

107TH CONGRESS
1ST SESSION

S. 436

To amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun and provide safety standards for child safety locks.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2001

Mr. KOHL (for himself, Mr. CHAFEE, Mrs. BOXER, Mr. DURBIN, Mr. SCHUMER, Mr. REED, Mr. KERRY, and Mr. CORZINE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun and provide safety standards for child safety locks.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Safety Lock Act
5 of 2001”.

1 **SEC. 2. REQUIREMENT OF CHILD HANDGUN SAFETY**
2 **LOCKS.**

3 (a) DEFINITIONS.—Section 921(a) of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “(35) The term ‘locking device’ means a device
7 or locking mechanism—

8 “(A) that—

9 “(i) if installed on a firearm and se-
10 cured by means of a key or a mechanically,
11 electronically, or electromechanically oper-
12 ated combination lock, is designed to pre-
13 vent the firearm from being discharged
14 without first deactivating or removing the
15 device by means of a key or mechanically,
16 electronically, or electromechanically oper-
17 ated combination lock;

18 “(ii) if incorporated into the design of
19 a firearm, is designed to prevent discharge
20 of the firearm by any person who does not
21 have access to the key or other device de-
22 signed to unlock the mechanism and there-
23 by allow discharge of the firearm; or

24 “(iii) is a safe, gun safe, gun case,
25 lock box, or other device that is designed
26 to store a firearm and that is designed to

1 be unlocked only by means of a key, a
 2 combination, or other similar means; and
 3 “(B) that is approved by a licensed fire-
 4 arms manufacturer for use on the handgun
 5 with which the device or locking mechanism is
 6 sold, delivered, or transferred.”.

7 (b) UNLAWFUL ACTS.—

8 (1) IN GENERAL.—Section 922 of title 18,
 9 United States Code, is amended by inserting after
 10 subsection (y) the following:

11 “(z) LOCKING DEVICES.—

12 “(1) IN GENERAL.—Except as provided in para-
 13 graph (2), it shall be unlawful for any licensed man-
 14 ufacturer, licensed importer, or licensed dealer to
 15 sell, deliver, or transfer any handgun to any person
 16 other than a licensed manufacturer, licensed im-
 17 porter, or licensed dealer, unless the transferee is
 18 provided with a locking device for that handgun.

19 “(2) EXCEPTIONS.—Paragraph (1) does not
 20 apply to—

21 “(A) the—

22 “(i) manufacture for, transfer to, or
 23 possession by, the United States or a State
 24 or a department or agency of the United
 25 States, or a State or a department, agency,

or political subdivision of a State, of a firearm; or

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

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

(2) EFFECTIVE DATE.—Section 922(y) of title 18, United States Code, as added by this subsection, shall take effect 180 days after the date of enactment of this Act.

(c) LIABILITY; EVIDENCE.—

(1) LIABILITY.—Nothing in this section shall be construed to—

(A) create a cause of action against any firearms dealer or any other person for any civil liability; or

(B) establish any standard of care.

1 (2) EVIDENCE.—Notwithstanding any other
 2 provision of law, evidence regarding compliance or
 3 noncompliance with the amendments made by this
 4 section shall not be admissible as evidence in any
 5 proceeding of any court, agency, board, or other en-
 6 tity, except with respect to an action to enforce this
 7 section.

8 (3) RULE OF CONSTRUCTION.—Nothing in this
 9 subsection shall be construed to bar a governmental
 10 action to impose a penalty under section 924(p) of
 11 title 18, United States Code, for a failure to comply
 12 with section 922(y) of that title.

13 (d) CIVIL PENALTIES.—Section 924 of title 18,
 14 United States Code, is amended—

15 (1) in subsection (a)(1), by striking “or (f)”
 16 and inserting “(f), or (p)”; and

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

18 “(p) PENALTIES RELATING TO LOCKING DEVICES.—

19 “(1) IN GENERAL.—

20 “(A) SUSPENSION OR REVOCATION OF LI-
 21 CENSE; CIVIL PENALTIES.—With respect to
 22 each violation of section 922(y)(1) by a licensee,
 23 the Secretary may, after notice and opportunity
 24 for hearing—

1 “(i) suspend or revoke any license
 2 issued to the licensee under this chapter;
 3 or

4 “(ii) subject the licensee to a civil
 5 penalty in an amount equal to not more
 6 than \$10,000.

