adding after paragraph (11) the following new paragraphs:

"(12) The term 'ammunition retailer' means any person who is not otherwise a dealer who is engaged in the business of selling ammunition at retail, other than ammunition for destructive devices.

"(13) The term 'gunsmith' means any person who is not otherwise a dealer who is engaged in the business of repairing firearms or making or fitting special barrels, stocks, or trigger mechanisms to firearms.

"(14) The term 'firearms dealer' means any person who is engaged in the business of selling firearms or ammunition at wholesale or retail.

"(15) The term 'handgun' means a firearm which has a short stock and which is designed to be held and fired by the use of a single hand. The term also includes any combination of parts from which a handgun can be assembled.

"(16) The term 'handgun model' means a particular design and specification of a handgun.

"(17) The term 'pistol' means a handgun having a chamber or chambers as an integral part or parts of, or permanently aligned with, the bore or bores.

"(18) The term 'revolver' means a handgun having a



breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates the cylinder to bring the next cartridge in line with the barrel for firing."

SEC. 6. Section 922 of title 18, United States Code, is amended:

- (a) by adding after the words "replacement firearm" in subsection (a)(2)(A) the words ", other than a handgun of a model which has not been approved by the Secretary under section 923(k),";
- (b) by adding after the words "mailing a firearm" in subsection (a)(2)(A) the words ", other than a handgun of a model which has not been approved by the Secretary under section 923(k),";
- (c) by deleting "resides in any State other than that in which the transferor resides (or other than that" in subsection (a)(5) and inserting in lieu thereof "does not reside in the State in which the transferor resides (or does not reside in the State";
- (d) by adding after the words "rental of a firearm" in subsection (a)(5) the words ", except a handgun of a model which has not been approved by the Secretary under section 923(k) of this chapter,";
- (e) by adding after the words "loan or rental of a firearm" in subsection (b)(3)(B) the words ", other than a handgun of a model which has not been approved by the Secretary under section 923(k),";
- (f) by adding after the words "may sell a firearm" in subsection (c) the words ", other than a handgun,";
- (g) by deleting ", 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 shotgun or a rifle," in subsection (c)(1);
- (h) by repealing subsections (d) and (h);
- (i) by redesignating subsections (e) and (f) as subsections (m) and (n), respectively, by redesignating subsections (i), (j), (k), (l), and (m) as subsections (o), (p), (q), (r), and (s), respectively, and by redesignating subsection (g) as subsection (h);
- (j) by adding after subsection (c) the following new subsections:

"(d) (1) It shall be unlawful for any licensed manufacturer, licensed importer, licensed dealer, or licensed collector to manufacture, assemble, sell, or transfer any handgun, other than a curio or relic, in the United States unless the handgun model has been approved by the Secretary pursuant to section 923(k) of this chapter.

"(2) It shall be unlawful for any person other than a licensed manufacturer, licensed importer, licensed dealer, or licensed collector to sell or transfer any handgun, other than a curio or relic, in the United States knowing that the handgun is a model which has not been approved by the Secretary pursuant to section 923(k) of this chapter.

"(e) It shall be unlawful for any person to modify a handgun if the handgun model was previously approved by the Secretary for manufacture, assembly, importation, sale, or transfer if as a result of the modification the handgun no longer meets the standards of a handgun model approved under section 923(k) of this chapter.

"(f) It shall be unlawful for any person who purchases or receives a handgun with the purpose of selling or transferring the handgun to another person to sell or transfer the handgun to another person unless he knows or has reasonable cause to believe that purchase and possession of the handgun would be in accordance with federal law and with State law and any published ordinance applicable at the place of sale, delivery, or other disposition. This subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors.

"(g) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a handgun to a person only if the person appears in person at the licensee's business premises (other than a licensed importer, manufacturer, or dealer) and, in order to assure that purchase and possession of the handgun by the transferee would be in

accordance with federal law and with State law and any published ordinance applicable at the place of sale, delivery, or other disposition, only if:

"(1) the transferee submits to the transferor a sworn statement prescribed in regulations to be promulgated by the Secretary setting forth:

"(A) his name, his residence, and the place where the handgun will be kept; and

"(B) that his receipt of the handgun will not be in violation of federal law, or of a State law or any published ordinance of the place of his residence or, if the handgun will be kept at a place other than his place of residence, of the place where the handgun will be kept, and that he does not intend to resell or transfer the handgun to a person who is barred from owning or possessing it by federal or State law or any published ordinance of the place of the latter person's residence or other place where the handgun would be kept.

The sworn statement shall also include the true title, name, and address of the chief law enforcement officer of the place of the transferee's residence and the place where the handgun will be kept. If a State law or published ordinance applicable at the place of the transferee's residence or the place where the handgun will be kept requires that a person must have a permit or license to own, possess, or purchase the handgun, a true copy of such permit or license shall be attached to the sworn statement. Any other information required to be supplied to own, possess, or acquire a handgun under such State law or published ordinance shall also be attached to the sworn statement;

"(2) the transferee provides identification sufficient to establish, under rules and regulations of the Secretary, reasonable grounds to believe that the transferee is the person he claims to be, and that his residence is at the address stated in the transferee's sworn statement;



"(3) the transferor has, prior to delivery of the handgun, forwarded immediately by registered or certified mail (return receipt requested), to the chief law enforcement officer of the transferee's place of residence and to the chief law enforcement officer of any other place where the transferee indicates in his sworn statement that he will keep the handgun, a copy of the sworn statement, in a form prescribed by the Secretary, for purposes of notifying such officer of the proposed transfer and of permitting such officer:

"(A) to check the record and identity of the transferee, to determine whether ownership or possession of the handgun by the transferee would be a violation of a State law or any published ordinance of the place of the transferee's residence or the place where the handgun will be kept;

"(B) to request a name check by the Federal Bureau of Investigation which shall be sent to the chief law enforcement officer within five working days of the Bureau's receipt of the request; and

"(C) to report to the transferor the results of such check, determination, and request;

"(4) the transferor 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 Postal Service regulations;

"(5) the transferor has received reports from the chief law enforcement officer of the transferee's place of residence and of the other place where the transferee has indicated that the handgun will be kept, and the reports do not indicate that the transferee is prohibited from shipping, possessing, transporting, or receiving a handgun under subsection (h) or (i) of this section, that the transferee is less than twenty-one years of age, or that the purchase or possession of a handgun by the transferee would be a violation of a State law or any published ordinance applicable at the place of residence or place where the handgun will be kept; and



"(6) if the transferor has not received the reports from the law enforcement officers, the transferor has delayed delivery of the handgun for a period of at least fourteen days from the date the sworn statement required under paragraph (1) of this subsection was forwarded as prescribed in paragraph (3) of this subsection.

