

111TH CONGRESS  
1ST SESSION

# H. R. 2324

To require criminal background checks on all firearms transactions occurring at gun shows.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2009

Mr. CASTLE (for himself, Mrs. MCCARTHY of New York, Mr. ISRAEL, Mr. KIRK, Mr. CONNOLLY of Virginia, and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To require criminal background checks on all firearms transactions occurring at gun shows.

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 “Gun Show Loophole  
5 Closing Act of 2009”.

6 **SEC. 2. GUN SHOW BACKGROUND CHECK.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) approximately 5,200 traditional gun shows  
9 are held annually across the United States, attract-

1       ing thousands of attendees per show and hundreds  
2       of Federal firearms licensees and unlicensed fire-  
3       arms sellers; and

4               (2) gun shows at which firearms are exhibited  
5       or offered for sale or exchange provide a convenient  
6       and centralized commercial location where criminals  
7       and other prohibited persons obtain firearms without  
8       background checks and without records that enable  
9       firearm tracing.

10       (b) DEFINITIONS.—Section 921(a) of title 18, United  
11 States Code, is amended by adding at the end the fol-  
12 lowing:

13       “(36) GUN SHOW.—The term ‘gun show’—

14               “(A) means any event at which 50 or more fire-  
15       arms are offered or exhibited for sale, exchange, or  
16       transfer, if 1 or more of the firearms has been  
17       shipped or transported in, or otherwise affects, inter-  
18       state or foreign commerce;

19               “(B) does not include an offer or exhibit of fire-  
20       arms for sale, exchange, or transfer by an individual  
21       from the personal collection of that individual, at the  
22       private residence of that individual, if the individual  
23       is not required to be licensed under section 923; and

24               “(C) does not include an offer or exhibit of fire-  
25       arms for sale, exchange, or transfer at events—

1           “(i) where not more than 100 firearms are  
2           offered or exhibited for sale, exchange or trans-  
3           fer;

4           “(ii) that are conducted by private, not-for-  
5           profit organizations whose primary purpose is  
6           owning and maintaining real property for the  
7           purpose of hunting activities; and

8           “(iii) that are attended only by permanent  
9           or annual dues-paying members of the organi-  
10          zations, and the members of the immediate  
11          families of the dues-paying members.

12          “(37) GUN SHOW VENDOR.—The term ‘gun show  
13          vendor’ means a person who is not licensed under section  
14          923 and who exhibits, sells, offers for sale, transfers, or  
15          exchanges a firearm at a gun show, regardless of whether  
16          or not the person arranges with the gun show operator  
17          for a fixed location from which to exhibit, sell, offer for  
18          sale, transfer, or exchange the firearm.”.

19          (c) REGULATION OF FIREARMS TRANSFERS AT GUN  
20          SHOWS.—

21                 (1) IN GENERAL.—Chapter 44 of such title is  
22          amended by adding at the end the following:

1 **“§ 932. Regulation of firearms transfers at gun shows**

2 “(a) REGISTRATION OF GUN SHOW OPERATORS.—

3 It shall be unlawful for a person to operate a gun show,  
4 unless—

5 “(1) the person has attained 21 years of age;

6 “(2) the person (and, if the person is a corpora-  
7 tion, partnership, or association, each individual pos-  
8 sessed, directly or indirectly, the power to direct or  
9 cause the direction of the management and policies  
10 of the corporation, partnership, or association) is not  
11 prohibited by subsection (g) or (n) of section 922  
12 from transporting, shipping, or receiving firearms or  
13 ammunition in interstate or foreign commerce;

14 “(3) the person has not willfully violated any  
15 provision of this chapter or regulation issued under  
16 this chapter;

17 “(4) the person has registered with the Attor-  
18 ney General as a gun show operator, in accordance  
19 with regulations promulgated by the Attorney Gen-  
20 eral, and as part of the registration—

21 “(A) has provided the Attorney General  
22 with a photograph and the fingerprints of the  
23 person; and

24 “(B) has certified that the person meets  
25 the requirements of subparagraphs (A) through  
26 (D) of section 923(d)(1);

1           “(5) the person has not willfully failed to dis-  
2           close any material information required, and has not  
3           made any false statement as to any material fact, in  
4           connection with the registration; and

5           “(6) the person has paid the Attorney General  
6           a fee for the registration, in an amount determined  
7           by the Attorney General.