7 “(B) REVIEW.—An action of the Secretary
 8 under this paragraph may be reviewed only as
 9 provided in section 923(f).

10 “(2) ADMINISTRATIVE REMEDIES.—The sus-
 11 pension or revocation of a license or the imposition
 12 of a civil penalty under paragraph (1) does not pre-
 13 clude any administrative remedy that is otherwise
 14 available to the Secretary.”.

15 **SEC. 3. AMENDMENT OF CONSUMER PRODUCT SAFETY**
 16 **ACT.**

17 (a) IN GENERAL.—The Consumer Product Safety
 18 Act (15 U.S.C. 2051 et seq.) is amended by adding at
 19 the end thereof the following:

20 **“SEC. 38. CHILD HANDGUN SAFETY LOCKS.**

21 “(a) ESTABLISHMENT OF STANDARD.—

22 “(1) IN GENERAL.—

23 “(A) RULEMAKING REQUIRED.—Notwith-
 24 standing section 3(a)(1)(E) of this Act, the
 25 Commission shall initiate a rulemaking pro-

ceeding under section 553 of title 5, United States Code, within 90 days after the date of enactment of the Child Safety Lock Act of 2001 to establish a consumer product safety standard for locking devices. The Commission may extend the 90-day period for good cause. Notwithstanding any other provision of law, including chapter 5 of title 5, United States Code, the Commission shall promulgate a final consumer product safety standard under this paragraph within 12 months after the date on which it initiated the rulemaking. The Commission may extend that 12-month period for good cause. The consumer product safety standard promulgated under this paragraph shall take effect 6 months after the date on which the final standard is promulgated.

“(B) STANDARD REQUIREMENTS.—The standard promulgated under subparagraph (A) shall require locking devices that—

“(i) are sufficiently difficult for children to de-activate or remove; and

“(ii) prevent the discharge of the handgun unless the locking device has been de-activated or removed.

1 “(2) CERTAIN PROVISIONS NOT TO APPLY.—

2 “(A) PROVISIONS OF THIS ACT.—Sections
3 7, 9, and 30(d) of this Act do not apply to the
4 rulemaking proceeding under paragraph (1).
5 Section 11 of this Act does not apply to any
6 consumer product safety standard promulgated
7 under paragraph (1).

8 “(B) CHAPTER 5 OF TITLE 5.—Except for
9 section 553, chapter 5 of title 5, United States
10 Code, does not apply to this section.

11 “(C) CHAPTER 6 OF TITLE 5.—Chapter 6
12 of title 5, United States Code, does not apply
13 to this section.

14 “(D) NATIONAL ENVIRONMENTAL POLICY
15 ACT.—The National Environmental Policy Act
16 of 1969 (42 U.S.C. 4321) does not apply to
17 this section.

18 “(b) NO EFFECT ON STATE LAW.—Notwithstanding
19 section 26 of this Act, this section does not annul, alter,
20 impair, affect, or exempt any person subject to the provi-
21 sions of this section from complying with any provision
22 of the law of any State or any political subdivision thereof,
23 except to the extent that such provisions of State law are
24 inconsistent with any provision of this section, and then
25 only to the extent of the inconsistency. A provision of

1 State law is not inconsistent with this section if such pro-
 2 vision affords greater protection to children in respect of
 3 handguns than is afforded by this section.

4 “(c) ENFORCEMENT.—Notwithstanding subsection
 5 (a)(2)(A), the consumer product safety standard promul-
 6 gated by the Commission under subsection (a) shall be en-
 7 forced under this Act as if it were a consumer product
 8 safety standard described in section 7(a).

9 “(d) DEFINITIONS.—In this section:

10 “(1) CHILD.—The term ‘child’ means an indi-
 11 vidual who has not attained the age of 13 years.

12 “(2) LOCKING DEVICE.—The term ‘locking de-
 13 vice’ has the meaning given that term in clauses (i)
 14 and (iii) of section 921(a)(35)(A) of title 18, United
 15 States Code.”.

16 (b) CONFORMING AMENDMENT.—Section 1 of the
 17 Consumer Product Safety Act is amended by adding at
 18 the end of the table of contents the following:

“Sec. 38. Child handgun safety locks.”.

19 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 20 are authorized to be appropriated to the Consumer Prod-
 21 uct Safety Commission \$2,000,000 to carry out the provi-
 22 sions of section 38 of the Consumer Product Safety Act,
 23 such sums to remain available until expended.