A copy of the sworn statement and a copy of the notification or notifications to the chief law enforcement officer or officers, together with the reports received from such officer or officers under paragraph (3) of this subsection shall be retained by the licensee as a part of the records required to be kept under section 923(g).";

(k) by deleting "drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act)" in subsection (h)(3) and inserting in lieu thereof "substance";

(l) by deleting "(as defined in section 4731(a) of the Internal Revenue Code of 1954); or" in subsection (h)(3) and inserting in lieu thereof "as those terms are defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);";

(m) by amending subsection (h)(4) to read as follows:

"(4) who has been adjudicated as mentally incompetent or has been committed to a mental institution; or";

(n) by deleting "to ship or transport any firearm or ammunition in interstate or foreign commerce" in subsection (h) and inserting in lieu thereof:

"(5) who, being an alien, is illegally or unlawfully in the United States; to possess, ship, transport, or receive any firearm or ammunition.";

(o) by adding after subsection (h) the following new subsections:

"(i) It shall be unlawful for any person who, while being employed by a person who is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition under subsection (h), and who, knowing or having reason to

believe his employer falls within one of the classifications enumerated in subsection (h), in the course of such employment to possess any firearm or ammunition.

"(j) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person unless he knows or has reasonable cause to believe that such person is not prohibited from possessing, shipping, transporting, or receiving a firearm or ammunition under subsection (h) or (i) of this section. 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 of this chapter is not precluded from dealing in firearms or ammunition.

"(k) It shall be unlawful for any person to ship or transport any firearm or ammunition in interstate or foreign commerce if such shipment or transportation is in violation of a State law in a place to which or through which the firearm was shipped or transported or of a published ordinance applicable at the place of sale, delivery, or other disposition.

"(l) (1) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or transfer two or more handguns to the same person, other than another licensed importer, licensed manufacturer, licensed dealer, or licensed collector, in a period of thirty days or less, unless the transferee has obtained prior approval of the purchase from the Secretary, pursuant to regulations promulgated by the Secretary.

"(2) It shall be unlawful for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to purchase or receive two or more handguns in a period of thirty days or less from one or more licensed importers, licensed manufacturers, licensed dealers, or licensed collectors or from such a licensee and from a person or persons who are not such licensees, unless the person has obtained prior approval of the purchase from the Secretary pursuant to regulations promulgated by the Secretary. It shall be unlawful for any person, other than a licensed importer, licensed manufacturer, licensed dealer,



or licensed collector to purchase or receive two or more handguns in a period of thirty days or less from a person or persons other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector unless the person notifies the Secretary of such purchase or receipt within thirty days after the purchase or receipt."

the loss or theft to the Secretary and to the chief law enforcement officer of the place where the gun was kept."

SEC. 7. Section 923 of title 18, United States Code, is amended:

(a) by deleting subsections (a)(1)(B) and (C) and inserting in lieu thereof the following:

"(B) of firearms other than destructive devices or handguns, a fee of \$250 per year;

"(C) of firearms, including handguns, but not including destructive devices, a fee of \$500 per year; or

"(D) of ammunition for firearms other than ammunition for destructive devices, a fee of \$250 per year.";

(b) by deleting the word "or" at the end of subsection (a)(2)(A);

(c) by deleting subsection (a)(2)(B) and inserting in lieu thereof the following:

"(B) of firearms other than destructive devices or handguns or of ammunition for firearms other than destructive devices, a fee of \$250 per year; or

"(C) of firearms, including handguns, but not including destructive devices, a fee of \$500 per year.";

(d) by deleting subsections (a)(3)(B) and (C) and inserting in lieu thereof the following:

"(B) who is a pawnbroker dealing in firearms other than destructive devices or handguns, or ammunition for firearms other than destructive devices, a fee of \$250 per year;

"(C) who is a pawnbroker dealing in firearms, including handguns, but not including destructive devices, a fee of \$500;

"(D) who is not a dealer in destructive devices or handguns, a pawnbroker, a gunsmith, or an ammunition retailer in other than ammunition for destructive devices, a fee of \$100 per year;

"(E) in firearms, including handguns, but not including destructive devices, \$200 per year;

"(F) who is a gunsmith, a fee of \$50 per year; or

"(G) who is an ammunition retailer in other than ammunition for destructive devices, a fee of \$25 per year.";

(e) by deleting the language in subsection (d) (1) which precedes subparagraph (A) and inserting in lieu thereof the following:

"Any application submitted under subsection (a) or (b) of this section shall be approved if the Secretary finds that --";

(f) by amending subsection (d) (1) (B) to read as follows:

"(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association):

"(i) is not prohibited from possessing, transporting, shipping, or receiving firearms or ammunition under section 922(h) or (i) of this chapter;

"(ii) is not prohibited by the law of the State or by relevant ordinance of his place of business from conducting the business of transporting, shipping, receiving, selling, transferring, owning, or possessing the firearms or ammunition to which the license would apply; and

"(iii) is, by reason of his business experience, financial standing, or trade connections, likely to commence the business for which the license is applied within a reasonable period of time and to maintain such business in conformity with federal law and with State and relevant local law applicable at his place of business;"

(g) by deleting "forty-five" in subsection (d) (2) and inserting in lieu thereof "ninety";

(h) by amending subsections (e) and (f) to read as follows:

"(e) The Secretary may, after notice and opportunity for hearing, suspend or revoke any license issued under this section, or may subject the licensee to a civil penalty of up to \$10,000 per violation, if the holder of such license has violated any provision of this chapter or any rule or regulation prescribed by the Secretary under this chapter. The Secretary may at any time compromise, mitigate, or remit the liability with respect to such violation. The Secretary's action under this subsection may be reviewed only as provided in subsection (f) of this section.

"(f) (1) Any person whose application for a licensé is denied and any holder of a license which is suspended or revoked or who is assessed a civil penalty shall receive a written notice from the Secretary stating specifically the grounds upon which the application was denied or upon which the license was suspended or revoked or the civil penalty assessed. Any notice of a suspension or revocation of a license shall be given to the holder of such license before the effective date of the suspension or revocation.

"(2) If the Secretary denies an application for, or suspends or revokes a license, or assesses a civil penalty, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial, suspension, revocation, or assessment. In the case of a suspension or revocation of a license, the Secretary shall upon the request of the holder of the license stay the effective date of the suspension or revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

"(3) If after a hearing held under paragraph (2) the Secretary decides not to reverse his decision to deny an application or suspend or revoke a license or assess a civil penalty, the Secretary shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within 60 days after the date notice was given under this paragraph fil

a petition with the United States district court for the district in which he resides or has his principal place of business for a judicial review of such denial, suspension, revocation, or assessment. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding. If the court decides that the Secretary was not authorized to deny the application or to suspend or revoke the license or to assess the civil penalty, the court shall order the Secretary to take such action as may be necessary to comply with the judgment of the court.";

(i) by adding the following new subsections after

subsection (j):

"(k) The Secretary shall approve for manufacture, assembly, importation, sale or transfer any handgun model if he has caused to be evaluated and tested representative samples of the handgun model, and has found that such handgun model is particularly suitable for sporting or valid defensive purposes and that:

(1) in the case of a pistol, the handgun model:

"(A) has a positive manually operated safety device; and

"(B) has a combined length and height of not less than ten inches, with the height (measured from the top of the weapon, excluding sight, at a right-angle measurement to the line of the bore, to the bottom of the frame, excluding magazine extensions or releases) being at least 4 inches and the length (measured from the muzzle, parallel to the line of the bore, to the back of the part of the weapon that is farthest to the rear of the weapon) being at least 6 inches; and

