

BIPARTISAN BACKGROUND CHECKS ACT OF 2019

—————
FEBRUARY 22, 2019.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed
—————

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

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 8]

The Committee on the Judiciary, to whom was referred the bill (H.R. 8) to require a background check for every firearm sale, 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 is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Bipartisan Background Checks Act of 2019”.

SEC. 2. PURPOSE.

The purpose of this Act is to utilize the current background checks process in the United States to ensure individuals prohibited from gun possession are not able to obtain firearms.

SEC. 3. FIREARMS TRANSFERS.

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

(1) by striking subsection (s);

(2) by redesignating subsection (t) as subsection (s); and

(3) by inserting after subsection (s), as redesignated, the following:

“(t)(1)(A) It shall be unlawful for any person who is not a licensed importer, licensed manufacturer, or licensed dealer to transfer a firearm to any other person who is not so licensed, unless a licensed importer, licensed manufacturer, or licensed dealer has first taken possession of the firearm for the purpose of complying with subsection (s).

“(B) Upon taking possession of a firearm under subparagraph (A), a licensee shall comply with all requirements of this chapter as if the licensee were transferring the firearm from the inventory of the licensee to the unlicensed transferee.

“(C) If a transfer of a firearm described in subparagraph (A) will not be completed for any reason after a licensee takes possession of the firearm (including because the transfer of the firearm to, or receipt of the firearm by, the transferee would violate this chapter), the return of the firearm to the transferor by the licensee shall not constitute the transfer of a firearm for purposes of this chapter.

“(2) Paragraph (1) shall not apply to—

“(A) a law enforcement agency or any law enforcement officer, armed private security professional, or member of the armed forces, to the extent the officer, professional, or member is acting within the course and scope of employment and official duties;

“(B) a transfer that is a loan or bona fide gift between spouses, between domestic partners, between parents and their children, between siblings, between aunts or uncles and their nieces or nephews, or between grandparents and their grandchildren;

“(C) a transfer to an executor, administrator, trustee, or personal representative of an estate or a trust that occurs by operation of law upon the death of another person;

“(D) a temporary transfer that is necessary to prevent imminent death or great bodily harm, if the possession by the transferee lasts only as long as immediately necessary to prevent the imminent death or great bodily harm;

“(E) a transfer that is approved by the Attorney General under section 5812 of the Internal Revenue Code of 1986; or

“(F) a temporary transfer if the transferor has no reason to believe that the transferee will use or intends to use the firearm in a crime or is prohibited from possessing firearms under State or Federal law, and the transfer takes place and the transferee’s possession of the firearm is exclusively—

“(i) at a shooting range or in a shooting gallery or other area designated for the purpose of target shooting;

“(ii) while reasonably necessary for the purposes of hunting, trapping, or fishing, if the transferor—

“(I) has no reason to believe that the transferee intends to use the firearm in a place where it is illegal; and

“(II) has reason to believe that the transferee will comply with all licensing and permit requirements for such hunting, trapping, or fishing;

or

“(iii) while in the presence of the transferor.

“(3)(A) Notwithstanding any other provision of this chapter, the Attorney General may implement this subsection with regulations.

“(B) Regulations promulgated under this paragraph may not include any provision requiring licensees to facilitate transfers in accordance with paragraph (1).

“(C) Regulations promulgated under this paragraph may not include any provision requiring persons not licensed under this chapter to keep records of background checks or firearms transfers.

“(D) Regulations promulgated under this paragraph may not include any provision placing a cap on the fee licensees may charge to facilitate transfers in accordance with paragraph (1).

“(4) It shall be unlawful for a licensed importer, licensed manufacturer, or licensed dealer to transfer possession of, or title to, a firearm to another person who is not so licensed unless the importer, manufacturer, or dealer has provided such other person with a notice of the prohibition under paragraph (1), and such other

person has certified that such other person has been provided with this notice on a form prescribed by the Attorney General.”.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(a) SECTION 922.—Section 922(y)(2) of title 18, United States Code, is amended in the matter preceding subparagraph (A) by striking “, (g)(5)(B), and (s)(3)(B)(v)(II)” and inserting “and (g)(5)(B)”.

(b) CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2012.—Section 511 of title V of division B of the Consolidated and Further Continuing Appropriations Act, 2012 (18 U.S.C. 922 note) is amended by striking “subsection 922(t)” each place it appears and inserting “subsection (s) or (t) of section 922”.

SEC. 5. RULE OF CONSTRUCTION.

