

CONCEALED CARRY RECIPROCITY ACT OF 2017

DECEMBER 4, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GOODLATTE, from the Committee on the Judiciary,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 38]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 38) to amend title 18, United States Code, to provide a means by which nonresidents of a State whose residents may carry concealed firearms may also do so in the State, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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## The Amendment

The amendment is as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Concealed Carry Reciprocity Act of 2017”.

### SEC. 2. RECIPROCITY FOR THE CARRYING OF CERTAIN CONCEALED FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926C the following:

#### “§ 926D. Reciprocity for the carrying of certain concealed firearms

“(a) Notwithstanding any provision of the law of any State or political subdivision thereof (except as provided in subsection (b)) and subject only to the requirements of this section, a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, who is carrying a valid identification document containing a photograph of the person, and who is carrying a valid license or permit which is issued pursuant to the law of a State and which permits the person to carry a concealed firearm or is entitled to carry a concealed firearm in the State in which the person resides, may possess or carry a concealed handgun (other than a machinegun or destructive device) that has been shipped or transported in interstate or foreign commerce, in any State that—

“(1) has a statute under which residents of the State may apply for a license or permit to carry a concealed firearm; or

“(2) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes.

“(b) This section shall not be construed to supersede or limit the laws of any State that—

“(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

“(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

“(c)(1) A person who carries or possesses a concealed handgun in accordance with subsections (a) and (b) may not be arrested or otherwise detained for violation of any law or any rule or regulation of a State or any political subdivision thereof related to the possession, transportation, or carrying of firearms unless there is probable cause to believe that the person is doing so in a manner not provided for by this section. Presentation of facially valid documents as specified in subsection (a) is prima facie evidence that the individual has a license or permit as required by this section.

“(2) When a person asserts this section as a defense in a criminal proceeding, the prosecution shall bear the burden of proving, beyond a reasonable doubt, that the conduct of the person did not satisfy the conditions set forth in subsections (a) and (b).

“(3) When a person successfully asserts this section as a defense in a criminal proceeding, the court shall award the prevailing defendant a reasonable attorney’s fee.

“(d)(1) A person who is deprived of any right, privilege, or immunity secured by this section, under color of any statute, ordinance, regulation, custom, or usage of any State or any political subdivision thereof, may bring an action in any appropriate court against any other person, including a State or political subdivision thereof, who causes the person to be subject to the deprivation, for damages or other appropriate relief.

“(2) The court shall award a plaintiff prevailing in an action brought under paragraph (1) damages and such other relief as the court deems appropriate, including a reasonable attorney’s fee.

“(e) In subsection (a):

“(1) The term ‘identification document’ means a document made or issued by or under the authority of the United States Government, a State, or a political subdivision of a State which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

“(2) The term ‘handgun’ includes any magazine for use in a handgun and any ammunition loaded into the handgun or its magazine.

“(f)(1) A person who possesses or carries a concealed handgun under subsection (a) shall not be subject to the prohibitions of section 922(q) with respect to that handgun.

“(2) A person possessing or carrying a concealed handgun in a State under subsection (a) may do so in any of the following areas in the State that are open to the public:

- “(A) A unit of the National Park System.
- “(B) A unit of the National Wildlife Refuge System.
- “(C) Public land under the jurisdiction of the Bureau of Land Management.
- “(D) Land administered and managed by the Army Corps of Engineers.
- “(E) Land administered and managed by the Bureau of Reclamation.
- “(F) Land administered and managed by the Forest Service.”.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 926C the following:

“926D. Reciprocity for the carrying of certain concealed firearms.”.

(c) SEVERABILITY.—Notwithstanding any other provision of this Act, if any provision of this section, or any amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, this section and amendments made by this section and the application of such provision or amendment to other persons or circumstances shall not be affected thereby.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

### SEC. 3. RULE OF CONSTRUCTION.

Nothing in this Act prohibits a law enforcement officer with reasonable suspicion of a violation of any law from conducting a brief investigative stop in accordance with the Constitution of the United States.

### SEC. 4. CERTAIN OFF-DUTY LAW ENFORCEMENT OFFICERS AND RETIRED LAW ENFORCEMENT OFFICERS ALLOWED TO CARRY A CONCEALED FIREARM, AND DISCHARGE A FIREARM, IN A SCHOOL ZONE.

Section 922(q) of title 18, United States Code, is amended—

(1) in paragraph (2)(B)—

(A) by striking “or” at the end of clause (vi); and

(B) by redesignating clause (vii) as clause (ix) and inserting after clause (vi) the following:

“(vii) by an off-duty law enforcement officer who is a qualified law enforcement officer (as defined in section 926B) and is authorized under such section to carry a concealed firearm, if the firearm is concealed;

“(viii) by a qualified retired law enforcement officer (as defined in section 926C) who is authorized under such section to carry a concealed firearm, if the firearm is concealed; or”; and

(2) in paragraph (3)(B)—

(A) by striking “or” at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting a semicolon; and

(C) by adding at the end the following:

“(v) by an off-duty law enforcement officer who is a qualified law enforcement officer (as defined in section 926B) and is authorized under such section to carry a concealed firearm; or

“(vi) by a qualified retired law enforcement officer (as defined in section 926C) who is authorized under such section to carry a concealed firearm.”.

### SEC. 5. INTERSTATE CARRYING OF FIREARMS BY FEDERAL JUDGES.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, as amended by section 2(a) of this Act, is amended by inserting after section 926D the following:

#### “§ 926E. Interstate carrying of firearms by Federal judges

“Notwithstanding any provision of the law of any State or political subdivision thereof, a Federal judge may carry a concealed firearm in any State if such judge is not prohibited by Federal law from receiving a firearm.”.

(b) CLERICAL AMENDMENT.—The table of sections for such chapter, as amended by section 2(b) of this Act, is amended by inserting after the item relating to section 926D the following:

“926E. Interstate carrying of firearms by Federal judges.”.

## Purpose and Summary

H.R. 38 allows persons with valid state-issued concealed firearm permits/licenses—or those who live in states that allow non-prohibited persons to carry a concealed firearm without a permit/license—

to carry a concealed firearm in any other state that also issues concealed firearm permits/licenses, or in any other state that does not generally prohibit the carrying of concealed firearms.