"(C) attains a total of at least 85 points under the following criteria:

"(i) Overall length: one point for each one-fourth inch over 6 inches;

"(ii) Frame Construction: (a) 25 points if investment cast steel or forged steel, (b) 30 points if investment cast, high tensile strength alloy or forged high tensile strength alloy;

"(iii) Weight: one point for each ounce, with the pistol unloaded and the magazine in place;

"(iv) Caliber: (a) zero points if the pistol accepts only .22 caliber short or .25 ACP caliber ammunition, (b) three points if the pistol accepts either .22 caliber long rifle ammunition or any ammunition within the range delimited by 7.65 millimeter and .380 caliber automatic, (c) 10 points if the pistol accepts 9 millimeter parabellum ammunition or ammunition of an equivalent or greater projectile size or power;

"(v) Safety features: (a) five points if the pistol has a locked breech mechanism, (b) five points if the pistol has a loaded chamber indicator, (c) five points if the pistol has a cocked position indicator, (d) five points if the pistol has a grip safety, (e) five points if the pistol has a magazine safety, (f) 10 points if the pistol has a firing pin block or lock;

"(vi) Other features: (a) one point if the pistol has a contoured magazine extension, (b) three points if the pistol has a slide hold-open device; and

"(vii) Miscellaneous equipment: (a) three points if the pistol has an external hammer, (b) 10 points if the pistol has a double action firing mechanism, (c) five points if the pistol has a drift adjustable sight, (e) 10 points if the pistol has a screw adjustable windage and elevation sight, (f) five points if the pistol has target grips, (g) three points if the pistol has a target trigger;

"(2) in the case of a revolver, the handgun model:

"(A) has an overall frame (with conventional grips) length of four and one-half inches (measured from the end of the frame nearest the muzzle, parallel to the line of the bore to the back of the part of the weapon that is furthest to the rear of the weapon);

"(B) has a barrel length (measured from the muzzle to the cylinder face) of at least four inches; and

"(C) has a safety device which, either (i) by automatic operation in the case of a double action firing mechanism or (ii) by manual operation in the case of a single action firing mechanism, causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge, and which, once activated, except for a used handgun, is capable of withstanding the impact of a weight, equal to the weight of the revolver, dropped a total of five times from a height of 36 inches above the rear of the hammer spur onto the rear of the hammer spur with the revolver in a position such that the line of the barrel is perpendicular to the plane of the horizon; and

"(D) attains a total of at least 60 points under the following criteria:

"(i) Barrel length(measured from the muzzle to the cylinder face): one-half point for each one-half inch that the barrel is longer than four inches;

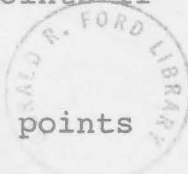
"(ii) Frame construction: (a) 25 points if investment cast steel or forged steel, (b) 30 points if investment cast, high tensile strength alloy or forged high tensile strength alloy;

"(iii) Weight: one point for each ounce with the revolver unloaded;

"(iv) Caliber: (a) zero points if the revolver accepts ammunition within the range delimited by 4 millimeter and .25 caliber ACP other than .22 caliber long rifle ammunition, (b) three points if the revolver accepts .22 caliber long rifle ammunition or ammunition within the range delimited by .30 caliber and .38 caliber S&W, (c) four points if the revolver accepts .38 caliber special ammunition, (d) five points if the revolver accepts .357 magnum ammunition or ammunition of an equivalent or greater projectile size or power;

"(v) Safety features: three points if the revolver has a grip safety;

"(vi) Other features: (a) two points if the revolver has a front supported or shrouded ejector rod, (b) five points if the revolver has a rifled portion of the barrel threaded to or integral to the frame or strap component, (c) two points if the revolver has a retracting firing pin, (d) two points if the revolver has a steel recoil plate, (e) five points if the double action revolver has a crane mounted cylinder or rear latch top break, (f) five points if the single action revolver has a spring-loaded ejector assembly and a loading gate; and



"(vii) Miscellaneous equipment: (a) two points if the revolver has a drift adjustable sight, (b) five points if the revolver has a screw adjustable windage or elevation sight, (c) seven points if the revolver has a screw adjustable windage and elevation sight, (d) four points if the revolver has target grips, (e) two points if the revolver has a target trigger, (f) two points if the revolver has a target hammer.

"(1) (1) The Secretary shall give written notification of the results of evaluation and testing conducted pursuant to subsection (k) of this section to the licensed manufacturer, licensed importer, licensed dealer, or licensed collector submitting samples of a handgun model for such evaluation and testing. If any handgun model fails to meet the standards for approval, the Secretary's notification shall state specifically the reasons for such finding.

"(2) Any licensed manufacturer, licensed importer, licensed dealer, or licensed collector submitting to the Secretary for testing a handgun model which is subsequently found not in compliance with relevant standards shall have ten days from receipt of notification of noncompliance within which to submit in writing specific objections to such findings and a request for retesting such model, together with justification therefor. Upon receipt of such a request the Secretary shall promptly arrange for retesting and thereafter notify the aggrieved party of the results, if he determines sufficient justification for retesting exists. Should he determine that retesting is not warranted, the Secretary shall promptly notify the aggrieved party as to such determination. In the event that upon retesting the Secretary's finding remains adverse, or that the Secretary finds retesting is not warranted, the aggrieved party may within sixty days after the date of the Secretary's notice of such finding file a petition in the United States district court in the district in which the aggrieved party

resides or has his principal place of business in order to obtain judicial review of such finding. Such review shall be in accordance with the provisions of section 706 of title 5, United States Code.

"(3) The Secretary shall publish in the Federal Register at least semiannually a list of handgun models which have been tested and the results of those tests. Handgun models:

(A) not in manufacture on or after the effective date of this subsection; and

(B) which have not been tested or for which the test results have not been published;

shall be deemed to be approved under section 923(k) of this chapter until such time as notice of their disapproval has been published in the Federal Register. The list shall also be included with the published ordinances required under section 921(a)(26) to be furnished to each licensee under this chapter."

SEC. 8. Section 924 of title 18, United States Code, is amended:

(a) by adding after the words "violates any provision of this chapter" in the first sentence of subsection (a) the words ", other than subsection (j) of section 922,";

(b) by adding the following at the end of subsection (a): "Whoever violates section 922(j) of this chapter shall be fined not more than \$1,000, or imprisoned not more than one year, or both."; and

(c) by amending subsection (c) to read as follows:

"(c) Whoever --

"(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States, or

"(2) carries a firearm during the commission of any felony for which he may be prosecuted in a court of the United States,

shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment of not less than one year nor more than ten years in the case of

the first offense, and to a term of imprisonment of not less than two nor more than twenty-five years for a second or subsequent offense. Notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence, nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony."