Nothing in this Act, or any amendment made by this Act, shall be construed to—

- (1) authorize the establishment, directly or indirectly, of a national firearms registry; or
- (2) interfere with the authority of a State, under section 927 of title 18, United States Code, to enact a law on the same subject matter as this Act.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect 210 days after the date of the enactment of this Act.

Purpose and Summary

H.R. 8, the “Bipartisan Background Checks Act of 2019,” would make it illegal for any person who is not a licensed firearm importer, manufacturer, or dealer to transfer a firearm to any other person who is not so licensed without a background check. Individuals seeking to transfer a firearm under this measure would be required to visit a licensed firearms dealer to run the necessary background check before the transfer could be finalized. H.R. 8 is intended to provide an accurate and speedy manner to ensure firearms do not end up in the wrong hands. An internal assessment by the Federal Bureau of Investigation (FBI) demonstrated that the National Instant Criminal Background Check System (NICS) background checks are approximately 99.3 percent to 99.8 percent accurate, and in 90 percent of cases, are processed within 90 seconds.¹

Background and Need for the Legislation

In any given year, more than 120,000 Americans are shot in murders, assaults, suicides and suicide attempts, unintentional shootings, or police actions. Of these, 35,000 result in death. Over 17,000 of those injured or killed are children and teens. On average, 34 people in America are murdered on account of gun violence every single day.²

Gun violence of this magnitude is a distinctly American problem. A country to country comparison is shocking. For example, in 2011 the United Kingdom had 146 deaths due to gun violence; Denmark, 71; Portugal, 142; and Japan, just 30.³ A recent study in the American Journal of Medicine found that, compared to 22 other high-in-

¹ Office of the Inspector Gen., U.S. Dep’t of Justice, Audit of the Handling of Firearms Purchase Denials Through the National Instant Criminal Background Check System (Sept. 2016), <https://oig.justice.gov/reports/2016/a1632.pdf>; Federal Bureau of Investigation, National Instant Criminal Background Check System Celebrates 20 Years of Service, Criminal Justice Information Servs. (Nov. 30, 2018), <https://www.fbi.gov/services/cjis/cjis-link/national-instantcriminal-background-check-system-celebrates-20-years-of-service>.

² Key Gun Violence Statistics, BRADY CAMPAIGN TO PREVENT GUN VIOLENCE, <http://www.bradycampaign.org/key-gun-violence-statistics> (last visited Feb. 20, 2019).

³ THE UNIVERSITY OF SYDNEY’S SYDNEY SCHOOL OF PUBLIC HEALTH, GUN FACTS, FIGURES AND THE LAW, <http://www.gunpolicy.org/>.

come countries, the gun-related murder rate in the United States is 25 times higher.⁴ Even when you adjust for population differences, Americans are disproportionately killed by gun violence.

In the modern era, the daily ravage of gun violence is, unfortunately, all too frequently punctuated by “mass shootings,” which the Federal Bureau of Investigation (FBI) defines as shootings where four or more victims are killed.⁵ Since the mass shooting at Columbine High School in Littleton, Colorado in 1999, where 12 students and one teacher were killed, there have been a number of mass shootings, including:

- Virginia Tech (2007): 27 students and five teachers were killed;

- Sandy Hook Elementary School (2012): 20 children and six adults were killed;

- Aurora, Colorado (2012): a gunman opened fire in a movie theater, killing 12 people;

- Charleston, South Carolina (2015): nine people were shot dead by a white supremacist at the historic Emanuel African Methodist Episcopal Church;

- San Bernardino (2015): 14 people were killed at an office gathering;

- Pulse nightclub, Orlando (2016): 49 people were killed inside a gay nightclub;

- Mandalay Bay, Las Vegas (2017): the shooter opened fire on a crowd of concertgoers at a country music festival, killing 58 people and injuring nearly 500 others;

- Sutherland Springs, Texas (2017): 25 people and an unborn child were killed during a Sunday morning church service;

- Parkland, Florida (2018): 17 adults and students were killed at Marjory Stoneman Douglas High School; and

- Thousand Oaks, California (2018): 12 people were killed at the Borderline Bar and Grill.⁶

The rate of mass shootings in the United States has steadily increased over the past 30 years,⁷ with a sharp escalation since 2011. Scholars from the Harvard School of Public Health found that from 1982 to 2011 public mass shootings occurred on average every 200 days. Since September 6, 2011, however, public mass shootings have occurred every 64 days on average.⁸ The increased frequency of mass public shootings is compounded by the fact that mass shooters are increasingly using more deadly semi-automatic, assault-style weapons to perpetrate their heinous acts.⁹

⁴ 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/>.