### Background and Need for the Legislation

All fifty states currently permit concealed carry in some manner. Thirty states have “shall issue” permit laws, which require states to issue a permit to people who meet the legal requirements for a concealed carry permit. Eight states have “may issue” or discretionary permit laws that are administered in varying ways, but in every state, the government has full discretion on whether to grant a permit or not. Twelve states allow the carrying of a concealed weapon without any permit or license. Six years ago, there were only three such states. Many jurisdictions honor a permit or license issued by other jurisdictions. In these situations, recognition may be granted to all jurisdictions or a subset that meet a set of permit-issuing criteria, such as training comparable to the honoring jurisdiction or certain background checks. Several states have entered into formal agreements to mutually recognize permits. A few states do not recognize permits issued by any other jurisdiction but offer non-resident permits for out-of-state individuals who wish to carry while visiting such states. There are also states that neither recognize out-of-state concealed carry permits nor issue permits to non-residents, resulting in a complete ban on concealed carry by non-residents in such states.

In a 2008 opinion striking down Washington D.C.’s district-wide handgun ban, the U.S. Supreme Court recognized “that the Second Amendment conferred an individual right to keep and bear arms” that stems in large part from the right to protect oneself, as well as “one’s home and family,” from harm.<sup>1</sup> Specifically, the *Heller* decision found that the right to self-defense, as opposed to the creation of a militia or other principles, “was the central component of the right itself.”<sup>2</sup> More recently, in *McDonald v. City of Chicago*,<sup>3</sup> the Supreme Court clarified that the Second Amendment rights discussed in *Heller* also extend to the states.

The use of firearms in self-defense is prevalent. According to the National Self Defense Survey conducted by criminologists from Florida State University, Americans use guns in self-defense an estimated 2.2 to 2.5 million times a year, or every 13 seconds.<sup>4</sup> This same study found that, in general, simply brandishing a gun or firing a warning shot is sufficient to defend against an attacker in most cases of self-defense involving a firearm. Only 24 percent of people surveyed reported firing a gun in self-defense, and just eight percent reported wounding an assailant with a gun.<sup>5</sup>

There is also no evidence that law-abiding permit holders are a threat to public safety. The state of Florida, which has issued over three million concealed carry permits since it adopted a right-to-carry law in 1987, has only permanently revoked 0.3 percent of the total issued permits and as of 2011 (the last year statistics were

<sup>1</sup> See *District of Columbia v. Heller*, 554 U.S. 570 (2008).

<sup>2</sup> *Id.* at 599.

<sup>3</sup> 561 U.S. 742 (2010).

<sup>4</sup> See Gary Kleck & Marc Gertz, *Armed Resistance to Crime: The Prevalence and Nature of Self Defense with a Gun*, 86 J. Crim. L. & Criminology 150, 164 (1995).

<sup>5</sup> *Id.* at 173.

kept), only 168 concealed carry permits were revoked due to the use of a firearm in a crime (just 0.008 percent).<sup>6</sup>

Finally, under current federal law, certain active-duty and retired law enforcement officers are permitted to carry concealed firearms across state lines, even while off duty.<sup>7</sup> In 2010, Congress passed and President Obama signed legislation to expand the categories of current and retired law enforcement officers who are entitled to carry concealed weapons across state lines.<sup>8</sup> H.R. 38 would extend the same ability to carry concealed weapons across state lines to other law-abiding citizens.

### Hearings

The Committee on the Judiciary held no hearings on H.R. 38.

### Committee Consideration

On November 29, 2017, the Committee met in open session and ordered the bill, H.R. 38, favorably reported, with an amendment, by a roll call vote of 19 to 11, a quorum being present.

### Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 38.

1. An amendment offered by Mr. Nadler to prohibit individuals convicted of any violent crime, including misdemeanors, from carrying a concealed firearm was defeated by a roll call vote of 12 to 15.

### ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....		X	
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....			
Mr. Issa (CA) .....		X	
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....			
Mr. Poe (TX) .....			
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....		X	
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....			
Mr. DeSantis (FL) .....		X	
Mr. Buck (CO) .....		X	

<sup>6</sup>See Florida Department of Agriculture and Consumer Services, Division of Licensing, Concealed Weapon/Firearm Summary Report, [http://www.freshfromflorida.com/content/download/7499/118851/cw\\_monthly.pdf](http://www.freshfromflorida.com/content/download/7499/118851/cw_monthly.pdf).

<sup>7</sup>See 18 U.S.C. §§ 26B and 926C.

<sup>8</sup>See P.L. 111-272.

**ROLLCALL NO. 1**—Continued

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....			
Mr. Biggs (AZ) .....			
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....	X		
Mr. Cohen (TN) .....	X		
Mr. Johnson (GA) .....	X		
Mr. Deutch (FL) .....	X		
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....	X		
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
<b>Total</b> .....	<b>12</b>	<b>15</b>	

2. An amendment offered by Mr. Deutch to allow a state to prohibit the carrying of a concealed firearm on private property was defeated by a roll call vote of 10 to 14.

**ROLLCALL NO. 2**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....		X	
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....			
Mr. Issa (CA) .....			
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....			
Mr. Poe (TX) .....			
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....		X	
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....			
Mr. DeSantis (FL) .....		X	

**ROLLCALL NO. 2**—Continued

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Buck (CO) .....			
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....		X	
Mr. Biggs (AZ) .....			
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....	X		
Mr. Cohen (TN) .....	X		
Mr. Johnson (GA) .....	X		
Mr. Deutch (FL) .....	X		
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....			
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
<b>Total</b> .....	<b>10</b>	<b>14</b>	

3. An amendment offered by Ms. Jackson Lee to prohibit individuals convicted of domestic violence or stalking from being covered by the bill was defeated by a roll call vote of 8 to 16.

**ROLLCALL NO. 3**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....		X	
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....		X	
Mr. Issa (CA) .....			
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....			
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....		X	
Mr. Labrador (ID) .....			
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....			

**ROLLCALL NO. 3—Continued**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. DeSantis (FL) .....		X	
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....		X	
Mr. Biggs (AZ) .....			
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....	X		
Mr. Cohen (TN) .....	X		
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....			
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....			
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
<b>Total</b> .....	<b>8</b>	<b>16</b>	<b>.....</b>

4. An amendment offered by Ms. Lofgren to require that permit holders acquire concealed carry permits in their home state was defeated by a roll call vote of 8 to 17.

**ROLLCALL NO. 4**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....		X	
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....		X	
Mr. Issa (CA) .....		X	
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....			
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....		X	
Mr. Labrador (ID) .....			
Mr. Farenthold (TX) .....			



**ROLLCALL NO. 4—Continued**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Collins (GA) .....			
Mr. DeSantis (FL) .....		X	
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....		X	
Mr. Biggs (AZ) .....			
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....			
Mr. Cohen (TN) .....	X		
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....			
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
Total .....	8	17	

5. An amendment offered by Mr. Cohen to prohibit those under the age of 21 from carrying a concealed firearm was defeated by a roll call vote of 8 to 17.