8           “(b) RESPONSIBILITIES OF GUN SHOW OPERA-  
9           TORS.—

10           “(1) IN GENERAL.—It shall be unlawful for a  
11           person to operate a gun show, unless the person—

12           “(A) not later than 30 days before the  
13           commencement of the gun show, notifies the  
14           Attorney General, in writing, of the date, time,  
15           duration, and location of the gun show, and the  
16           identity of each person who will be a gun show  
17           vendor at the gun show;

18           “(B) before commencement of the gun  
19           show—

20           “(i) verifies the identity of each indi-  
21           vidual who will be a gun show vendor at  
22           the gun show by examining a valid identi-  
23           fication document (as defined in section  
24           1028(d)(3)) of the individual containing a  
25           photograph of the individual; and

1                   “(ii) requires each such individual to  
2                   sign—

3                                 “(I) a ledger, and enter into the  
4                                 ledger identifying information con-  
5                                 cerning the individual; and

6                                 “(II) a notice which sets forth  
7                                 the obligations of a gun show vendor  
8                                 under this chapter; and

9                                 “(C) notifies each person who attends the  
10                                 gun show of the requirements of this chapter,  
11                                 in accordance with such regulations as the At-  
12                                 torney General shall prescribe.

13                                 “(2) RECORDKEEPING.—A person who oper-  
14                                 ates, or has operated, a gun show shall maintain  
15                                 records demonstrating compliance with paragraph  
16                                 (1)(B), at such place, for such period of time, and  
17                                 in such form as the Attorney General shall require  
18                                 by regulation, or transmit the records to the Attor-  
19                                 ney General.

20                                 “(c) BACKGROUND CHECK REQUIRED BEFORE  
21                                 TRANSFER OF FIREARM BETWEEN UNLICENSED PER-  
22                                 SONS.—It shall be unlawful for a person who is not li-  
23                                 censed under this chapter to transfer possession of, or title  
24                                 to, a firearm at, or on the curtilage of, a gun show, to  
25                                 another person who is not so licensed, or for a person who

1 is not so licensed to receive possession of, or title to, a  
2 firearm at, or on the curtilage of, a gun show from another  
3 person who is not so licensed, unless a licensed importer,  
4 licensed manufacturer, or licensed dealer—

5           “(1) has entered into a separate bound record  
6 the make, model, and serial number of the firearm,  
7 and such other information about the transaction as  
8 the Attorney General may require by regulation; and

9           “(2) has notified the prospective transferor and  
10 prospective transferee of the firearm that the na-  
11 tional instant criminal background check system es-  
12 tablished under section 103 of the Brady Handgun  
13 Violence Prevention Act has provided the licensee  
14 with a unique identification number, indicating that  
15 receipt of the firearm by the prospective transferee  
16 would not violate section 922 of this title or State  
17 law.

18           “(d) RECORDKEEPING REQUIREMENTS.—

19           “(1) IN GENERAL.—A licensee who provides a  
20 notice pursuant to subsection (c)(2) with respect to  
21 the transfer of a firearm shall—

22           “(A) not later than 10 days after the date  
23 of the transfer, submit to the Attorney General  
24 a report of the transfer, which report shall  
25 specify the make, model, and serial number of

1 the firearm, and contain such other information  
2 and be on such form, as the Attorney General  
3 shall require by regulation, except that the re-  
4 port shall not include the name of or other  
5 identifying information relating to any person  
6 involved in the transfer who is not licensed  
7 under this chapter; and

8 “(B) retain a record of the transfer, in-  
9 cluding the same information as would be re-  
10 quired if the transfer were from the inventory  
11 of the licensee, as part of the permanent busi-  
12 ness records of the licensee.

13 “(2) LIMITATION.—The Attorney General may  
14 not impose any recordkeeping requirement on any  
15 gun show vendor by reason of this section.”.

16 (2) PENALTIES.—Section 924(a) of such title is  
17 amended by adding at the end the following:

18 “(8)(A) Whoever knowingly violates subsection (a) or  
19 (d) of section 932 shall be fined under this title, impris-  
20 oned not more than 5 years, or both.

21 “(B) Whoever knowingly violates subsection (b) or (c)  
22 of section 932, shall be—

23 “(i) fined under this title, imprisoned not more  
24 than 2 years, or both; and



1           “(ii) in the case of a second or subsequent con-  
2           viction, fined under this title, imprisoned not more  
3           than 5 years, or both.

