

113TH CONGRESS
1ST SESSION

H. R. 955

To increase public safety by punishing and deterring firearms trafficking.

IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2013

Mr. RUSH (for himself and Ms. KAPTUR) introduced the following bill; which
was referred to the Committee on the Judiciary

A BILL

To increase public safety by punishing and deterring firearms
trafficking.

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 “Hadiya Pendleton and
5 Nyasia Pryear-Yard Stop Illegal Trafficking in Firearms
6 Act of 2013”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Anti-straw purchasing and firearms trafficking amendments.
- Sec. 4. Amendments to section 922(d).
- Sec. 5. Amendments to section 924(a).

Sec. 6. Amendments to section 924(h).

Sec. 7. Amendments to section 924(k).

1 **SEC. 3. ANTI-STRAW PURCHASING AND FIREARMS TRAF-**
2 **FICKING AMENDMENTS.**

3 (a) IN GENERAL.—Chapter 44 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 932. Straw purchasing of firearms**

7 “(a) For purposes of this section—

8 “(1) the term ‘crime of violence’ has the mean-
9 ing given that term in section 924(c)(3);

10 “(2) the term ‘drug trafficking crime’ has the
11 meaning given that term in section 924(c)(2); and

12 “(3) the term ‘purchases’ includes the receipt of
13 any firearm by a person who does not own the fire-
14 arm—

15 “(A) by way of pledge or pawn as security
16 for the payment or repayment of money; or

17 “(B) on consignment.

18 “(b) It shall be unlawful for any person (other than
19 a licensed importer, licensed manufacturer, licensed col-
20 lector, or licensed dealer) to knowingly purchase, or at-
21 tempt or conspire to purchase, any firearm in or otherwise
22 affecting interstate or foreign commerce—

23 “(1) from a licensed importer, licensed manu-
24 facturer, licensed collector, or licensed dealer for, on

1 behalf of, or at the request or demand of any other
2 person, known or unknown; or

3 “(2) from any person who is not a licensed im-
4 porter, licensed manufacturer, licensed collector, or
5 licensed dealer for, on behalf of, or at the request or
6 demand of any other person, known or unknown,
7 knowing or having reasonable cause to believe that
8 such other person—

9 “(A) is under indictment for, or has been
10 convicted in any court of, a crime punishable by
11 imprisonment for a term exceeding 1 year;

12 “(B) is a fugitive from justice;

13 “(C) is an unlawful user of or addicted to
14 any controlled substance (as defined in section
15 102 of the Controlled Substances Act (21
16 U.S.C. 802));

17 “(D) has been adjudicated as a mental de-
18 fective or has been committed to any mental in-
19 stitution;

20 “(E) is an alien who—

21 “(i) is illegally or unlawfully in the
22 United States; or

23 “(ii) except as provided in section
24 922(y)(2), has been admitted to the United
25 States under a nonimmigrant visa (as that

1 term is defined in section 101(a)(26) of
2 the Immigration and Nationality Act (8
3 U.S.C. 1101(a)(26));

4 “(F) has been discharged from the Armed
5 Forces under dishonorable conditions;

6 “(G) having been a citizen of the United
7 States, has renounced his or her citizenship;

8 “(H) is subject to a court order that re-
9 strains such person from harassing, stalking, or
10 threatening an intimate partner of such person
11 or child of such intimate partner or person, or
12 engaging in other conduct that would place an
13 intimate partner in reasonable fear of bodily in-
14 jury to the partner or child, except that this
15 subparagraph shall only apply to a court order
16 that—

17 “(i) was issued after a hearing of
18 which such person received actual notice,
19 and at which such person had the oppor-
20 tunity to participate; and

21 “(ii)(I) includes a finding that such
22 person represents a credible threat to the
23 physical safety of such intimate partner or
24 child; or

1 “(II) by its terms explicitly prohibits
2 the use, attempted use, or threatened use
3 of physical force against such intimate
4 partner or child that would reasonably be
5 expected to cause bodily injury;

6 “(I) has been convicted in any court of a
7 misdemeanor crime of domestic violence;

8 “(J) intends to—

9 “(i) use, carry, possess, or sell or oth-
10 erwise dispose of the firearm or ammuni-
11 tion in furtherance of a crime of violence
12 or drug trafficking crime; or

13 “(ii) export the firearm or ammuni-
14 tion in violation of law;

15 “(K) who does not reside in any State; or

16 “(L) intends to sell or otherwise dispose of
17 the firearm or ammunition to a person de-
18 scribed in any of subparagraphs (A) through
19 (K).

20 “(c)(1) Except as provided in paragraph (2), any per-
21 son who violates subsection (b) shall be fined under this
22 title, imprisoned for not more than 15 years, or both.

23 “(2) If a violation of subsection (b) is committed
24 knowing or with reasonable cause to believe that any fire-
25 arm involved will be used to commit a crime of violence,

1 the person shall be sentenced to a term of imprisonment
2 of not more than 25 years.