**ROLLCALL NO. 5**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....		X	
Mr. Smith (TX) .....		X	
Mr. Chabot (OH) .....			
Mr. Issa (CA) .....		X	
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....			
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....		X	
Mr. Labrador (ID) .....			

**ROLLCALL NO. 5**—Continued

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....			
Mr. DeSantis (FL) .....		X	
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....		X	
Mr. Biggs (AZ) .....			
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....			
Mr. Cohen (TN) .....	X		
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....			
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
<b>Total</b> .....	<b>8</b>	<b>17</b>	

6. An amendment offered by Mr. Issa to permit a federal judge to carry a concealed firearm passed by a roll call vote of 18 to 6.

**ROLLCALL NO. 6**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....	X		
Mr. Sensenbrenner, Jr. (WI) .....	X		
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....	X		
Mr. Issa (CA) .....	X		
Mr. King (IA) .....	X		
Mr. Franks (AZ) .....	X		
Mr. Gohmert (TX) .....	X		
Mr. Jordan (OH) .....	X		
Mr. Poe (TX) .....	X		
Mr. Marino (PA) .....	X		
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....	X		

**ROLLCALL NO. 6**—Continued

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....			
Mr. DeSantis (FL) .....	X		
Mr. Buck (CO) .....	X		
Mr. Ratcliffe (TX) .....	X		
Ms. Roby (AL) .....	X		
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....	X		
Mr. Biggs (AZ) .....			
Mr. Rutherford (FL) .....	X		
Ms. Handel (GA) .....	X		
Mr. Nadler (NY), Ranking Member .....		X	
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....		X	
Ms. Jackson Lee (TX) .....			
Mr. Cohen (TN) .....			
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....			
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....		X	
Mr. Swalwell (CA) .....		X	
Mr. Lieu (CA) .....		X	
Mr. Raskin (MD) .....			
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....		X	
<b>Total</b> .....	18	6	.....

7. An amendment offered by Mr. Cicilline to limit the number of rounds of ammunition in the firearm being carried pursuant to this bill was defeated by a roll call vote of 7 to 17.

**ROLLCALL NO. 7**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....		X	
Mr. Issa (CA) .....		X	
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....		X	
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....			

**ROLLCALL NO. 7**—Continued

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....			
Mr. DeSantis (FL) .....		X	
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....		X	
Mr. Biggs (AZ) .....			
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....			
Mr. Cohen (TN) .....	X		
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....			
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....			
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
Total .....	7	17	

8. An amendment offered by Mr. King to clarify that Members of Congress were included among those permitted to carry a concealed firearm pursuant to this bill was defeated by a roll call vote of 10 to 11.

**ROLLCALL NO. 8**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....	X		
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....	X		
Mr. Issa (CA) .....	X		
Mr. King (IA) .....	X		
Mr. Franks (AZ) .....	X		
Mr. Gohmert (TX) .....	X		
Mr. Jordan (OH) .....	X		
Mr. Poe (TX) .....			

**ROLLCALL NO. 8**—Continued

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Marino (PA) .....	X		
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....			
Mr. DeSantis (FL) .....		X	
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....			
Ms. Roby (AL) .....			
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....	X		
Mr. Biggs (AZ) .....			
Mr. Rutherford (FL) .....	X		
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....		X	
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....		X	
Ms. Jackson Lee (TX) .....			
Mr. Cohen (TN) .....		X	
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....			
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....		X	
Mr. Swalwell (CA) .....		X	
Mr. Lieu (CA) .....		X	
Mr. Raskin (MD) .....			
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....		X	
<b>Total</b> .....	<b>10</b>	<b>11</b>	

9. An amendment offered by Mr. Swalwell to allow states to limit the eligibility of persons to carry a concealed firearm in their states was defeated by a roll call vote of 7 to 12.

**ROLLCALL NO. 9**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....		X	
Mr. Issa (CA) .....			
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....			

**ROLLCALL NO. 9**—Continued

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Poe (TX) .....			
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....		X	
Mr. DeSantis (FL) .....			
Mr. Buck (CO) .....			
Mr. Ratcliffe (TX) .....			
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....		X	
Mr. Biggs (AZ) .....		X	
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....			
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....			
Ms. Jackson Lee (TX) .....			
Mr. Cohen (TN) .....			
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....	X		
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
Total .....	7	12	

10. An amendment offered by Mr. Swalwell to prohibit a person from carrying a concealed firearm who has been convicted of a misdemeanor offense of assaulting or impersonating a police officer failed by a roll call vote of 8 to 15.

**ROLLCALL NO. 10**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....		X	
Mr. Issa (CA) .....			
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	

**ROLLCALL NO. 10**—Continued

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....			
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....		X	
Mr. DeSantis (FL) .....			
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....			
Mr. Biggs (AZ) .....		X	
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....			
Ms. Jackson Lee (TX) .....			
Mr. Cohen (TN) .....			
Mr. Johnson (GA) .....	X		
Mr. Deutch (FL) .....	X		
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
Total .....	8	15	

11. An amendment offered by Mr. Deutch to prohibit a person from carrying a concealed firearm who has been convicted of animal cruelty during the previous five years failed by a roll call vote of 8 to 12.

**ROLLCALL NO. 11**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....			
Mr. Issa (CA) .....			

## ROLLCALL NO. 11—Continued

	Ayes	Nays	Present
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....			
Mr. Marino (PA) .....			
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....		X	
Mr. DeSantis (FL) .....			
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....			
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....			
Mr. Johnson (LA) .....			
Mr. Biggs (AZ) .....		X	
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....			
Ms. Jackson Lee (TX) .....			
Mr. Cohen (TN) .....			
Mr. Johnson (GA) .....	X		
Mr. Deutch (FL) .....	X		
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
Total .....	8	12	

12. An amendment offered by Mr. Raskin to require states to establish a permit hotline in order for their permit holders to be able to carry across state lines failed by a roll call vote of 8 to 17.

## ROLLCALL NO. 12

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....		X	



## ROLLCALL NO. 12—Continued

	Ayes	Nays	Present
Mr. Issa (CA) .....			
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....		X	
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....		X	
Mr. DeSantis (FL) .....		X	
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....			
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....		X	
Mr. Johnson (LA) .....			
Mr. Biggs (AZ) .....		X	
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....			
Mr. Cohen (TN) .....			
Mr. Johnson (GA) .....	X		
Mr. Deutch (FL) .....			
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
Total .....	8	17	

13. An amendment offered by Ms. Jackson Lee to prohibit a person from carrying a concealed firearm who has been convicted of a hate crime failed by a roll call vote of 8 to 19.

