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U.S. House of Representatives

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152361

103D CONGRESS
2D SESSION

H. R. 4903

NCJRS

JAN 25 1995

ACQUISITIONS

IN THE HOUSE OF REPRESENTATIVES

Mr. OWENS introduced the following bill; which was referred to the Committee
on JUDICIARY

A BILL

To expand the powers of the Secretary of the Treasury and the Bureau of Alcohol, Tobacco and Firearms to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Bureau to include firearm products and non-powder firearms.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

4 (a) SHORT TITLE.—This Act may be cited as the

5 “Firearms Safety and Violence Prevention Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.

TITLE I—REGULATION OF FIREARM PRODUCTS

- Sec. 101. Regulatory authority.
- Sec. 102. Orders; inspections.

TITLE II—PROHIBITIONS

- Sec. 201. Prohibitions.
- Sec. 202. Inapplicability to governmental authorities.

TITLE III—ENFORCEMENT

SUBTITLE A—CIVIL ENFORCEMENT

- Sec. 301. Civil penalties.
- Sec. 302. Injunctive enforcement and seizure.
- Sec. 303. Imminently hazardous firearms.
- Sec. 304. Private cause of action.
- Sec. 305. Private enforcement of this Act.
- Sec. 306. Effect on private remedies.

SUBTITLE B—CRIMINAL ENFORCEMENT

- Sec. 351. Criminal penalties.

TITLE IV—ADMINISTRATIVE PROVISIONS

- Sec. 401. Firearms violence information and research.
- Sec. 402. Annual reports to the Congress.

TITLE V—RELATIONSHIP TO OTHER LAW

- Sec. 501. Subordination to the Arms Export Control Act.
- Sec. 502. Effect on State law.

TITLE VI—DEFINITIONS

- Sec. 601. Definitions.

TITLE VII—EFFECTIVE DATE

- Sec. 701. Effective date.

3 SEC. 2. PURPOSES.

4 The purposes of this Act are—

1 (1) to protect the public against unreasonable
2 risk of injury and death associated with firearms
3 and related products;

4 (2) to develop safety standards for firearms and
5 related products;

6 (3) to assist consumers in evaluating the com-
7 parative safety of firearms and related products;

8 (4) to promote research and investigation into
9 the causes and prevention of firearm-related deaths
10 and injuries;

11 (5) to restrict the availability of weapons that
12 pose an unreasonable risk of death or injury; and

13 (6) to restrict development of weapons that
14 pose a threat to public safety.

15 **TITLE I—REGULATION OF**
16 **FIREARM PRODUCTS**

17 **SEC. 101. REGULATORY AUTHORITY.**

18 (a) **IN GENERAL.**—The Secretary shall prescribe
19 such regulations governing the design, manufacture, and
20 performance of, and commerce in, firearm products, con-
21 sistent with this Act, as are reasonably necessary to reduce
22 or prevent unreasonable risk of injury resulting from the
23 use of such products.

24 (b) **MAXIMUM INTERVAL BETWEEN ISSUANCE OF**
25 **PROPOSED AND FINAL REGULATION.**—Within 120 days

1 after the Secretary issues a proposed regulation under
2 subsection (a) with respect to a matter, the Secretary shall
3 issue a regulation in final form with respect to the matter.

4 (c) PETITIONS.—

5 (1) IN GENERAL.—Any person may petition the
6 Secretary to—

7 (A) issue, amend, or repeal a regulation
8 prescribed under subsection (a) of this section;
9 or

10 (B) require the recall, repair, or replace-
11 ment of a firearm product, or the issuance of
12 refunds with respect to a firearm product.

13 (2) DEADLINE FOR ACTION ON PETITION.—

14 Within 120 days after receipt of a petition referred
15 to in paragraph (1), the Secretary shall—

16 (A) grant, in whole or in part, or deny the
17 petition; and

18 (B) provide the petitioner with the reasons
19 for granting or denying the petition.