4           “(C) In addition to any other penalties imposed  
5           under this paragraph, the Attorney General may, with re-  
6           spect to any person who knowingly violates any provision  
7           of section 932—

8           “(i) if the person is registered pursuant to sec-  
9           tion 932(a), after notice and opportunity for a hear-  
10          ing, suspend for not more than 6 months or revoke  
11          the registration of that person under section 932(a);  
12          and

13          “(ii) impose a civil fine in an amount equal to  
14          not more than \$10,000.”.

15          (3) CLERICAL AMENDMENT.—The table of con-  
16          tents for chapter 44 of such title is amended by add-  
17          ing at the end the following:

“Sec. 932. Regulation of firearms transfers at gun shows.”.

18          (d) INSPECTION AUTHORITY.—Section 923(g)(1) of  
19          such title is amended by adding at the end the following:

20                 “(E) Notwithstanding subparagraph (B) of  
21                 this paragraph, the Attorney General may enter  
22                 during business hours any place where a gun  
23                 show operator operates a gun show or is re-  
24                 quired to maintain records pursuant to section  
25                 932(b)(2), for purposes of examining the

1 records required by sections 923 and 932 and  
2 the inventory of licensees conducting business  
3 at the gun show. The entry and examination  
4 shall be conducted for the purposes of deter-  
5 mining compliance with this chapter by gun  
6 show operators and licensees conducting busi-  
7 ness at the gun show, and shall not require a  
8 showing of reasonable cause or a warrant.”.

9 (e) REPORTS OF MULTIPLE SALES ASSISTED BY LI-  
10 CENSEES AT GUN SHOWS.—Section 923(g)(3)(A) of such  
11 title is amended by inserting “or provides pursuant to sec-  
12 tion 932(c)(2) notice with respect to,” after “sells or oth-  
13 erwise disposes of,”.

14 (f) INCREASED PENALTIES FOR SERIOUS RECORD-  
15 KEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3)  
16 of such title is amended to read as follows:

17 “(3)(A) Except as provided in subparagraph  
18 (B), any licensed dealer, licensed importer, licensed  
19 manufacturer, or licensed collector who knowingly  
20 makes any false statement or representation with re-  
21 spect to the information required by this chapter to  
22 be kept in the records of a person licensed under  
23 this chapter, or violates section 922(m), shall be  
24 fined under this title, imprisoned not more than 1  
25 year, or both.

1           “(B) If the violation described in subparagraph  
2 (A) is in relation to an offense—

3                   “(i) under paragraph (1) or (3) of section  
4 922(b), such person shall be fined under this  
5 title, imprisoned not more than 5 years, or  
6 both; or

7                   “(ii) under subsection (a)(6) or (d) of sec-  
8 tion 922, such person shall be fined under this  
9 title, imprisoned not more than 10 years, or  
10 both.”.

11       (g) INCREASED PENALTIES FOR VIOLATIONS OF  
12 CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

13           (1) PENALTIES.—Section 924(a)(5) of such  
14 title is amended—

15                   (A) by striking “subsection (s) or (t) of  
16 section 922” and inserting “section 922(t)”;  
17 and

18                   (B) by striking “1” and inserting “5”.

19           (2) ELIMINATION OF CERTAIN ELEMENTS OF  
20 OFFENSE.—Section 922(t)(5) of such title is amend-  
21 ed by striking “and, at the time” and all that fol-  
22 lows through “State law”.

23       (h) AUTHORITY TO HIRE PERSONNEL TO INSPECT  
24 GUN SHOWS.—The Director of the Bureau of Alcohol, To-  
25 bacco, Firearms, and Explosives may hire at least 40 addi-

1 tional Industry Operations Investigators for the purpose  
2 of carrying out inspections of gun shows (as defined in  
3 section 921(a)(36) of title 18, United States Code).

4 (i) REPORT TO THE CONGRESS.—The Director of the  
5 Bureau of Alcohol, Tobacco, Firearms, and Explosives  
6 shall submit biennial reports to the Congress on how fire-  
7 arms (as defined in section 921(a)(3) of title 18, United  
8 States Code) are sold at gun shows (as defined in para-  
9 graph (36) of such section), how this section is being car-  
10 ried out, whether firearms are being sold without back-  
11 ground checks conducted by the national instant criminal  
12 background check system established under section 103  
13 of the Brady Handgun Violence Prevention Act, what re-  
14 sources are needed to carry out this section, and any rec-  
15 ommendations for improvements to ensure that firearms  
16 are not sold without the background checks.

17 (j) EFFECTIVE DATE.—This section and the amend-  
18 ments made by this section shall take effect 180 days after  
19 the date of enactment of this Act.

○