## ROLLCALL NO. 13

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			

**ROLLCALL NO. 13**—Continued

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Chabot (OH) .....		X	
Mr. Issa (CA) .....		X	
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....		X	
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....		X	
Mr. DeSantis (FL) .....		X	
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....		X	
Mr. Johnson (LA) .....			
Mr. Biggs (AZ) .....		X	
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....	X		
Mr. Cohen (TN) .....			
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....			
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
<b>Total</b> .....	<b>8</b>	<b>19</b>	

14. An amendment offered by Mr. Schneider to prohibit a person from carrying a concealed firearm who has been convicted of a second misdemeanor offense of driving under the influence within the previous five years failed by a roll call vote of 9 to 18.

**ROLLCALL NO. 14**

	<b>Ayes</b>	<b>Nays</b>	<b>Present</b>
Mr. Goodlatte (VA), Chairman .....		X	

## ROLLCALL NO. 14—Continued

	Ayes	Nays	Present
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....		X	
Mr. Issa (CA) .....		X	
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....			
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....		X	
Mr. DeSantis (FL) .....			
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....		X	
Mr. Johnson (LA) .....		X	
Mr. Biggs (AZ) .....		X	
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....	X		
Mr. Cohen (TN) .....	X		
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....			
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
Total .....	9	18	

15. An amendment offered by Mr. Swalwell to require states to implement private sale background checks before their permits would be recognized failed by a roll call vote of 10 to 18.

## ROLLCALL NO. 15

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman .....		X	
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....		X	
Mr. Issa (CA) .....		X	
Mr. King (IA) .....		X	
Mr. Franks (AZ) .....		X	
Mr. Gohmert (TX) .....		X	
Mr. Jordan (OH) .....		X	
Mr. Poe (TX) .....			
Mr. Marino (PA) .....		X	
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....		X	
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....		X	
Mr. DeSantis (FL) .....		X	
Mr. Buck (CO) .....		X	
Mr. Ratcliffe (TX) .....		X	
Ms. Roby (AL) .....		X	
Mr. Gaetz (FL) .....		X	
Mr. Johnson (LA) .....			
Mr. Biggs (AZ) .....		X	
Mr. Rutherford (FL) .....		X	
Ms. Handel (GA) .....		X	
Mr. Nadler (NY), Ranking Member .....	X		
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....	X		
Ms. Jackson Lee (TX) .....	X		
Mr. Cohen (TN) .....	X		
Mr. Johnson (GA) .....			
Mr. Deutch (FL) .....	X		
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....	X		
Mr. Swalwell (CA) .....	X		
Mr. Lieu (CA) .....	X		
Mr. Raskin (MD) .....	X		
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....	X		
Total .....	10	18	

16. Motion to report H.R. 38 favorably to the House. Approved 19 to 11.

## ROLLCALL NO. 16

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman .....	X		
Mr. Sensenbrenner, Jr. (WI) .....			
Mr. Smith (TX) .....			
Mr. Chabot (OH) .....	X		
Mr. Issa (CA) .....	X		
Mr. King (IA) .....	X		
Mr. Franks (AZ) .....	X		
Mr. Gohmert (TX) .....	X		
Mr. Jordan (OH) .....	X		
Mr. Poe (TX) .....			
Mr. Marino (PA) .....	X		
Mr. Gowdy (SC) .....			
Mr. Labrador (ID) .....	X		
Mr. Farenthold (TX) .....			
Mr. Collins (GA) .....	X		
Mr. DeSantis (FL) .....	X		
Mr. Buck (CO) .....	X		
Mr. Ratcliffe (TX) .....	X		
Ms. Roby (AL) .....	X		
Mr. Gaetz (FL) .....	X		
Mr. Johnson (LA) .....	X		
Mr. Biggs (AZ) .....	X		
Mr. Rutherford (FL) .....	X		
Ms. Handel (GA) .....	X		
Mr. Nadler (NY), Ranking Member .....		X	
Mr. Conyers, Jr. (MI) .....			
Ms. Lofgren (CA) .....		X	
Ms. Jackson Lee (TX) .....		X	
Mr. Cohen (TN) .....		X	
Mr. Johnson (GA) .....		X	
Mr. Deutch (FL) .....		X	
Mr. Gutierrez (IL) .....			
Ms. Bass (CA) .....			
Mr. Richmond (LA) .....			
Mr. Jeffries (NY) .....			
Mr. Cicilline (RI) .....		X	
Mr. Swalwell (CA) .....		X	
Mr. Lieu (CA) .....		X	
Mr. Raskin (MD) .....		X	
Ms. Jayapal (WA) .....			
Mr. Schneider (IL) .....		X	
Total .....	19	11	

**Committee Oversight Findings**

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Rep-

representatives, are incorporated in the descriptive portions of this report.

### **New Budget Authority and Tax Expenditures**

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

### **Congressional Budget Office Cost Estimate**

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to H.R. 38, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, December 4, 2017.*

Hon. BOB GOODLATTE,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 38, the Concealed Carry Reciprocity Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

cc: Honorable Jerrold Nadler  
Ranking Member

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### **H.R. 38—Concealed Carry Reciprocity Act of 2017**

As ordered reported by the House Committee on the Judiciary on  
November 29, 2017

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H.R. 38 would allow persons who are licensed to carry concealed firearms in their state of residence to carry concealed handguns in other states if those states have a permitting process for individuals seeking to carry a concealed firearm. CBO estimates that implementing the bill would have no significant cost to the federal government.

Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 38 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 38 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting some state laws that limit the ability of nonresidents to carry concealed weapons. Laws allowing individuals to carry concealed weapons vary from state to state and range from allowing nonresidents to carry concealed weapons without a permit to requiring

residents to complete training and meet other conditions before obtaining a permit, or even prohibiting nonresidents from carrying concealed weapons altogether. Some states recognize permits issued by other states and some do not. If enacted, the bill would require states that currently do not recognize other state permits for nonresidents to do so. The costs for states to comply with that mandate would include the cost to change protocols and train law enforcement officers.

The bill also could result in the loss of revenue for some states. Currently, some states issue permits to nonresidents and charge fees ranging from \$20 to \$300 for those permits. If this bill is enacted and individuals have a permit to carry concealed weapons from their resident state, they would no longer need to purchase nonresident permits in other states they visit.

CBO estimates the total costs for states to comply with the preemption, including the training costs for law enforcement and the lost revenue from the nonresident permit fees, would not exceed the threshold established in UMRA (\$78 million in 2017, adjusted annually for inflation).