20 SEC. 102. ORDERS; INSPECTIONS.

21 (a) AUTHORITY TO PROHIBIT MANUFACTURE, SALE,
22 OR TRANSFER OF FIREARM PRODUCTS MADE, IMPORTED,
23 TRANSFERRED, OR DISTRIBUTED IN VIOLATION OF REG-
24 ULATION.—The Secretary may issue an order prohibiting
25 the manufacture, sale, or transfer of a firearm product

1 which the Secretary finds has been manufactured, or has
2 been or is intended to be imported, transferred, or distrib-
3 uted in violation of a regulation prescribed under this Act.

4 (b) AUTHORITY TO REQUIRE THE RECALL, REPAIR,
5 OR REPLACEMENT OF, OR THE PROVISION OF REFUNDS
6 WITH RESPECT TO FIREARM PRODUCTS.—The Secretary
7 may issue an order requiring the manufacturer of, and
8 any dealer in, a firearm product which the Secretary de-
9 termines poses an unreasonable risk of injury to the pub-
10 lic, is not in compliance with a regulation prescribed under
11 this Act, or is defective, to—

12 (1) provide notice of the risks associated with
13 the product, and of how to avoid or reduce the risks,
14 to—

15 (A) the public;

16 (B) in the case of the manufacturer of the
17 product, each dealer in the product; and

18 (C) in the case of a dealer in the product,
19 the manufacturer of the product and the other
20 persons known to the dealer as dealers in the
21 product;

22 (2) bring the product into conformity with the
23 regulations prescribed under this Act;

24 (3) repair the product;

1 (4) replace the product with a like or equivalent
2 product which is in compliance with such regula-
3 tions;

4 (5) refund the purchase price of the product,
5 or, if the product is more than 1 year old, a lesser
6 amount based on the value of the product after rea-
7 sonable use;

8 (6) recall the product from the stream of com-
9 merce; or

10 (7) submit to the Secretary a satisfactory plan
11 for implementation of any action required under this
12 subsection.

13 (c) AUTHORITY TO PROHIBIT MANUFACTURE, IM-
14 PORTATION, TRANSFER, DISTRIBUTION, OR EXPORT OF
15 UNREASONABLY RISKY FIREARM PRODUCTS.—The Sec-
16 retary may issue an order prohibiting the manufacture,
17 importation, transfer, distribution, or export of a firearm
18 product if the Secretary determines that the exercise of
19 other authority under this Act would not be sufficient to
20 prevent the product from posing an unreasonable risk of
21 injury to the public.

22 (d) INSPECTIONS.—In order to ascertain compliance
23 with this Act and the regulations and orders issued under
24 this Act, the Secretary may, at reasonable times—

1 (1) enter any place in which firearm products
2 are manufactured, stored, or held, for distribution in
3 commerce, and inspect those areas where the prod-
4 ucts are manufactured, stored, or held; and

5 (2) enter and inspect any conveyance being
6 used to transport a firearm product.

7 TITLE II—PROHIBITIONS

8 SEC. 201. PROHIBITIONS.

9 (a) FAILURE OF MANUFACTURER TO TEST AND CER-
10 TIFY FIREARM PRODUCTS.—It shall be unlawful for the
11 manufacturer of a firearm product to transfer, distribute,
12 or export a firearm product unless—

13 (1) the manufacturer has tested the product in
14 order to ascertain whether the product is in con-
15 formity with the regulations prescribed under section
16 101;

17 (2) the product is in conformity with such regu-
18 lations; and

19 (3) the manufacturer has included in the pack-
20 aging of the product, and furnished to each person
21 to whom the product is distributed, a certificate
22 stating that the product is in conformity with such
23 regulations.

24 (b) FAILURE OF MANUFACTURER TO PROVIDE NO-
25 TICE OF NEW TYPES OF FIREARM PRODUCTS.—It shall

1 be unlawful for the manufacturer of a new type of firearm
2 product to manufacture the product, unless the manufac-
3 turer has provided the Secretary with—

4 (1) notice of the intent of the manufacturer to
5 manufacture the product; and

6 (2) a description of the product.

7 (c) FAILURE OF MANUFACTURER OR DEALER TO
8 LABEL FIREARM PRODUCTS.—It shall be unlawful for a
9 manufacturer of or dealer in firearms to transfer, distrib-
10 ute, or export a firearm product unless the product is ac-
11 companied by a label that contains—

12 (1) the name and address of the manufacturer
13 of the product;

14 (2) the name and address of any importer of
15 the product;

16 (3) a specification of the regulations prescribed
17 under this Act that apply to the product; and

18 (4) the certificate required by subsection (a)(3)
19 with respect to the product.

