H. R. 748

To amend chapter 44 of title 18, United States Code, to require the safe storage of firearms, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 3, 2021

Ms. DeLauro (for herself, Mr. Larson of Connecticut, Mrs. Hayes, Mr. Courtney, and Mr. Himes) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 44 of title 18, United States Code, to require the safe storage of firearms, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as “Ethan’s Law”.

SEC. 2. FINDINGS.

Congress find the following:

(1) An estimated 4,600,000 minors in the United States live in homes with at least 1 unsecured firearm.
(2) Seventy-three percent of children under the age of 10 living in homes with firearms reported knowing the location of their parents’ firearms. Thirty-six percent of those children reported handling their parents’ unsecured firearms.

(3) The presence of unsecured firearms in the home increases the risk of unintentional and intentional shootings. Over 75 percent of firearms used in youth suicide attempts and unintentional firearm injuries were stored in the residence of the victim, a relative, or a friend.

(4) The United States Secret Service and the Department of Education report that in 65 percent of deadly school shootings the attacker obtained the firearm from his or her own home or that of a relative.

(5) In the last decade, nearly 2,000,000 firearms have been reported stolen. In 2016 alone, 238,000 firearms were reported stolen in the United States. Between 2010 and 2016, police recovered more than 23,000 stolen firearms across jurisdictions that were used to commit kidnappings, armed robberies, sexual assaults, murders, and other violent crimes.
(6) Higher levels of neighborhood gun violence drive depopulation, discourages commercial activity, and decreases property values, resulting in fewer business establishments, fewer jobs, lower home values, and lower home ownership rates.

(7) The negative economic impact of gun violence in communities is tied directly to the national economy and interstate commerce.

(8) Congress has the power under the interstate commerce clause and other provisions of the Constitution of the United States to enact measures ensuring firearms are securely stored.

SEC. 3. SECURE GUN STORAGE OR SAFETY DEVICE.

Section 922(z) of title 18, United States Code, is amended by adding at the end the following:

“(4) SECURE GUN STORAGE BY OWNERS.—

“(A) OFFENSE.—

“(i) IN GENERAL.—Except as provided in clause (ii), it shall be unlawful for a person to store or keep any firearm that has moved in, or that has otherwise affected, interstate or foreign commerce on the premises of a residence under the control of the person if the person knows, or reasonably should know, that—
“(I) a minor is likely to gain access to the firearm without the permission of the parent or guardian of the minor; or

“(II) a resident of the residence is ineligible to possess a firearm under Federal, State, or local law.

“(ii) EXCEPTION.—Clause (i) shall not apply to a person if the person—

“(I) keeps the firearm—

“(aa) secure using a secure gun storage or safety device; or

“(bb) in a location which a reasonable person would believe to be secure; or

“(II) carries the firearm on his or her person or within such close proximity thereto that the person can readily retrieve and use the firearm as if the person carried the firearm on his or her person.

“(B) PENALTY.—

“(i) IN GENERAL.—Any person who violates subparagraph (A) shall be fined $500 per violation.
“(ii) **Enhanced Penalty.**—If a person violates subparagraph (A) and a minor or a resident who is ineligible to possess a firearm under Federal, State, or local law obtains the firearm and causes injury or death to such minor, resident, or any other individual, the person shall be fined under this title, imprisoned for not more than 5 years, or both.

“(iii) **Forfeiture of Improperly Stored Firearm.**—Any firearm stored in violation of subparagraph (A) shall be subject to seizure and forfeiture in accordance with the procedures described in section 924(d).

“(C) **Minor Defined.**—In this paragraph, the term ‘minor’ means an individual who is less than 18 years of age.”.

**SEC. 4. FIREARM SAFE STORAGE PROGRAM.**

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10101 et seq.) is amended by adding at the end the following:
“PART 00—FIREARM SAFE STORAGE PROGRAM

“SEC. 3051. FIREARM SAFE STORAGE PROGRAM.

“(a) In General.—The Assistant Attorney General shall make grants to an eligible State or Indian Tribe to assist the State or Indian Tribe in carrying out the provisions of any State or Tribal law that is functionally identical to section 922(z)(4) of title 18, United States Code.

“(b) Eligible State or Indian Tribe.—

“(1) In General.—Except as provided in paragraph (2), a State or Indian Tribe shall be eligible to receive grants under this section on and after the date on which the State or Indian Tribe—

“(A) enacts legislation functionally identical to section 922(z)(4) of title 18, United States Code; and

“(B) the attorney general of the State (or comparable Tribal official) submits a written certification to the Assistant Attorney General stating that the law of the State or Indian Tribe reflects the sense of Congress in section 922(z)(4)(D) of such title 18.

“(2) First Year Eligibility Exception.—

“(A) In General.—A covered State or Indian Tribe shall be eligible to receive a grant under this section during the 1-year period beginning on the date of enactment of this part.
“(B) Covered state or Indian tribe.—

In this paragraph, the term ‘covered State or Indian Tribe’ means a State or Indian Tribe that, before the date of enactment of this part, enacted legislation—

“(i) that is functionally identical to section 922(z)(4) of title 18, United States Code; and

“(ii) for which the attorney general of the State (or comparable Tribal official) submits a written certification to the Assistant Attorney General stating that the law of the State or Indian Tribe reflects the sense of Congress in section 922(z)(4)(D) of such title 18.

“(c) Use of funds.—Funds awarded under this section may be used by a State or Indian Tribe to assist law enforcement agencies or the courts of the State or Indian Tribe in enforcing and otherwise facilitating compliance with any State law functionally identical to section 922(z)(4), of title 18, United States Code.

“(d) Application.—An eligible State or Indian Tribe desiring a grant under this section shall submit to the Assistant Attorney General an application at such time, in such manner, and containing or accompanied by
such information, as the Assistant Attorney General may
reasonably require.

“(e) INCENTIVES.—For each of fiscal years 2021
through 2025, the Attorney General shall give affirmative
preference to all Bureau of Justice Assistance discre-
tionary grant applications of a State or Indian Tribe that
has enacted legislation—

“(1) functionally identical to section 922(z)(4)
of title 18, United States Code; and

“(2) for which the attorney general of the State
(or comparable Tribal official) submits a written cer-
tification to the Assistant Attorney General stating
that the law of the State or Indian Tribe reflects the
sense of Congress in section 922(z)(4)(D) of such
title 18.”.

SEC. 5. SENSE OF CONGRESS.

Paragraph (4) of section 922(z) of title 18, United
States Code, as added by section 3, is amended by adding
at the end the following:

“(D) SENSE OF CONGRESS RELATING TO
LIABILITY.—It is the sense of Congress that—

“(i) failure to comply with subpara-
graph (A) constitutes negligence under any
relevant statute or common law rule; and
“(ii) when a violation of subparagraph (A) is the but-for cause of a harm caused by the discharge of a firearm, such violation should be deemed to be the legal or proximate cause of such harm, regardless of whether such harm was also the result of an intentional tort.”.

SEC. 6. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or an amendment made by this Act, or the application of such provision to other persons or circumstances, shall not be affected.