H.R. 38 contains no private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs) and Rachel Austin (mandates). The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

### **Duplication of Federal Programs**

No provision of H.R. 38 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

### **Disclosure of Directed Rule Makings**

The Committee finds that H.R. 38 contains no directed rule making within the meaning of 5 U.S.C. § 551.

### **Performance Goals and Objectives**

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 38 would allow persons with valid state-issued concealed firearm permits/licenses—or those who live in states that allow non-prohibited persons to carry a concealed firearm without a permit/license—to carry a concealed firearm in any other state that also issues concealed firearm permits/licenses, or in any other state that does not generally prohibit the carrying of concealed firearms.

### **Advisory on Earmarks**

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 38 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

### Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

*Section 1. Short title.* Section 1 sets forth the short title of the bill as the “Concealed Carry Reciprocity Act of 2017.”

*Sec. 2. Reciprocity for the carrying of certain concealed firearms.* Section 2 amends the federal criminal code to allow a qualified individual to carry a concealed handgun into or possess a concealed handgun in another state that allows individuals to carry concealed firearms.

A qualified individual must: (1) be eligible to possess, transport, or receive a firearm under federal law; (2) carry a valid photo identification document; and (3) carry a valid concealed carry permit issued by, or (in states that do not require permits) be eligible to carry a concealed firearm in, his or her state of residence.

Additionally, the section specifies that a qualified individual who lawfully carries or possesses a concealed handgun in another state: (1) is not subject to the federal prohibition on possessing a firearm in a school zone (individuals are still subject to state laws prohibiting firearm possession on school grounds), and (2) may carry or possess the concealed handgun in federally owned lands that are open to the public.

*Sec. 3. Rule of Construction.* Section 3 makes clear that nothing in the bill prohibits a law enforcement officer’s existing authority to conduct a brief investigative stop in accordance with the United States Constitution.

*Sec. 4. Carrying of firearms by off-duty and retired law enforcement officers in school zones.* Section 4 allows former and current law enforcement LEOSA-authorized individuals to carry in federally-recognized school zones if not prohibited by the state or local government.

*Sec. 5. Interstate carrying of firearms by federal judges.* Section 5 permits a federal judge to carry a concealed firearm if the judge is not prohibited by law from doing so.

### Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

#### TITLE 18, UNITED STATES CODE

\* \* \* \* \*

#### PART I—CRIMES

\* \* \* \* \*



**CHAPTER 44—FIREARMS**

Sec.

921. Definitions.

\* \* \* \* \*

926D. *Reciprocity for the carrying of certain concealed firearms.*

926E. *Interstate carrying of firearms by Federal judges.*

\* \* \* \* \*

**§ 922. Unlawful acts**

(a) It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any fire arm purchased or other-

wise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, unless—

(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) the manufacture of such ammunition is for the purpose of exportation; or

(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

- (A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;
- (B) is for the purpose of exportation; or
- (C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;
- (9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.
- (b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—
- (1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;
  - (2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;
  - (3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;
  - (4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and
  - (5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

“Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are \_\_\_\_\_ Signature  
Date \_\_\_\_\_.” and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

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

(2) is a fugitive from justice;

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

- (4) has been adjudicated as a mental defective or has been committed to any mental institution;
- (5) who, being an alien—
  - (A) is illegally or unlawfully in the United States; or
  - (B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));
- (6) who has been discharged from the Armed Forces under dishonorable conditions;
- (7) who, having been a citizen of the United States, has renounced his citizenship;
- (8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—
  - (A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and
  - (B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
  - (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
- (9) has been convicted in any court of a misdemeanor crime of domestic violence.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

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

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearms or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to—

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal

detectors calibrated and operated to detect the Security Exemplar; or

(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection—

(A) the term “firearm” does not include the frame or receiver of any such weapon;

(B) the term “major component” means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

(C) the term “Security Exemplar” means an object, to be fabricated at the direction of the Attorney General, that is—

(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and

(ii) suitable for testing and calibrating metal detectors: Provided, however, That at the close of such 12-month period, and

at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a “Security Exemplar” which contains 3.7 ounces of material type 17-4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

(5) This subsection shall not apply to any firearm which—

(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States



before the date of the enactment of the Undetectable Firearms Act of 1988.

(q)(1) The Congress finds and declares that—

(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary the House of Representatives and the Committee on the Judiciary of the Senate;

(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm—

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is—

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; **[or]**

*(vii) by an off-duty law enforcement officer who is a qualified law enforcement officer (as defined in section 926B) and is authorized under such section to carry a concealed firearm, if the firearm is concealed;*

*(viii) by a qualified retired law enforcement officer (as defined in section 926C) who is authorized under such section to carry a concealed firearm, if the firearm is concealed; or*

**[(vii)]** (ix) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm—

(i) on private property not part of school grounds;

(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; **[or]**

(iv) by a law enforcement officer acting in his or her official capacity**【.】**;

*(v) by an off-duty law enforcement officer who is a qualified law enforcement officer (as defined in section 926B) and is authorized under such section to carry a concealed firearm; or*

*(vi) by a qualified retired law enforcement officer (as defined in section 926C) who is authorized under such section to carry a concealed firearm.*

(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 923, unless—

(A) after the most recent proposal of such transfer by the transferee—

(i) the transferor has—

(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

(II) verified the identity of the transferee by examining the identification document presented;

(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

(C)(i) the transferee has presented to the transferor a permit that—

(I) allows the transferee to possess or acquire a handgun; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes

the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

(E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

(B) a statement that the transferee—

(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;

(ii) is not a fugitive from justice;

(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

(v) is not an alien who—

(I) is illegally or unlawfully in the United States; or

(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—

(A) the chief law enforcement officer of the place of business of the transferor; and

(B) the chief law enforcement officer of the place of residence of the transferee.

(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(8) For purposes of this subsection, the term “chief law enforcement officer” means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

(B)(i) the system provides the licensee with a unique identification number; or

(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d) of this title) of the transferee containing a photograph of the transferee.

(2) If receipt of a firearm would not violate subsection (g) or (n) or State law, the system shall—

(A) assign a unique identification number to the transfer;

(B) provide the licensee with the number; and

(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

(A)(i) such other person has presented to the licensee a permit that—

(I) allows such other person to possess or acquire a firearm; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

(B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than \$5,000.

(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to—

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

(5) For purposes of this subsection, the term "juvenile" means a person who is less than 18 years of age.

(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

(B) The court may use the contempt power to enforce subparagraph (A).

(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.