20 (d) FAILURE TO MAINTAIN OR PERMIT INSPECTION
21 OF RECORDS.—It shall be unlawful for an importer of,
22 manufacturer of, or dealer in a firearm product to fail
23 to—

24 (1) maintain such records, and supply such in-
25 formation, as the Secretary may require in order to

1 ascertain compliance with this Act and the regula-
2 tions and orders issued under this Act; and

3 (2) permit the Secretary to inspect and copy
4 such records at reasonable times.

5 (e) IMPORTATION AND EXPORTATION OF
6 UNCERTIFIED FIREARM PRODUCTS.—It shall be unlawful
7 for any person to import into the United States or export
8 a firearm product that is not accompanied by the certifi-
9 cate required by subsection (a)(3).

10 (f) COMMERCE IN FIREARM PRODUCTS IN VIOLA-
11 TION OF ORDER ISSUED OR REGULATION PRESCRIBED
12 UNDER THIS ACT.—It shall be unlawful for any person
13 to manufacture, offer for sale, distribute in commerce, im-
14 port into the United States, or export a firearm product—

15 (1) that is not in conformity with the regula-
16 tions prescribed under this Act; or

17 (2) in violation of an order issued under this
18 Act.

19 (g) STOCKPILING. —It shall be unlawful for any per-
20 son to manufacture, purchase, or import a firearm prod-
21 uct, after the date a regulation is prescribed under this
22 Act with respect to the product and before the date the
23 regulation takes effect, at a rate that is significantly great-
24 er than the rate at which the person manufactured, pur-
25 chased, or imported the product during a base period (pre-

1 scribed by the Secretary in regulations) ending before the
2 date the regulation is so prescribed.

3 **SEC. 202. INAPPLICABILITY TO GOVERNMENTAL AUTHORI-**
4 **TIES.**

5 Section 201 shall not apply to any department or
6 agency of the United States, of a State, or of a political
7 subdivision of a State, or to any official conduct of any
8 officer or employee of such a department or agency.

9 **TITLE III—ENFORCEMENT**
10 **Subtitle A—Civil Enforcement**

11 **SEC. 301. CIVIL PENALTIES.**

12 (a) **AUTHORITY TO IMPOSE FINES.—**

13 (1) **IN GENERAL.—**The Secretary shall impose
14 upon any person who violates section 201 a civil fine
15 in an amount that does not exceed the applicable
16 amount.

17 (2) **SCOPE OF OFFENSE.—**Each violation of sec-
18 tion 201 (other than of subsection (a)(3) or (d) of
19 such section) shall constitute a separate offense with
20 respect to each firearm product involved.

21 (b) **APPLICABLE AMOUNT.—**

22 (1) **FIRST 5-YEAR PERIOD.—**The applicable
23 amount for the 5-year period described in subsection
24 (f)(1) is \$5,000.

1 (2) THEREAFTER.—The applicable amount for
2 any 5-year period described in subsection (f)(2) is
3 the dollar amount in effect under this section for the
4 5-year period, rounded in accordance with subsection
5 (e).

6 (c) DOLLAR AMOUNT IN EFFECT UNDER THIS SEC-
7 TION.—The dollar amount in effect under this section for
8 a 5-year period—

9 (1) \$5,000; multiplied by

10 (2) the applicable inflation percentage.

11 (d) APPLICABLE INFLATION PERCENTAGE.—

12 (1) FIRST 5-YEAR PERIOD.—The applicable in-
13 flation percentage for 5-year period described in sub-
14 section (f)(1) is 1.00.

15 (2) THEREAFTER.—The applicable inflation
16 percentage for any 5-year period described in sub-
17 section (f)(2) is the percentage (if any) by which—

18 (A) the average of the Consumer Price
19 Index (as defined in section 1(f)(5) of the Inter-
20 nal Revenue Code of 1986) for the 5-year pe-
21 riod ending on June 30 of the 5th year of the
22 immediately preceding 5-year period described
23 in subsection (f); exceeds

24 (B) the average of the Consumer Price
25 Index (as so defined) ending on June 30, 1995.