SEC. 9. Section 925 of title 18, United States Code is amended:

(a) by adding after the word "firearms" in subsection (a) (2) the words ", other than a handgun of a model which has not been approved by the Secretary of the Treasury pursuant to section 923(k) of this chapter,";

(b) by adding after the words "may receive a firearm" in subsection (a) (3) the words ", other than a handgun of a model which has not been approved by the Secretary of the Treasury pursuant to section 923 (k) of this chapter,";

(c) by adding after the words "of any firearm" in subsection (a) (4) the words ", other than a handgun of a model which has not been approved by the Secretary of the Treasury pursuant to section 923 (k) of this chapter,";

(d) by designating existing subsection "(c)" as subsection "(c) (1)" and adding a new paragraph to subsection (c) as follows:

"(2) Any person who, having been adjudicated as mentally incompetent, or who, having been committed to a mental institution subsequently has been adjudicated by a court or other lawful authority to have been restored to mental competency, if such court or other lawful authority specifically finds that the person is no longer suffering from a mental disorder and that the possession of a firearm by the person would not pose a danger to the person or to the person of another, shall be relieved from the disability imposed by this chapter with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred because of such adjudication or commitment.";

(e) by adding after the words "National Firearms Act" in subsection (c) (1) the words "or of a State or local law which relates to the importation, manufacture, sale or transfer, of a firearm"; and

(f) by amending subsection (d) (3) to read as follows:

"(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954; is not a surplus military firearm; is generally recognized as particularly suitable for sporting purposes; and, if a handgun, the model has been approved by the Secretary pursuant to section 923 (k) of this chapter; or".

SEC. 10. Section 926 of title 18, United States Code, is amended:

(a) by deleting "and" at the end of paragraph (1);

(b) by deleting the period at the end of paragraph (2) and inserting in lieu thereof "; and ";

(c) by adding after paragraph (2) the following new paragraph:

"(3) regulations precluding multiple sales or transfers of handguns under section 922(1) to persons who do not demonstrate to the satisfaction of the Secretary in a transaction involving a licensed manufacturer, licensed importer, licensed dealer, or licensed collector, that such purchase or transfer is for lawful purposes, as defined in the regulations, and regulations concerning the notice required under section 922(l)(2)."

(d) by designating the existing section as subsection

"(a)" and by adding a new subsection (b) as follows:

"(b) Any officer or employee of the Bureau of Alcohol, Tobacco, and Firearms who is designated by the Secretary to carry out the provisions of this chapter is authorized to administer such oaths or affirmations as may be necessary for the enforcement of this chapter and any other provision of law or regulation administered by the Bureau."

SEC. 11. Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Appendix 1202-1203) is hereby repealed.

Sec. 12. Section 1715 of title 18, United States Code, is amended:



(a) by adding after the words "Such articles" in the second sentence the words ", other than handguns whose transfer is restricted under section 922(d), "; and

(b) by adding after the second sentence the following new sentence: "The Postal Service shall promulgate regulations, subject to approval of the Secretary of the Treasury, consistent with section 922(d) of this title, concerning conveyance in the mails of handguns subject to that section for the United States or any department or agency thereof, or to any State, department, agency or political subdivision thereof."

SEC. 13. This Act shall become effective ninety days after the date of enactment, except that:

(a) the amendments to section 922(a)(2)(A) shall not preclude the return within 30 days of the effective date to the person from whom it was received of a handgun of a model not approved by the Secretary under section 923(k) which was transferred to the licensed importer, licensed manufacturer, licensed dealer, or licensed collector before the effective date of the Act;

(b) section 5(i) shall become effective on the date of enactment;

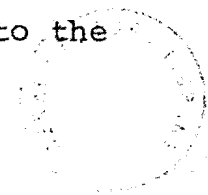
(c) a valid license issued pursuant to section 923 of title 18, United States Code, shall be valid until it expires according to its terms unless it is sooner suspended, revoked or terminated pursuant to applicable provisions of law; and

(d) the first publication of the list required under section 923(1)(3) shall be on or before the date of expiration of the sixty-day period following the date of enactment.

SECTION-BY SECTION ANALYSIS

The draft bill would accomplish several major purposes. First, the bill would ban the importation, manufacture, assembly, sale, or transfer of the cheap, poorly made handguns commonly referred to as Saturday Night Specials. Second, the bill would tighten the controls of handgun sales by requiring that the seller of handguns adequately check the identity and residence of the purchaser and take steps to assure that he is entitled to purchase a handgun under State, federal, and local law. Third, the draft bill would eliminate certain loopholes in existing law and improve the administrative effectiveness of the Federal gun control program.

Sections 1 and 2 state the congressional findings concerning the need for legislation to improve gun control. With respect to manufacture, importation, sale and transfer of Saturday Night Specials, section 1 declares that traffic in Saturday Night Specials is a serious threat to law enforcement and public safety and to the integrity of State and local firearms laws, and that the ban on importation of Saturday Night Specials has been subverted by domestic assembly of imported parts for such weapons and by domestic manufacture of Saturday Night Specials. The findings also state that the receipt or possession of firearms and ammunition by persons barred by Federal law from such receipt or possession constitutes a burden on commerce within and among the states, and that it constitutes a threat to the



domestic tranquillity. The section also states the necessity of assuring that federal licensees are bona fide businessmen operating within the confines of federal, State, and local law, and that the licensees should take reasonable steps to assure that handguns are not sold to persons not entitled to receive them.

Sections 3(a) through (d) would amend section 842(d) of title 18, United States Code, to make the list of persons to whom distribution of explosives is barred consistent with the list of persons barred from possessing firearms. Sections 3(e) through (h) would make similar changes in the section relating to bars on receipt of explosives.

Section 4(a) would amend section 843(c) of title 18, United States Code, to increase from 45 to 90 days the time in which the Secretary of the Treasury must act on an application for an explosives user permit or a license to import, manufacture, or deal in explosive materials. This additional time is consistent with the period of time which the draft bill would give for acting on license applications under the Gun Control Act of 1968, and is designed to give the Secretary sufficient time to assure that the applicant is entitled to the license or permit.

Section 4(b) would amend sections 843(d) and (e) of title 18, which now provide for the revocation of an explosives license or permit and describe the procedures to be followed for such revocation, to permit the Secretary to suspend the

license or permit or to assess a civil penalty of up to \$10,000 for each violation of the license or permit. The Secretary would be authorized to compromise, mitigate, or remit the civil penalty at any time according to the circumstances of the case. The person would be entitled to a hearing, and the Secretary's action could be appealed under sections 701 through 706 of title 5, United States Code.

Section 5(a) would amend the definition of "dealer" in section 921(a)(11) to describe four categories of persons who are dealers covered by the provisions of chapter 44 of title 18, United States Code (the Gun Control Act of 1968). The four categories of dealer are:

- (1) those engaged in business as "ammunition retailers," defined in proposed section 921(a)(12) as persons who are not otherwise dealers and who are engaged in the business of selling ammunition, other than ammunition for destructive devices, at retail;
- (2) those engaged in business as "gunsmiths", defined in proposed section 921(a)(13) as persons who are not otherwise dealers who are engaged in the business of repairing firearms or making or fitting special barrels, stocks, or trigger mechanisms to firearms;
- (3) those engaged in business as "firearms dealers," defined in proposed section 921(a)(14) as persons

engaged in the business of selling firearms or ammunition at wholesale or retail; and

(4) those who are pawnbrokers.