## (y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NON-IMMIGRANT VISAS.—

## (1) DEFINITIONS.—In this subsection—

(A) the term “alien” has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

(B) the term “nonimmigrant visa” has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(B) an official representative of a foreign government who is—

(i) accredited to the United States Government or the Government’s mission to an international organization having its headquarters in the United States; or

(ii) en route to or from another country to which that alien is accredited;

(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

## (3) WAIVER.—

(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

(ii) the Attorney General approves the petition.

(B) PETITION.—Each petition under subparagraph (B) shall—

(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

- (i) would be in the interests of justice; and
  - (ii) would not jeopardize the public safety.
- (z) SECURE GUN STORAGE OR SAFETY DEVICE.—
- (1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.
- (2) EXCEPTIONS.—Paragraph (1) shall not apply to—
- (A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or
  - (ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or
  - (B) the transfer to, or possession by, a rail police officer directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);
  - (C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or
  - (D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.
- (3) LIABILITY FOR USE.—
- (A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.
  - (B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.
  - (C) DEFINED TERM.—As used in this paragraph, the term “qualified civil liability action”—
    - (i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—
      - (I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and
      - (II) at the time access was gained by the person not so authorized, the handgun had been made in-

operable by use of a secure gun storage or safety device; and

(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.

\* \* \* \* \*

**§ 926D. Reciprocity for the carrying of certain concealed firearms**

(a) Notwithstanding any provision of the law of any State or political subdivision thereof (except as provided in subsection (b)) and subject only to the requirements of this section, a person who is not prohibited by Federal law from possessing, transporting, shipping, or receiving a firearm, who is carrying a valid identification document containing a photograph of the person, and who is carrying a valid license or permit which is issued pursuant to the law of a State and which permits the person to carry a concealed firearm or is entitled to carry a concealed firearm in the State in which the person resides, may possess or carry a concealed handgun (other than a machinegun or destructive device) that has been shipped or transported in interstate or foreign commerce, in any State that—

- (1) has a statute under which residents of the State may apply for a license or permit to carry a concealed firearm; or
- (2) does not prohibit the carrying of concealed firearms by residents of the State for lawful purposes.

(b) This section shall not be construed to supersede or limit the laws of any State that—

- (1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or
- (2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c)(1) A person who carries or possesses a concealed handgun in accordance with subsections (a) and (b) may not be arrested or otherwise detained for violation of any law or any rule or regulation of a State or any political subdivision thereof related to the possession, transportation, or carrying of firearms unless there is probable cause to believe that the person is doing so in a manner not provided for by this section. Presentation of facially valid documents as specified in subsection (a) is prima facie evidence that the individual has a license or permit as required by this section.

(2) When a person asserts this section as a defense in a criminal proceeding, the prosecution shall bear the burden of proving, beyond a reasonable doubt, that the conduct of the person did not satisfy the conditions set forth in subsections (a) and (b).

(3) When a person successfully asserts this section as a defense in a criminal proceeding, the court shall award the prevailing defendant a reasonable attorney's fee.

(d)(1) A person who is deprived of any right, privilege, or immunity secured by this section, under color of any statute, ordinance, regulation, custom, or usage of any State or any political subdivision thereof, may bring an action in any appropriate court against any other person, including a State or political subdivision thereof,

who causes the person to be subject to the deprivation, for damages or other appropriate relief.

(2) The court shall award a plaintiff prevailing in an action brought under paragraph (1) damages and such other relief as the court deems appropriate, including a reasonable attorney’s fee.

(e) In subsection (a):

(1) The term “identification document” means a document made or issued by or under the authority of the United States Government, a State, or a political subdivision of a State which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

(2) The term “handgun” includes any magazine for use in a handgun and any ammunition loaded into the handgun or its magazine.

(f)(1) A person who possesses or carries a concealed handgun under subsection (a) shall not be subject to the prohibitions of section 922(q) with respect to that handgun.

(2) A person possessing or carrying a concealed handgun in a State under subsection (a) may do so in any of the following areas in the State that are open to the public:

(A) A unit of the National Park System.

(B) A unit of the National Wildlife Refuge System.

(C) Public land under the jurisdiction of the Bureau of Land Management.

(D) Land administered and managed by the Army Corps of Engineers.

(E) Land administered and managed by the Bureau of Reclamation.

(F) Land administered and managed by the Forest Service.

**§926E. Interstate carrying of firearms by Federal judges**

Notwithstanding any provision of the law of any State or political subdivision thereof, a Federal judge may carry a concealed firearm in any State if such judge is not prohibited by Federal law from receiving a firearm.

\* \* \* \* \*

**Dissenting Views**

INTRODUCTION

H.R. 38, the “Concealed Carry Reciprocity Act of 2017,” is a dangerous bill that would undermine the core public safety determinations each state makes, based on the unique circumstances in each state and the desires of its citizens, concerning the concealed carrying of guns in public. The bill would force each state that allows the concealed carrying of firearms under any conditions to accept concealed handgun carry permits from every other state, even if the permit holder would not be allowed to carry or even possess a handgun in the state where he or she is traveling. Not surprisingly, this measure is strongly opposed by various law enforcement organizations, 17 state attorneys general, and the U.S. Conference of

Mayors, among others.<sup>1</sup> Because H.R. 38 would endanger the citizens of the states whose laws would be overruled, and for the reasons stated below, we urge our colleagues to oppose this seriously flawed legislation and we respectfully dissent.

#### DESCRIPTION AND BACKGROUND

The central purpose of H.R. 38 is to authorize anyone who is allowed by one state to carry a concealed handgun to carry a concealed handgun in any other state that allows individuals to carry concealed firearms, even if the other states have higher standards, based on public safety considerations, for granting concealed carry privileges. Concealed carry permits are issued at the state level with each state determining who is allowed to carry concealed firearms based on the state's core public safety laws. Although all 50 states allow concealed carry of firearms in some form, the standards vary greatly.<sup>2</sup> In many states, the standards are much more relaxed while other states require higher standards before a concealed carry permit will be issued.

Under current law, each state determines if it will recognize concealed carry permits issued by other states. There are 11 states that do not recognize concealed carry permits issued by other states.<sup>3</sup> Most other states only recognize some concealed carry permits issued by other states, usually those with equivalent standards.<sup>4</sup> H.R. 38 would disregard these critical, locally-based determinations.

#### CONCERNS WITH H.R. 38

H.R. 38 eviscerates the authority of states to set their own eligibility standards for who may carry a concealed, loaded gun in public. State officials, law enforcement, and legislators are in the best position to decide crime-fighting policies for their respective jurisdictions. For example, the needs of rural areas may not fit the needs of big cities and vice-versa.