3 “(d) Subsection (b)(1) shall not apply to any firearm
4 that is lawfully purchased by a person—

5 “(1) to be given as a bona fide gift to a recipi-
6 ent who provided no service or tangible thing of
7 value to acquire the firearm, unless the person
8 knows or has reasonable cause to believe such recipi-
9 ent is prohibited by Federal law from possessing, re-
10 ceiving, selling, shipping, transporting, transferring,
11 or otherwise disposing of the firearm; or

12 “(2) to be given to a bona fide winner of an or-
13 ganized raffle, contest, or auction conducted in ac-
14 cordance with law and sponsored by a national,
15 State, or local organization or association, unless the
16 person knows or has reasonable cause to believe such
17 recipient is prohibited by Federal law from pos-
18 sessing, purchasing, receiving, selling, shipping,
19 transporting, transferring, or otherwise disposing of
20 the firearm.

21 **“§ 933. Trafficking in firearms**

22 “(a) It shall be unlawful for any person to—

23 “(1) ship, transport, transfer, cause to be
24 transported, or otherwise dispose of 2 or more fire-
25 arms to another person in or otherwise affecting

1 interstate or foreign commerce, if the transferor
2 knows or has reasonable cause to believe that the
3 use, carrying, or possession of a firearm by the
4 transferee would be in violation of, or would result
5 in a violation of, any Federal law punishable by a
6 term of imprisonment exceeding 1 year;

7 “(2) receive from another person 2 or more
8 firearms in or otherwise affecting interstate or for-
9 eign commerce, if the recipient knows or has reason-
10 able cause to believe that such receipt would be in
11 violation of, or would result in a violation of, any
12 Federal law punishable by a term of imprisonment
13 exceeding 1 year; or

14 “(3) attempt or conspire to commit the conduct
15 described in paragraph (1) or (2).

16 “(b)(1) Except as provided in paragraph (2), any per-
17 son who violates subsection (a) shall be fined under this
18 title, imprisoned for not more than 15 years, or both.

19 “(2) If a violation of subsection (a) is committed by
20 a person in concert with 5 or more other persons with
21 respect to whom such person occupies a position of orga-
22 nizer, leader, supervisor, or manager, the person shall be
23 sentenced to a term of imprisonment of not more than
24 25 years.

1 **“§ 934. Forfeiture and fines**

2 “(a)(1) Any person convicted of a violation of section
3 932 or 933 shall forfeit to the United States, irrespective
4 of any provision of State law—

5 “(A) any property constituting, or derived from,
6 any proceeds the person obtained, directly or indi-
7 rectly, as the result of such violation; and

8 “(B) any of the person’s property used, or in-
9 tended to be used, in any manner or part, to com-
10 mit, or to facilitate the commission of, such viola-
11 tion.

12 “(2) The court, in imposing sentence on a person con-
13 victed of a violation of section 932 or 933, shall order,
14 in addition to any other sentence imposed pursuant to sec-
15 tion 932 or 933, that the person forfeit to the United
16 States all property described in paragraph (1).

17 “(b) A defendant who derives profits or other pro-
18 ceeds from an offense under section 932 or 933 may be
19 fined not more than the greater of—

20 “(1) the fine otherwise authorized by this part;
21 and

22 “(2) the amount equal to twice the gross profits
23 or other proceeds of the offense under section 932
24 or 933.”.

1 (b) TITLE III AUTHORIZATION.—Section 2516(1)(n)
2 of title 18, United States Code, is amended by striking
3 “and 924(n)” and inserting “, 924, 932, or 933”.

4 (c) RACKETEERING AMENDMENT.—Section
5 1961(1)(B) of title 18, United States Code, is amended
6 by inserting “section 932 (relating to straw purchasing),
7 section 933 (relating to trafficking in firearms),” before
8 “section 1028”.

9 (d) MONEY LAUNDERING AMENDMENT.—Section
10 1956(c)(7)(D) of title 18, United States Code, is amended
11 by striking “section 924(n)” and inserting “section
12 924(n), 932, or 933”.

13 (e) DIRECTIVE TO SENTENCING COMMISSION.—Pur-
14 suant to its authority under section 994 of title 28, United
15 States Code, and in accordance with this section, the
16 United States Sentencing Commission shall review and
17 amend its guidelines and policy statements to ensure that
18 persons convicted of an offense under section 932 or 933
19 of title 18, United States Code and other offenses applica-
20 ble to the straw purchases and firearms trafficking of fire-
21 arms are subject to increased penalties in comparison to
22 those currently provided by the guidelines and policy state-
23 ments for such straw purchasing and firearms trafficking
24 offenses. The Commission shall also review and amend its
25 guidelines and policy statements to reflect the intent of

1 Congress that a person convicted of an offense under sec-
 2 tion 932 or 933 of title 18, United States Code, who is
 3 affiliated with a gang, cartel, organized crime ring, or
 4 other such enterprise should be subject to higher penalties
 5 than an otherwise unaffiliated individual.