Section 5(b) would redesignate existing paragraphs (12) through (20) of 18 U.S.C. 921(a) as paragraphs (19) through (27) to accommodate the new paragraphs added by section 5(c) of the draft bill.

In addition to adding to section 921(a) the definitions of "ammunition retailer", "gunsmith", and "firearms dealer" discussed in connection with the definition of "dealer", section 5(c) adds definitions of "handgun", "handgun model", "pistol", and "revolver".

Proposed section 921(a) (15) defines a "handgun" as a firearm which has a short stock and is designed to be held and fired by the use of a single hand.

The term "handgun" is also defined to include any combination of parts from which a handgun can be assembled. As discussed in connection with the proposed amendment to section 925(d) (3) of title 18, the definition of "handgun" includes a combination of parts of a handgun in order to assure that restrictions on importation of certain handguns can not be circumvented by importing parts of the handguns and assembling the handgun in the United States.

The term "handgun model" is defined in proposed section 921(a) (16) of title 18 as "a particular design and specifica-

tion of a handgun."

The term "pistol" is defined in proposed section 921 (a) (17) of title 18 as a "handgun having a chamber or chambers as an integral part or parts of, or permanently aligned with, the bore or bores."

Proposed section 921(a) (18) defines a "revolver" as a handgun with a breechloading chambered cylinder designed so that the cocking of the hammer or movement of the trigger rotates the cylinder to bring the next cartridge in line with the barrel for firing.

Section 6 of the draft bill would amend section 922 of title 18, describing various firearms offenses, in several respects.

Section 922(a) (2) (A) of title 18 presently provides as exceptions to the bar against licensees' shipment or transportation in interstate or foreign commerce of firearms and ammunition, the return of a firearm or replacement firearm to a person from whom it was received, and the mailing by the individual of a firearm to a licensee for repair or customizing. Sections 6(a) and (b) of the draft bill would make the exception inapplicable to the easily concealable weapons whose manufacture, assembly, sale and transfer would be barred under proposed section 922(d) (1) of title 18. However, section 13(a) of the draft bill would permit the return of a handgun to its owner by a licensee who had received the gun prior to the effective date of the Act.

Under existing 18 U.S.C. 922(a)(5), the transfer of a firearm to a person other than a licensee who the transferor knows or has reason to believe lives in another State is made unlawful, except in the case of certain intestate succession or in the case of loan or rental of a firearm to a person for temporary use for lawful sporting purposes. Section 6(c) of the draft bill would change the references to persons living in another State to references to persons who do not reside in the transferor's State in order to assure coverage of sales to persons who reside outside the United States. Section 6(d) of the draft bill would preclude the loan or rental of a handgun which had not been approved by the Secretary of the Treasury pursuant to proposed section 923(k) of title 18. This amendment is consistent with the outright ban of transfers of such weapons under proposed section 922(d) of title 18.

Section 922(c) of title 18, relating to sale of firearms to persons who do not appear at the licensee's place of business, would be amended by section 6(f) of the bill to apply to firearms other than handguns. Under proposed section 922(g), it would be unlawful to sell a handgun to a person who did not appear at the licensee's business premises for purposes of clearly establishing his identity.

Section 6(g) of the bill would conform the sworn statement required to be submitted by a mail-order purchaser under section 922(e) with the amendment making the provision inapplicable to handguns.

Section 6(h) of the bill would repeal subsections (d) and (h) of section 922. Those subsections have been replaced by new subsections (h), (i), and (j).

Section 6(i) of the draft bill redesignates existing subsections (e) and (f) as subsections (m) and (n), respectively, and redesignates subsections (i) through (m) as subsections (o) through (s), respectively, in order to permit the addition of proposed subsections (d) through (l). The subsection would also redesignate subsection (g) as subsection (h).

Section 6(j) of the draft bill would add several new subsections to section 922 of title 18.

Proposed section 922(d)(1) would make it unlawful for any licensed manufacturer, licensed importer, licensed dealer, or licensed collector to manufacture, assemble, sell, or transfer a handgun, other than a curio or relic, in the United States unless the handgun model has been approved by the Secretary of the Treasury pursuant to proposed section 923(k) of title 18. It is recognized that there are presently in the United States a number of high quality pistols and revolvers which by virtue of their size would not be authorized models, but due to their fine workmanship and scarcity have value to collectors. Under existing law the Secretary of the Treasury is authorized to classify such rare or novel firearms as curios or relics. By expressly excluding curios and relics from the sale and transfer restrictions contained in proposed section 923(k), the draft bill would preserve the free transferability of such firearms between licensed collectors. The determination as to

which firearms should be classified as curios or relics would be made by the Secretary on a model by model basis as is done under present law. (See 26 C.F.R. §§178.11 and 178.26)

Proposed section 922(d)(2) would make unlawful any sale or transfer of an unapproved handgun, other than a curio or relic, by an individual who is not a licensee if the person knows the handgun model has not been approved. Thus, section 922(d) would prohibit any transaction relating to the easily concealable handguns which are commonly called "Saturday Night Specials." The definition of "handgun" includes a combination of parts from which a handgun can be assembled, so the manufacture, sale, transfer, or importation of parts of a Saturday Night Special would be unlawful under this subsection. : "Transfer" of Saturday Night Specials is covered in this provision primarily in order to reach an illegal sale where it is difficult to prove payment for the handgun because of absence of financial records. It is not intended to cover such occurrences as passage of title to a Saturday Night Special by bequest or intestate succession.

Under the provisions of section 922(d), the licensee would be expected to know which handgun models had not been approved by the Secretary of the Treasury since the Secretary is obligated to publish the list of approved and disapproved models and make it available to licensees. Since the lists would not be as readily available to non-licensees, sale or transfer of a Saturday Night Special by a non-licensee would be covered only if the person knew the handgun model had not been approved.

The exception contained in existing section 925(a)(1) permitting transportation, shipment, receipt, or importation for, or sale or shipment to, or issuance for the use of, a governmental entity would apply to the restrictions on Saturday Night Specials. If, for example, the Department of the Army wished to use for training purposes a target pistol which did not meet the standards set by the Secretary of the Treasury, it could do so, but it could not redistribute the pistols to individuals for their personal use.

Proposed section 922(e) would make it unlawful for any person to modify a handgun which had previously been approved by the Secretary of the Treasury for manufacture, assembly, importation, sale, or transfer if the result of the modification was that the handgun no longer met the standards for approval.

Proposed section 922(f) would make it unlawful for a person who purchases or receives a handgun with the purpose of selling or transferring it to another person to sell or transfer the handgun unless he knows or has reasonable cause to believe the purchase and possession of the handgun would be

in accordance with Federal law and with State law and published ordinances at the place of sale, delivery, or other disposition. Transactions between licensees would be covered by other provisions of law. Proposed section 922(f) is designed to assist enforcement of State and local laws restricting sales of handguns by preventing resale or transfer of handguns by a "straw man" in a situation in which a purchase by the person is legal but where he merely intends to resell the handgun to a person barred from receiving it under State law or a published ordinance.