States often set standards for carrying handguns on city streets that include criteria that exceed the requirement that an applicant pass a federal background check. For instance, many states, including those with strong gun rights traditions, have enacted laws that prohibit concealed handgun carrying by certain categories of individuals, including varying laws concerning who may possess firearms under any circumstances. These include teenagers, alcohol abusers, and individuals who pose a danger to others, or those who have not completed basic safety training. For example, 27 states and the District of Columbia prohibit people convicted of mis-

<sup>1</sup>See, e.g., Press Release, National Law Enforcement Partnership to Prevent Gun Violence, Statement on the Concealed Carry Reciprocity Act of 2017—S. 446 & H.R. 38 (Jul. 7, 2017), [https://www.lepartnership.org/wp-content/uploads/2017/07/LEP\\_Letter-2017-1\\_CCW-HouseSenate.pdf](https://www.lepartnership.org/wp-content/uploads/2017/07/LEP_Letter-2017-1_CCW-HouseSenate.pdf); Letter from Eric Schneiderman, N.Y. State Attorney General, *et al.*, to Mitch McConnell, Senate Majority Leader, *et al.* (Oct. 22, 2017); U.S. Conference of Mayors 85th Annual Meeting Resolution (June 23–26, 2017), available at [http://legacy.usmayors.org/resolutions/85th\\_Conference/proposedcommittee.asp?committee=Criminal%20and%20Social%20Justice](http://legacy.usmayors.org/resolutions/85th_Conference/proposedcommittee.asp?committee=Criminal%20and%20Social%20Justice).

<sup>2</sup>Everytown for Gun Safety, State-by-State Danger of Overriding Concealed Carry Laws, available at <https://everytownresearch.org/state-by-state-danger-of-overriding-concealed-carry-laws/>.

<sup>3</sup>Everytown for Gun Safety, Concealed Carry Reciprocity (H.R. 38): Overriding State Public Laws, available at <http://everytownresearch.org/concealed-carry-reciprocity-h-r-38-overriding-state-public-safety-laws/>.

<sup>4</sup>*Id.*

demeanor crimes of violence from carrying concealed guns in public and 35 states and the District of Columbia exceed federal protections by prohibiting abusive dating partners from carrying concealed guns in public. Even the many states that require safety training or live-fire training to obtain concealed carry permits would have these laws dangerously ignored should H.R. 38 become law.<sup>5</sup>

Various analyses of state concealed carry laws indicate that “weak permitting systems allow dangerous people to carry guns,”<sup>6</sup> but under H.R. 38 the state with the weakest standards for issuing concealed carry permits would override any state with more restrictive standards. As a result, the bill would allow individuals to carry in those states that would not have issued concealed carry permits to individuals unable to meet the more restrictive standards. The national standard for carrying concealed firearms would, in effect, be set by those states with the most relaxed standards for issuing permits.<sup>7</sup> Even individuals authorized to carry concealed guns in those states that do not require concealed carry permits would be allowed to engage in concealed carry in states with higher standards.

H.R. 38 would make presentation of facially valid documents prima facie evidence that the individual has a required concealed carry license or permit. Currently, each state determines if it will recognize concealed carry permits issued by other states. A nationwide system by which concealed carry permits can be verified does not exist and, in some states, concealed carry permits cannot be verified within the state, as there is no statewide system of all concealed carry permits.<sup>8</sup> This bill would grant people who have obtained a permit from any state the authority to carry concealed handguns across the country with no verification as long as individuals can present a facially valid document purporting to be a concealed carry permit.

With these public safety dangers posed by the bill, Committee Democrats offered numerous amendments to uphold the concealed carry restrictions of each state. These include the following:

*Violent Misdemeanor Offenses.* Congressman Jerrold Nadler (D-NY) offered an amendment to prohibit offenders who have been convicted of a violent misdemeanor in the past three years from carrying a concealed gun in a state where that conviction would otherwise disqualify them from carrying in public. The amendment was defeated by a vote of 12–15.

*Domestic Violence Offenses.* Congresswoman Sheila Jackson Lee (D-TX) offered an amendment to block domestic abusers and stalkers from taking advantage of imposed reciprocity. The amendment would have prevented the bill from overriding the laws of states that prevent the carrying of concealed guns by certain domestic abusers and stalkers, particularly dating partners. The amendment was defeated by a vote of 8–16.

<sup>5</sup> *Id.*

<sup>6</sup> Giffords Law Center to Prevent Gun Violence, *Concealed Weapons Permitting*, available at <http://smartgunlaws.org/gun-laws/policy-areas/firearms-in-public-places/concealed-weapons-permitting/>

<sup>7</sup> Center for American Progress, *Fact Sheet, Federally Mandated Concealed Carry Legislation* (Jan. 2017).

<sup>8</sup> Everytown for Gun Safety, *State-by-State Danger of Overriding Concealed Carry Laws*.

*Anti-Forum Shopping.* Congresswoman Zoe Lofgren (D-CA) offered an amendment to require that an individual be a resident of the state from which their concealed carry permit is issued in order for the individual to take advantage of the bill's reciprocity. The amendment was defeated by a vote of 8-17.

*Protecting State Public Safety Standards.* Congressman Jamie Raskin (D-MD) offered an amendment to allow states to retain their own public safety standards, while recognizing concealed carry permits from out-of-state residents only if their permits are from states with similar standards, including any gun safety training and live-fire training, for granting the permits. The amendment failed, despite Democratic support, by a voice vote.

*State Laws Safeguarding Private Property.* Congressman Ted Deutch (D-FL) offered an amendment to ensure that state prohibitions or restrictions on the possession of firearms on private property would not be superseded. The amendment was defeated by a vote of 10-14.

*State Laws with Age Restrictions.* Congressman Steve Cohen (D-TN) offered an amendment to prevent the bill's forced reciprocity from overriding state laws prohibiting individuals younger than 21 years of age from carrying concealed guns. The amendment was defeated by a vote of 8-17.

*High Capacity Ammunition Magazines.* Congressman David Cicilline (D-RI) offered an amendment to prohibit the bill from allowing the carrying of high capacity magazines for use with handguns across state lines. The amendment was defeated by a vote of 7-17.

*State Laws Concerning Handgun Possession.* Congressman Eric Swalwell (D-CA) offered an amendment to prevent the bill from overriding state laws restricting possession of handguns. The amendment failed by a vote of 7-12.

*Assaulting or Impersonating a Police Officer.* Congressman Swalwell offered an amendment to prevent the bill from overriding state laws prohibiting persons convicted of misdemeanor offenses of assaulting or impersonating a police officer from carrying concealed guns. The amendment failed by a vote of 8-15.