1 (e) ROUNDING RULES.—

If the dollar amount in effect under this section for a 5-year period is: The dollar amount is rounded to the nearest multiple of:

Over \$1,000 but not over \$10,000	\$1,000.
Over \$10,000 but not over \$100,000	\$5,000.
Over \$100,000 but not over \$200,000	\$10,000.
Over \$200,000	\$25,000.

2 (f) 5-YEAR PERIODS.—A 5-year period is described
3 in this subsection if the period is—

4 (1) the 5-year period that begins on January 1,
5 1996; or

6 (2) a 5-year period that begins at the end of a
7 5-year period described in this subsection.

8 (g) PUBLICATION IN FEDERAL REGISTER.—Not
9 later than December 1, 1995, and every 5 years there-
10 after, the Secretary shall prescribe and publish in the Fed-
11 eral Register the schedule of maximum authorized pen-
12 alties that will apply for violations referred to in sub-
13 section (a) that occur during the 5-year period that begins
14 on the next January 1.

15 SEC. 302. INJUNCTIVE ENFORCEMENT AND SEIZURE.

16 (a) INJUNCTIVE ENFORCEMENT.—Upon request of
17 the Secretary, the Attorney General of the United States
18 may bring an action to restrain any violation of section
19 201 in the United States district court for any district
20 in which the violation has occurred, or in which the de-
21 fendant is found or transacts business.

22 (b) CONDEMNATION.—

1 (1) IN GENERAL.—Upon request of the Sec-
2 retary, the Attorney General of the United States
3 may bring an action in rem for condemnation of a
4 qualified firearm product in the United States dis-
5 trict court for any district in which the Secretary
6 has found and seized for confiscation the product.

7 (2) QUALIFIED FIREARM PRODUCT DEFINED.—
8 As used in paragraph (1), the term “qualified fire-
9 arm product” means a firearm product—

10 (A) that is being transported or having
11 been transported remains unsold, is sold or of-
12 fered for sale, is imported, or is to be exported;
13 and

14 (B)(i) that is not in compliance with a reg-
15 ulation prescribed or an order issued under this
16 Act; or

17 (ii) with respect to which relief has been
18 granted under section 303.

19 **SEC. 303. IMMINENTLY HAZARDOUS FIREARMS.**

20 (a) IN GENERAL.—Notwithstanding the pendency of
21 any other proceeding in a court of the United States, the
22 Secretary may bring an action in a United States district
23 court to restrain any person who is a manufacturer of,
24 or dealer in, an imminently hazardous firearm product

1 from manufacturing, distributing, transferring, importing,
2 or exporting the product.

3 (b) IMMINENTLY HAZARDOUS FIREARM PRODUCT.—

4 As used in subsection (a), the term “imminently hazard-
5 ous firearm product” means any firearm product with re-
6 spect to which the Secretary determines that—

7 (1) the product poses an unreasonable risk of
8 injury to the public; and

9 (2) time is of the essence in protecting the pub-
10 lic from the risks posed by the product.

11 (c) RELIEF.—In an action brought under subsection
12 (a), the court may grant such temporary or permanent
13 relief as may be necessary to protect the public from the
14 risks posed by the firearm product, including—

15 (1) seizure of the product; and

16 (2) an order requiring—

17 (A) the purchasers of the product to be no-
18 tified of the risks posed by the product;

19 (B) the public to be notified of the risks
20 posed by the product; or

21 (C) the defendant to recall, repair, or re-
22 place the product, or refund the purchase price
23 of the product (or, if the product is more than
24 1 year old, a lesser amount based on the value
25 of the product after reasonable use).

1 (d) VENUE.—An action under subsection (a)(2) may
2 be brought in the United States district court for the Dis-
3 trict of Columbia or for any district in which any defend-
4 ant is found or transacts business.