Proposed section 922(g) sets forth the requirements which must be met by a licensee before he may sell a handgun to a person other than another licensee. Under section 922(g), the sale of a handgun could only be made in person, and the transferor would have to take certain specified steps to assure that purchase and possession of the handgun would be in accordance with Federal law and with state law and published ordinances at the place of sale, delivery, or other disposition, before he would be permitted to transfer the handgun. This will not, in any way, of course, affect the States' ability to take parallel action in restricting unlawful intra-state transactions in handguns.

Under proposed section 922(g)(1), the transferee would be required to fill out a sworn statement similar to that required under existing subsection (c) for mail order sales, but also including information concerning the place where the handgun would be kept and the name and address of the chief law enforcement officer of the place where the gun would be kept. The purpose of this requirement is to assure that both

the place of residence of the transferee, which is required to be stated under existing law, and the place where the gun will be kept can be checked since the transferee may be permitted to have a handgun in one place and not the other, or the local law enforcement officer in one place may have information concerning the individual which is not available to the other law enforcement officer. The sworn statement would be prescribed in regulations to be promulgated by the Secretary of the Treasury.

Under proposed section 922(g)(2), the transferee would have to provide sufficient identification to establish, under rules and regulations promulgated by the Secretary of the Treasury, that he is the person he claims to be, and that he has correctly stated his place of residence. The rules and regulations might require, for example, that the transferee present an identification card with a photograph and address, or that he present two identification cards such as credit cards containing his signature.

Under proposed section 922(g)(3), the transferor would have to submit to the chief law enforcement officer of the transferee's place of residence and the chief law enforcement officer of the place where the handgun will be kept a copy of the sworn statement.

This submission would enable the law enforcement officer or officers to check the record and identity of the transferee to determine whether ownership or possession of the handgun

would be a violation of State law or local ordinance. It would also enable the law enforcement officer or officers to request a name check by the Federal Bureau of Investigation. Finally, the law enforcement officer or officers would be able to report the results of their check of the record and identity, determination of legality of possession and ownership, and the FBI name check to the transferor.

The transferor also must receive a return receipt showing delivery of the sworn statement or have the sworn statement returned to the transferor because delivery was refused by the local law enforcement officer. Under paragraph (5) of proposed section 922(g), the transferor could deliver the handgun if nothing received from either law enforcement officer indicated that the transferee was barred by Federal, State, or local law from receiving or possessing the gun. If the transferor does not receive the reports from the law enforcement officers within fourteen days of the date he forwarded the sworn statements to the law enforcement officers, he may transfer the handgun.

It is necessary to send the sworn statement to both the chief law enforcement officer of the transferee's place of residence and the chief law enforcement officer of the place where

the transferee would keep the handgun in order to check whether either law enforcement officer is aware of a circumstance which would disqualify the person from receipt or possession of a handgun. It is not intended that a person be barred from purchase of a handgun if he is permitted, for example, to possess a handgun at the place where he intends to keep the gun but not at his place of residence. However, if he were barred from purchase or possession of a handgun at the place where he indicated that he intended to keep the handgun but not at his place of residence, the transferor could not deliver the handgun. Of course, if Federal law barred possession of a handgun outright, no transfer would be permitted.

Proposed sections 922(h), (i), and (j) of title 18 carry forward, consolidate, and amend the provisions of present subsections (d), (g), and (h) of section 922, and of title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202-1203), which describe the persons who are not entitled to possess handguns under Federal law.

Existing sections 922(g) and (h) of title 18 bar shipment, transportation, and receipt of firearms and ammunition in interstate or foreign commerce by the listed categories of persons. Existing 18 U.S.C. App. 1202 lists the persons barred from receiving, possessing, or transporting firearms "in commerce or affecting commerce". Existing section 922(d) bars licensees from sale of firearms and ammunition to the listed categories of persons.

Sections 6(k), (l), (m), and (n) of the draft bill would amend section 922(h) of title 18 (formerly section 922(g)), which bars certain persons from shipping or transporting firearms or ammunition in interstate or foreign commerce, in several respects. Sections 6(k) and (l) would update the cross-references to the Controlled Substances Act.

Section 6(m) would modernize the language relating to mental incompetency and commitment proceedings, consistent with the language now used in 18 U.S.C. App. 1202.

Section 6(n) would add to the end of the list of persons prohibited from shipping or transporting firearms or ammunition the category of aliens who are illegally or unlawfully in the United States. That category is barred under existing law from receiving, possessing, or transporting "in commerce or affecting commerce" any firearm under the provisions of 18 U.S.C. App. 1202(a), which is repealed by section 11 of the draft bill.

The reference in existing subsection (g) to "interstate or foreign commerce" has not been carried forward in proposed subsection (h), nor has the phrase "in commerce or affecting commerce" presently contained in 18 U.S.C. App. 1202(a) been used. In United States v. Bass, 404 U.S. 336 (1971), the Supreme Court found the language "in commerce or affecting commerce" contained in 18 U.S.C. App. 1202(a) to be ambiguous on the question whether it was necessary to prove in an individual case concerning illegal possession or receipt of a



firearm that the possession or receipt was "in commerce or affecting commerce." In resolving this ambiguity, the Court narrowly construed the provision so that, for example, possession of a firearm by a convicted felon, without specific proof that the possession was "in commerce or affecting commerce" was insufficient for conviction. Under the amendment to section 922(h), the language "in commerce or affecting commerce" has been omitted in order to eliminate the ambiguity cited by the Supreme Court in favor of the ability to prosecute without having to prove a connection with interstate commerce. Consistent with eliminating proof of the connection to commerce for conviction of illegal receipt, transportation, or possession, the reference to "interstate and foreign commerce" has also been omitted.

The coverage in existing sections 922(g) and (h) concerning receipt, possession, transfer, and shipment of ammunition would also be carried forward to proposed section 922(h).

The offense described in subsection (h) would be a 5-year felony, consistent with the penalty for violation of existing sections 922(g) and (h) and increased from the 2-year penalty under 18 U.S.C. App. 1202(a).

Under section 2(e) of the draft bill, there is a congressional finding that receipt or possession of firearms or ammunition by persons barred by federal law from such receipt or possession constitutes a burden on commerce within and among

the states and a threat to the domestic tranquillity.

Proposed section 922(i) carries forward the provisions of existing 18 U.S.C. App. 1202(b) barring persons employed by a person barred from receiving, possessing, or transporting a firearm in the course of employment if he knows or has reason to believe the employer is in one of the groups barred from receiving, transporting, or possessing a firearm. The provisions would also apply to ammunition, consistent with proposed subsection (h) and existing sections 922(g) and (h). Under section 924(a) of title 18 as amended by section 8(b) of the bill, the offense would be a misdemeanor subject to up to one year's imprisonment and a \$1,000 fine, rather than a 2-year felony as provided in existing law.

Proposed section 922(j), relating to bars against sales of firearms or ammunition by licensees to persons barred from possessing, shipping, transporting, and receiving any firearm or ammunition under proposed subsection (h) and (i) of section 922, carries forward the provisions of existing section 922(d), amended to cover offenses by any person rather than limiting the provision to licensees.