6 (f) TECHNICAL AND CONFORMING AMENDMENT.—
 7 The table of sections of chapter 44 of title 18, United
 8 States Code, is amended by adding at the end the fol-
 9 lowing:

“932. Straw purchasing of firearms.

“933. Trafficking in firearms.

“934. Forfeiture and fines.”.

10 **SEC. 4. AMENDMENTS TO SECTION 922(d).**

11 Section 922(d) of title 18, United States Code, is
 12 amended—

13 (1) in paragraph (8), by striking “or” at the
 14 end;

15 (2) in paragraph (9), by striking the period at
 16 the end and inserting a semicolon; and

17 (3) by striking the matter following paragraph
 18 (9) and inserting the following:

19 “(10) intends to sell or otherwise dispose of the
 20 firearm or ammunition to a person described in any
 21 of paragraphs (1) through (9); or

22 “(11) intends to sell or otherwise dispose of the
 23 firearm or ammunition in furtherance of a crime of

1 violence or drug trafficking offense or to export the
2 firearm or ammunition in violation of law.

3 This subsection shall not apply with respect to the sale
4 or disposition of a firearm or ammunition to a licensed
5 importer, licensed manufacturer, licensed dealer, or li-
6 censed collector who pursuant to subsection (b) of section
7 925 is not precluded from dealing in firearms or ammuni-
8 tion, or to a person who has been granted relief from dis-
9 abilities pursuant to subsection (c) of section 925.”.

10 **SEC. 5. AMENDMENTS TO SECTION 924(a).**

11 Section 924(a) of title 18, United States Code, is
12 amended—

13 (1) in paragraph (2), by striking “(d), (g),”;

14 and

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

16 “(8) Whoever knowingly violates subsection (d) or (g)
17 of section 922 shall be fined under this title, imprisoned
18 not more than 15 years, or both.”.

19 **SEC. 6. AMENDMENTS TO SECTION 924(h).**

20 Section 924 of title 18, United States Code, is
21 amended by striking subsection (h) and inserting the fol-
22 lowing:

23 “(h)(1) Whoever knowingly receives or transfers a
24 firearm or ammunition, or attempts or conspires to do so,
25 knowing or having reasonable cause to believe that such

1 firearm or ammunition will be used to commit a crime of
2 violence (as defined in subsection (c)(3)), a drug traf-
3 ficking crime (as defined in subsection (c)(2)), or a crime
4 under the Arms Export Control Act (22 U.S.C. 2751 et
5 seq.), the International Emergency Economic Powers Act
6 (50 U.S.C. 1701 et seq.), the Foreign Narcotics Kingpin
7 Designation Act (21 U.S.C. 1901 et seq.), or section
8 212(a)(2)(C) of the Immigration and Nationality Act (8
9 U.S.C. 1182(a)(2)(C)) shall be imprisoned not more than
10 25 years, fined in accordance with this title, or both.

11 “(2) No term of imprisonment imposed on a person
12 under this subsection shall run concurrently with any term
13 of imprisonment imposed on the person under section
14 932.”.

15 **SEC. 7. AMENDMENTS TO SECTION 924(k).**

16 Section 924 of title 18, United States Code, is
17 amended by striking subsection (k) and inserting the fol-
18 lowing:

19 “(k)(1) A person who, with intent to engage in or
20 to promote conduct that—

21 “(A) is punishable under the Controlled Sub-
22 stances Act (21 U.S.C. 801 et seq.), the Controlled
23 Substances Import and Export Act (21 U.S.C. 951
24 et seq.), or chapter 705 of title 46;

1 “(B) violates any law of a State relating to any
2 controlled substance (as defined in section 102 of
3 the Controlled Substances Act, 21 U.S.C. 802); or

4 “(C) constitutes a crime of violence (as defined
5 in subsection (c)(3)),

6 smuggles or knowingly brings into the United States, a
7 firearm or ammunition, or attempts or conspires to do so,
8 shall be imprisoned not more than 15 years, fined under
9 this title, or both.

10 “(2) A person who, with intent to engage in or to
11 promote conduct that—

12 “(A) would be punishable under the Controlled
13 Substances Act (21 U.S.C. 801 et seq.), the Con-
14 trolled Substances Import and Export Act (21
15 U.S.C. 951 et seq.), or chapter 705 of title 46, if the
16 conduct had occurred within the United States; or

17 “(B) would constitute a crime of violence (as
18 defined in subsection (c)(3)) for which the person
19 may be prosecuted in a court of the United States,
20 if the conduct had occurred within the United
21 States,

22 smuggles or knowingly takes out of the United States, a
23 firearm or ammunition, or attempts or conspires to do so,

- 1 shall be imprisoned not more than 15 years, fined under
- 2 this title, or both.”.

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