5 SEC. 304. PRIVATE CAUSE OF ACTION.

6 (a) IN GENERAL.—Any person aggrieved by any vio-
7 lation of this Act or of any regulation prescribed or order
8 issued under this Act by another person may bring an ac-
9 tion against such other person in any United States dis-
10 trict court for damages, including consequential damages.
11 In any action under this section, the court, in its discre-
12 tion, may award to a prevailing plaintiff a reasonable at-
13 torney's fee as part of the costs.

14 (b) RULE OF INTERPRETATION.—The remedy pro-
15 vided for in subsection (a) shall be in addition to any other
16 remedy provided by common law or under Federal or State
17 law.

18 SEC. 305. PRIVATE ENFORCEMENT OF THIS ACT.

19 Any interested person may bring an action in any
20 United States district court to enforce this Act, or restrain
21 any violation of this Act or of any regulation prescribed
22 or order issued under this Act. In any action under this
23 section, the court, in its discretion, may award to a pre-
24 vailing plaintiff a reasonable attorney's fee as part of the
25 costs.

1 SEC. 306. EFFECT ON PRIVATE REMEDIES.

2 (a) IRRELEVANCY OF COMPLIANCE WITH THIS
3 ACT.—Compliance with this Act or any order issued or
4 regulation prescribed under this Act shall not relieve any
5 person from liability to any person under common law or
6 State statutory law.

7 (b) IRRELEVANCY OF FAILURE TO TAKE ACTION
8 UNDER THIS ACT.—The failure of the Secretary to take
9 any action authorized under this Act shall not be admissi-
10 ble in litigation relating to the product under common law
11 or State statutory law.

12 **Subtitle B—Criminal Enforcement**

13 SEC. 351. CRIMINAL PENALTIES.

14 Any person who has received from the Secretary a
15 notice that the person has violated a provision of this Act
16 or of a regulation prescribed under this Act with respect
17 to a firearm product and knowingly violates such provision
18 with respect to the product shall be fined under title 18,
19 United States Code, imprisoned not more than 2 years,
20 or both.

21 **TITLE IV—ADMINISTRATIVE**
22 **PROVISIONS**

23 SEC. 401. FIREARMS VIOLENCE INFORMATION AND RE-
24 SEARCH.

25 (a) IN GENERAL.—The Secretary shall—

1 (1) maintain a Firearms Violence Information
2 Clearinghouse to collect, investigate, analyze, and
3 disseminate data and information relating to the
4 causes and prevention of death and injury associated
5 with firearms;

6 (2) conduct continuing studies and investiga-
7 tions of firearm-related deaths and injuries and the
8 resulting economic costs and losses;

9 (3) compile an annual report detailing each case
10 of criminal misuse of machineguns registered under
11 the National Firearms Act that is known to the Sec-
12 retary;

13 (4) collect and maintain current production and
14 sales figures for each person registered as a manu-
15 facturer under the Gun Control Act;

16 (5) conduct research on, studies of, and inves-
17 tigation into the safety of firearm products and im-
18 proving the safety of firearm products; and

19 (6) develop firearm safety testing methods and
20 testing devices.

21 (b) AVAILABILITY OF INFORMATION.—On a regular
22 basis, but not less frequently than annually, the Secretary
23 shall make available to the public the results of the activi-
24 ties of the Secretary under paragraphs (1), (2), (3) and
25 (4) of subsection (a).

1 SEC. 402. ANNUAL REPORTS TO THE CONGRESS.

2 The Secretary shall prepare and submit to the Presi-
3 dent and the Congress at the beginning of each regular
4 session of the Congress, a comprehensive report on the
5 administration of this Act for the most recently completed
6 fiscal year. The report shall include—

7 (1) a thorough appraisal, including statistical
8 analyses and projections, of the incidence of injury
9 and death and effects on the population resulting
10 from firearm products, with a breakdown, as prac-
11 ticable, among the various types of such products as-
12 sociated with the injuries and deaths;

13 (2) a list of firearm safety regulations pre-
14 scribed that year;

15 (3) an evaluation of the degree of compliance
16 with firearm safety regulations, including a list of
17 enforcement actions, court decisions, and settlements
18 of alleged violations, by name and location of the vi-
19 olator or alleged violator, as the case may be;

20 (4) a summary of the outstanding problems
21 hindering enforcement of this Act, in the order of
22 priority; and

23 (5) a log and summary of meetings between the
24 Secretary or employees of the Secretary and rep-
25 resentatives of industry, interested groups, or other
26 interested parties.