Proposed section 922(k) would bar the shipment or transportation of firearms or ammunition in interstate or foreign commerce if the shipment or transportation was in violation of a State law in a place to which or through which the firearms or ammunition was shipped or of a published ordinance applicable at the place of sale, delivery, or other disposition.

Proposed section 922(1)(1) would bar the sale by a licensee of two or more handguns to a single person in a period of thirty days or less, and proposed section 922(1)(2) would bar the purchase by a person of two or more handguns in a period of thirty days or less from a licensee or licensees, or from a licensee and an unlicensed person, without prior approval of the Secretary of the Treasury under regulations to be issued by the Secretary under proposed section 926(3). Proposed section 922(1)(2) would also require that a purchaser or recipient of two or more handguns in a thirty-day period from unlicensed persons notify the Secretary of such purchase or receipt within thirty days. These provisions are designed to reach the volume purchaser of handguns who is in the business of redistributing handguns unlawfully. The regulations to be promulgated by the Secretary would permit volume purchases for lawful purposes, such as for pistol clubs, licensed protection agencies, and private collections.

Section 7 of the draft bill contains amendments to section 923 of title 18, which relates to licensing of manufacturers, importers, dealers, and collectors.

Subsections (a), (c), and (d) would amend section 923(a)

to increase the fees for all licensees who manufacture, import or deal in firearms, other than destructive devices, and who manufacture or import ammunition. The fee system is amended to accomplish two basic purposes: to help assure that the licensee is in fact planning to conduct or is conducting the business for which he is licensed, and to charge fees consistent with the cost of conducting adequate investigations of the bona fide nature of the business to be conducted by the licensee.

The fee system would also be amended to provide higher fees for handgun manufacturers, importers, and dealers than for manufacturers, importers, and dealers in long guns. This differentiation would permit identification of handgun dealers in order to permit the Bureau of Alcohol, Tobacco, and Firearms to concentrate its efforts on handgun dealers, and the increased fees would help to pay the costs of the increased inspection.

Section 7(a) of the draft bill would amend section 923(a) (1) to increase the license fee for manufacturers of firearms other than destructive devices and handguns from \$50 to \$250 per year. The license fee for manufacturers of firearms including handguns, but not including destructive devices, would be \$500 per year. The license fee for manufacturers of ammunition for firearms other than ammunition for destructive devices would be raised from \$10 to \$250 per year.

Section 7(c) of the draft bill would raise the license fee for importers of firearms other than destructive devices

and handguns and importers of ammunition for firearms other than ammunition for destructive devices from \$50 to \$250 per year. An importer of firearms including handguns but not including destructive devices would pay a fee of \$500 per year.

Section 7(d) would increase some of the dealer's fees set forth in section 923(a)(3). First, a pawnbroker dealing in firearms other than destructive devices and handguns, or in ammunition other than ammunition for destructive devices would pay a license fee of \$250 per year rather than the present fee of \$25 per year. A pawnbroker who dealt in handguns would pay a fee of \$500. Most dealers in firearms would pay a \$100 per year license fee, unless they dealt in destructive devices or handguns or unless they were gunsmiths or ammunition retailers. The present fee is \$10 for all dealers other than those who deal in destructive devices. A dealer in firearms including handguns but not destructive devices would pay a fee of \$200 per year. Gunsmiths, as defined in proposed section 921(a)(13), would pay an annual fee of \$50 per year. An ammunition retailer, as defined in proposed section 921(a)(12), would pay a license fee of \$25 per year. The fees for gunsmiths are kept low because they are generally craftsmen not doing a substantial business and not conducting business in a manner detrimental to law enforcement. Ammunition retailers' fees are kept low since a dealer who carries only ammunition and no guns is generally a small store which keeps ammunition on hand for the convenience of

its customers.

Sections 7(e), (f), and (g) of the draft bill contain amendments to the licensing provisions of section 923(d) of title 18.

Under existing law, the Secretary of the Treasury has no authority to deny a license to a person if he meets the age and criminal record requirements and has premises from which he conducts the licensed business or from which he intends to conduct business. Section 7(e) would amend section 922(d)(1) to make clear that the determination whether the Secretary will issue a license is based on a finding of the existence of the factors. Under section 8(f), section 923(d)(1)(B) would be amended to provide that the Secretary would make findings in two additional areas before he could issue a license: first, he would have to find under proposed section 923(d)(1)(B)(ii) that the applicant is not prohibited by State law or a relevant ordinance of his place of business from conducting the business to which his license would apply; and, second, that the applicant is, by reason of his business experience, financial standing, or trade connections, likely to commence the business to which the license applies and to conduct the business in conformity with federal, State, and relevant local law applicable at his place of business. The word "relevant" has been used in describing local laws which would be of concern to the Secretary in determining whether to license an individual in

order to permit consideration not only of local firearms laws but also of such matters as laws prohibiting the conduct of business at the place of business indicated in the application. However, a local law relating to, for example, fire regulations or building codes is not intended to be covered since it is believed that compliance with such details of conducting business is a matter of local and not Federal concern.

Section 7(g) would amend section 923(d)(2) to increase the length of time in which the Secretary of the Treasury must act on a license application from 45 to 90 days. The extension of the time limit is necessary to give the Secretary sufficient time to check the business record of the applicant in order to assure himself of the legality of the license and to ascertain whether the applicant is a bona fide businessman.

Section 7(h) of the draft bill would amend sections 923(e) and (f), relating to denial or revocation of licenses, and administrative review of such denial or revocation, to permit the Secretary to suspend a license or to assess a civil penalty of up to \$10,000 per violation in appropriate cases rather than requiring the more drastic step of license revocation in all cases of license violations. The Secretary would be authorized to compromise, mitigate, or remit the liability at any time with respect to a violation. Subsection (f) of section 923 is amended to conform the existing review procedures to include administrative and court review of suspension of licenses and assessments of civil penalties.

Section 7 (i) of the draft bill would add several new subsections to section 923 of title 18.

Proposed section 923(k) would require the Secretary of the Treasury to approve for manufacture, assembly, importation, sale or transfer a handgun model which he had tested and evaluated and which met specified criteria. To be approved, a handgun would have to be particularly suitable for sporting or valid defensive purposes. In addition, a pistol, as defined in proposed section 921(a) (17) of title 18, must have a positive manually operated safety device, have a height (measured from the top of the weapon, excluding sights, at a right angle to the line of the bore, excluding magazine extensions or releases) of at least 4 inches and a length (measured from the muzzle, parallel to the line of the bore, to the back part of the weapon that is farthest to the rear of the weapon) of at least 6 inches, and must attain a total of at least 85 points under a detailed list of criteria which apply points for factors relating to, among other things, overall length, frame construction, weight, caliber, and safety feature. The subsection would require that a revolver have a frame length of at least 4 1/2 inches (measured from the end of the fram nearest the muzzle, parallel to the line of the bore, to the back of that part of the weapon that is farthest to the rear of the weapon) a barrel length of at least 4 inches, certain safety features, and a total of 60 points under a set of criteria relating to, among other things, barrel length, frame construction, weight, caliber, and safety features. The factoring approach used in the subsection is similar to that used by the Secretary in determining whether a firearm is

importable under section 925(d) of title 18. The factoring test in the bill would, however, require that a handgun acquire more points, while increasing the points given for steel or high tensile strength alloy frame construction and adding consideration of additional criteria which would improve the safety or quality of construction of the weapon. Curios and relics would not come under the provisions of this subsection, but would continue to be evaluated as provided in existing law, 26 C.F.R. §§ 178.11 and 178.26.