*Restrictions on Concealed Carry on Certain Beaches.* Congressman Deutch offered an amendment to prohibit the bill from allowing the concealed carrying of guns on land administered and managed by the Army Corps of Engineers. The amendment failed, despite Democratic support, by a voice vote.

*Animal Cruelty.* Congressman Deutch offered an amendment to prohibit individuals from taking advantage of the reciprocity provided by the bill if they have been convicted of cruelty to animals within the past five years. The amendment failed by a vote of 8-12.

*Requiring Periodic Background Checks and Verification Mechanism.* Congressman Raskin offered an amendment to require concealed carry reciprocity under the bill to apply only to those states that: (1) can verify the existence of a license or permit on a 24-hour per day basis; (2) conduct a biannual background check to verify that concealed carry license holders are legally eligible to possess firearms; and (3) can revoke the license if the holder is not eligible to hold the license. This amendment failed by a vote of 8-17.

*Respecting the Laws of the District of Columbia.* Congressman Raskin offered an amendment to prevent the bill from forcing concealed carry reciprocity onto the District of Columbia. The amendment failed, despite Democratic support, by voice vote.

*Hate Crimes Offenses.* Congresswoman Jackson Lee offered an amendment to prevent the carrying of concealed guns under the bill by anyone convicted of federal or state hate crimes. The amendment failed by a vote of 8–19.

*Driving Under the Influence Offenses.* Congressman Brad Schneider (D–IL) offered an amendment to prevent the bill from overriding state laws to prohibit concealed carry by an individual who has been twice convicted of operating a motor vehicle under the influence of alcohol or a controlled substance. The amendment failed by a vote of 9–18.

*Background Check Requirements.* Congressman Swalwell offered an amendment to prohibit concealed carry reciprocity for an individual unless the person’s home state and the state into which they are transporting the handgun require background checks for prospective purchasers. The amendment failed by a vote of 10–18.

Committee Democrats offered these amendments to defend the ability of states to protect their citizens from gun violence. The bill ignores fundamental federalism principles and disregards state laws setting minimum public safety standards for carrying concealed guns, which courts have recognized as within the lawful, constitutional power of the states to enact. The Supreme Court has stated that even prohibitions on concealed carrying are permissible. In *District of Columbia v. Heller*,<sup>9</sup> a case in which the Supreme Court held that the District’s handgun ban was unconstitutional, Justice Antonin Scalia, writing for the majority, specified that the Court’s holding did not “cast doubt” on other gun laws and noted that “[w]e identify these presumptively lawful regulatory measures only as examples; our list does not purport to be exhaustive.”<sup>10</sup> In discussing long-understood limitations on the right to keep and bear arms, Justice Scalia noted that “the majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the Second Amendment or state analogues.”<sup>11</sup> The Court thus reaffirmed its ruling in *Robertson v. Baldwin* issued 120 years ago that “the right of the people to keep and bear arms (article 2) is not infringed by laws prohibiting the carrying of concealed weapons.”<sup>12</sup> State laws governing such conduct, directly bearing on questions of public safety, should therefore not be nullified by Congress.

In addition, implementation of this bill would endanger law enforcement officers as they work to keep us safe. Policing our streets and conducting traffic stops are already perilous enough without increasing the number of guns officers encounter. The bill would make it nearly impossible for law enforcement officers, fearing legal liability under the bill, to determine whether someone carrying a gun is doing so illegally. Officers would have to distinguish between real and fake carry permits issued not only by their own

<sup>9</sup> 554 U.S. 570 (2008).

<sup>10</sup> *Id.* at 627 n. 26.

<sup>11</sup> *Id.* at 626.

<sup>12</sup> 165 U.S. 275, 281–82 (1897).



state, but by every state. All of this is complicated by the fact that there is no national database of permit holders.

#### CONCLUSION

The answer to our national problem of gun violence is not that we need more people carrying concealed firearms on our streets. More than 33,000 Americans lose their life to gun violence each year, while in some other countries this figure barely exceeds 100.<sup>13</sup> For example, in 2011 the United Kingdom had 146 deaths due to gun violence; Denmark, 71; Portugal, 142; and Japan, just 30.<sup>14</sup> A study in the American Journal of Medicine found that, compared to 22 other high-income countries, the gun-related murder rate in the United States is 25 times higher.<sup>15</sup> We must change our approach to this issue and adopt meaningful legislation that strengthens our gun laws instead of weakening them. And, we must not undermine the efforts of states to defend their citizens against these harms.

States are in the best position to determine which measures best protect their citizens, based on the circumstances and judgments peculiar to each state, and the Second Amendment does not confer a right to carry concealed firearms in violation of state law standards enacted in order to enhance public safety. As the National Law Enforcement Coalition to Prevent Gun Violence, in a statement opposing H.R. 38, observed “We reject the idea that one state’s approach to carrying a concealed firearm will work across the country. States and localities should maintain their rights to legislate concealed carry laws that best meet the needs of their citizens.”<sup>16</sup> We agree.

For the forgoing reasons, we respectfully dissent.

MR. NADLER.  
 MS. LOFGREN.  
 MS. JACKSON LEE.  
 MR. STEVE COHEN.  
 MR. JOHNSON, JR.  
 MR. DEUTCH.  
 MR. GUTIERREZ.  
 MR. BASS.  
 MR. RICHMOND.  
 MR. JEFFRIES.  
 MR. CICILLINE.  
 MR. SWALWELL.  
 MR. LIEU.  
 MR. RASKIN.  
 MS. JAYAPAL.

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<sup>13</sup> Mona Chalabi, *How Bad is U.S. Gun Violence? These Charts Show the Scale of the Problem*, Guardian (Oct. 5, 2017), <https://www.theguardian.com/us-news/2017/oct/05/us-gun-violence-charts-data>.

<sup>14</sup> THE UNIVERSITY OF SYDNEY’S SYDNEY SCHOOL OF PUBLIC HEALTH, GUN FACTS, FIGURES AND THE LAW, <http://www.gunpolicy.org/>.

<sup>15</sup> Daniel White, *America’s Gun Homicide Rate Is 25 Times Higher Than Other Rich Countries*, TIME (Feb. 3, 2016), <http://time.com/4206484/america-violent-death-rate-higher/>.

<sup>16</sup> See Press Release, National Law Enforcement Partnership to Prevent Gun Violence, Statement on the Concealed Carry Reciprocity Act of 2017—S. 446 & H.R. 38 (Jul. 7, 2017).