1 **TITLE V—RELATIONSHIP TO**
2 **OTHER LAW**

3 **SEC. 501. SUBORDINATION TO ARMS EXPORT CONTROL**

4 **ACT.**

5 In the event of any conflict between any provision of
6 this Act and any provision of the Arms Export Control
7 Act, the provision of the Arms Export Control Act shall
8 control.

9 **SEC. 502. EFFECT ON STATE LAW.**

10 This Act shall not be construed to preempt any provi-
11 sion of the law of any State or political subdivision thereof,
12 or prevent a State or political subdivision thereof from en-
13 acting any provision of law regulating or prohibiting con-
14 duct with respect to a firearm product, except to the ex-
15 tent that such provision of law is inconsistent with any
16 provision of this Act, and then only to the extent of the
17 inconsistency. A provision of State law is not inconsistent
18 with this Act if the provision imposes a regulation or pro-
19 hibition of greater scope or a penalty of greater severity
20 than any prohibition or penalty imposed by this Act.

21 **TITLE VI—DEFINITIONS**

22 **SEC. 601. DEFINITIONS.**

23 (a) **SPECIFIC TERMS.**—As used in this Act:

24 (1) **FIREARMS DEALER.**—The term “firearms
25 dealer” means—

1 (A) any person engaged in the business (as
2 defined in section 921(a)(21)(C) of title 18,
3 United States Code) of dealing in firearms at
4 wholesale or retail;

5 (B) any person engaged in the business (as
6 defined in section 921(a)(21)(D) of title 18,
7 United States Code) of repairing firearms or of
8 making or fitting special barrels, stocks, or trig-
9 ger mechanisms to firearms; and

10 (C) any person who is a pawnbroker.

11 (2) FIREARM PART.—The term “firearm part”
12 means—

13 (A) any part or component of a firearm as
14 originally manufactured;

15 (B) any good manufactured or sold—

16 (i) for replacement or improvement of
17 a firearm; or

18 (ii) as any accessory or addition to the
19 firearm; and

20 (C) any good that is not a part or compo-
21 nent of a firearm and is manufactured, sold, de-
22 livered, offered, or intended for use exclusively
23 to safeguard individuals from injury by a fire-
24 arm.

1 (3) FIREARM PRODUCT.—The term “firearm
2 product” means a firearm, firearm part, nonpowder
3 firearm, and ammunition.

4 (4) FIREARM SAFETY REGULATION.—The term
5 “firearm safety regulation” means a regulation pre-
6 scribed under this Act.

7 (5) FIREARM SAFETY STANDARD.—The term
8 “firearm safety standard” means a standard pro-
9 mulgated under this Act.

10 (6) MACHINEGUN.—The term “machinegun”
11 means—

12 (A) any weapon which shoots, is designed
13 to shoot, or can be readily restored to shoot,
14 automatically more than 1 shot, without man-
15 ual reloading, by a single function of the trig-
16 ger;

17 (B) the frame or receiver of any such
18 weapon;

19 (C) any part or combination of parts de-
20 signed and intended for use in converting a
21 weapon into a device described in subparagraph
22 (A) or (B), whether or not modification to the
23 frame or receiver of the weapon is necessary to
24 complete the conversion; and

1 (D) any combination of parts from which
2 a device described in subparagraph (A) or (B)
3 can be assembled if such parts are in the pos-
4 session or under the control of a person.

5 (8) NONPOWDER FIREARM.—The term
6 “nonpowder firearm” means a device specifically de-
7 signed to discharge BBs, pellets, darts, or similar
8 projectiles by the release of stored energy.

9 (9) SECRETARY.—The term “Secretary” means
10 the Secretary of the Treasury or the delegate of the
11 Secretary.

12 (b) OTHER TERMS.—Each other term used in this
13 Act shall have the meaning (if any) given such term in
14 section 921(a) of title 18, United States Code.

15 **TITLE VII—EFFECTIVE DATE**

16 **SEC. 701. EFFECTIVE DATE.**

17 This Act shall take effect on the date of the enact-
18 ment of this Act.