Under proposed section 923(1), the Secretary would give written notification to the licensed manufacturer, importer, dealer, or collector who submitted the samples for evaluation and testing. It is expected that most requests for testing will be made by manufacturers and importers, since they will not be able to manufacture, assemble, or import models manufactured on or after the effective date of proposed section 923(k) without prior approval. The section also provides that, if the Secretary does not approve a handgun model, the aggrieved party may request retesting of the model within 10 days of receipt of notification that the model does not comply with the standards. If the Secretary retests and continues to find the model not in compliance, or if he finds that retesting is not warranted, the aggrieved party may seek judicial review under section 706 of title 5, United States Code.

Under paragraph (3) of subsection (1), the Secretary of the Treasury must publish a list of approved handgun models in the Federal Register at least semiannually, and that list must also be included with the published ordinances which the Secretary is required to furnish to licensees. The paragraph also provides that if a handgun model was not in production on or after the effective date of subsection (1), and the model had not been tested or, if the model has been tested, the results have not been published, the model is deemed to be approved for the purposes of chapter 44 of title 18 until such time as the model is disapproved. This provision is necessary because of the thousands of models which have been produced in the past but are no longer in production. It is anticipated that the Secretary will be able to test most models produced since 1968 for inclusion in the required list to be published within sixty days after the date of enactment since many of these weapons have already been tested in conjunction with the import restrictions contained in the Gun Control Act of 1968. As to handguns not in production since 1968, it is expected that the Secretary will test old handgun models according to their relative availability and that he will publish in the initial listing required under section 13(d) of the draft bill a list of those readily available old model handguns which fail the size or safety requirements outright. Of course, the

drop test provided for in proposed section 923(k)(2)(C) would not apply to a used revolver since it would not be a reliable indicator of the safety of the particular handgun model and would probably damage the weapon.

Sections 8(a) and (b) of the draft bill would amend section 924(a) of title 18, relating to criminal penalties for violation of the gun control provisions, to make the offense of possessing a gun in the course of employment by a person not entitled under Federal law to possess a firearm (proposed 18 U.S.C. 922(i)) a one-year misdemeanor.

Section 8(c) of the draft bill would amend section 924(c) of title 18 to make a first offense of using a firearm to commit a Federal felony or carrying a firearm during commission of a Federal felony subject to a mandatory minimum sentence, with no probation and no suspension of the sentence. Existing law provides a mandatory term of imprisonment only for second or subsequent offenses.

Section 9(a) would amend section 925(a)(2) of title 18 to make the provision permitting shipment or receipt of firearms sold or issued by the Secretary of the Army under section 4308 of title 10 (relating to rifle ranges and permitting sale of "rifled arms" to the members of the National Rifle Association and clubs organized for practice with rifle arms) inapplicable to handguns not approved by the Secretary pursuant to proposed section 923(k) of title 18.

Section 9(b) would amend section 925(a)(3) to preclude shipment of Saturday Night Specials to members of the Armed Forces or clubs for personal use of the member or club.

Section 9(c) would amend section 925(a)(4), relating to shipment of firearms to members of the Armed Forces, to exclude Saturday Night Specials from the list of firearms which may be shipped directly to members who are on active duty overseas. Under the amendment made to section 1715 of title 18 by section 12 of the draft bill, such firearms could be shipped only for a government or governmental entity, under regulations promulgated by the Postal Service. The Secretary of the Treasury would have to approve the regulations before they were promulgated. A Saturday Night Special could not be shipped by a licensee to a member of the Armed Forces merely because of his status as a member of the Armed Forces stationed overseas.

Section 9(d) would amend section 925(c) to add a new paragraph (2) which would permit a court to provide relief from disabilities under the Gun Control Act for a person adjudicated mentally incompetent or committed to a mental institution. A person could be relieved from the disabilities if the court found that the person was no longer suffering from a mental disorder and that possession of a firearm by the person would not pose a danger to that person or to another.

Section 9(e) would amend section 925(c), which presently bars licensing a person under chapter 44 of title 18 if he has been convicted of an offense punishable by more than one year's imprisonment involving use of a firearm or of violating the chapter or the National Firearms Act, to bar licensing of a person convicted of a State or local offense punishable by more than one year's imprisonment if the offense related to importation, manufacture, sale, or transfer of a firearm.

Section 9(f) of the draft bill would amend section 925(d)(3) to clearly ban importation of handguns which have not been approved by the Secretary of the Treasury in accord with the provisions of proposed section 923(k) of title 18. Since "handgun" is defined to include a combination of parts from which a handgun can be assembled, the provision would also ban the importation of parts of such handguns for assembly in the United States.

Section 926 of title 18 is amended by section 10 of the draft bill to include a reference to regulations to be promulgated by the Secretary of the Treasury concerning approval or notice of multiple sales of handguns under proposed section 922(1). A transferee of two or more handguns in a thirty-day period in a transaction involving a licensee would be required to obtain prior approval of the Secretary of the Treasury of the transfer, and no approval would be given unless

the transferee demonstrated to the satisfaction of the Secretary that the transfer was for lawful purposes. If the transaction not involving a licensee, notice to the Secretary of the transaction would be required within 30 days after the transaction.

Section 925 would be amended by section 10(d) of the draft bill to add a new subsection (b) giving officers and employees designated by the Secretary of the Treasury to carry out the provisions of chapter 44 of title 18 the authority to administer oaths and affirmations.

Section 11 would repeal title VII of the Omnibus Crime Control and Safe Streets Act (18 U.S.C. App. 1201-1203) which would be covered under proposed sections 922(h) and (i) of title 18.

Section 12 would amend section 1715 of title 18, relating to nonmailability of firearms, to ban mailing of any handgun not approved by the Secretary of the Treasury pursuant to proposed section 923(k) of title 18 to any individual. The Postal Service would issue regulations, subject to concurrence in the regulations by the Secretary of the Treasury, concerning mailing of such handguns for a government in the United States or an entity thereof. It is intended that there be no transfers of Saturday Night Specials to individuals except when they receive guns in their capacity as Government employees, and that, even in

that case, transfer be made by the government entity to the individual rather than by a licensee. It is also intended that these firearms not enter the flow of commerce at any time, but be returned to the government entity by which they were issued if they are no longer needed for the employee's government functions.

Section 13 of the draft bill provides that the effective date of the bill would be 90 days after the date of enactment, except that under section 13(b), the provisions concerning approval of handgun models would be effective upon the date of enactment in order to permit the Secretary of the Treasury to begin testing. Under section 13(a), a dealer would be permitted to return to the owner a Saturday Night Special received before the effective date. Under section 13(c), a valid license which was issued under section 923 of title 18 would remain valid until its date of expiration unless it was suspended, revoked, or terminated before that date. Under section 13(d), the first list of handgun models approved by the Secretary of the Treasury would have to be published in the first sixty days after enactment.