⁵ See, e.g., *Serial Murder: Multi-Disciplinary Perspectives for Investigators*, FBI, NATIONAL CENTER FOR THE ANALYSIS OF VIOLENT CRIME, BEHAVIORAL ANALYSIS UNIT 2 (2005). The term “mass murder” is defined as “a number of murders (four or more) occurring during the same incident, with no distinctive time period between the murders.” *Id.*

⁶ *Deadliest Mass Shootings in Modern US History Fast Facts*, CNN (Dec. 15, 2018), <https://www.cnn.com/2013/09/16/us/20-deadliest-mass-shootings-in-u-s-history-fast-facts/index.html>.

⁷ Ping-I Lin et al., *What Have We Learned from the Time Trend of Mass Shootings in the U.S.?*, PUB. LIBRARY OF SCIENCE SAN FRANCISCO, Vol.13 Issue 10 (2018).

⁸ Amy P. Cohen et al., *Rate of Mass Shootings Has Tripled Since 2011, Harvard Research Shows*, MOTHER JONES, Oct. 5, 2014, <https://www.motherjones.com/politics/2014/10/mass-shootings-increasing-harvard-research/#>.

⁹ Christopher Ingraham, *Assault Rifles Are Becoming Mass Shooters’ Weapon of Choice*, WASH. POST, June 12, 2016, https://www.washingtonpost.com/news/wonk/wp/2016/06/12/the-gun-used-in-the-orlando-shooting-is-becoming-mass-shooters-weapon-of-choice/?utm_term=.54bf5c4beaa7; C.J. Chivers et al., *With AR-15s, Mass Shooters Attack with the Rifle*

The Gun Control Act of 1968 established the framework for legally prohibiting certain categories of people from possessing firearms.¹⁰ This list of “prohibited persons” has grown over the years, and now includes categories such as felons, fugitives, domestic abusers, and those found by a court or other tribunal to be seriously mentally ill. Only in 1993, with the passage of the Brady Handgun Violence Prevention Act (Brady Act), did Congress provide the public with a pre-sale process for checking whether a prospective firearm purchaser is legally able to purchase the firearm.¹¹

The Brady Act established the National Instant Criminal Background Check System (often called “the NICS”) as a mechanism for federally licensed firearms dealers to accomplish pre-sale checks. The Brady Act background check requirement applies only to licensed dealers, allowing transactions conducted by private, unlicensed sellers to be completed without any check. Private, unlicensed sellers need not conduct any check under current law, even if the seller sells a large number of guns.

To address this gap, a bipartisan group of Members introduced H.R. 8, the “Bipartisan Background Checks Act of 2019.” This bill would make it illegal for any person who is not a licensed firearm importer, manufacturer, or dealer to transfer a firearm to any other person who is not so licensed without a background check, subject to certain exceptions. Individuals seeking to transfer a firearm under this measure would be required to visit a licensed firearms dealer to run the necessary background check before the transfer could be finalized.

Hearings

The Committee’s hearing on “Preventing Gun Violence: A Call to Action,” held on February 6, 2019, was used to consider H.R. 8. During the hearing, the Committee heard testimony on a wide variety of gun-related topics, including background check deficiencies and loophole. The Committee heard testimony from: Aalayah Eastmond, a student at Marjory Stoneman Douglas High School; Savannah Lindquist, a student at Old Dominion University; Diane Latiker, President and Founder of Kids Off the Block; Dr. Joseph V. Sakran of John Hopkins Hospital; Major Sabrina Tapp-Harper of the Baltimore City Sherriff’s Office; Chief Art Acevedo of the Houston Police Department; Dr. Joyce Lee Malcolm, professor at the Antonin Scalia Law School; and Robyn Thomas, Executive Director of the Giffords Law Center. During the hearing, the witnesses testified to the impact gun violence on communities, discussed a wide range of policy proposals, and offered suggestions on how current firearms restrictions may be improved.

Committee Consideration

On Wednesday, February 13, 2019, the Committee met in open session and ordered the bill, H.R. 8, favorably reported with an amendment, by a rollcall vote of 23 to 15, a quorum being present.

Firepower Typically Used by Infantry Troops, N.Y. Times, Feb. 28, 2018, <https://www.nytimes.com/interactive/2018/02/28/us/ar-15-rifle-mass-shootings.html>.

¹⁰ 10 Gun Control Act of 1968, Pub. L. No. 90–618, 82 Stat. 1213–2 (1968).

¹¹ Brady Handgun Violence Prevention Act, Pub. L. No. 103–159, 107 Stat. 1536 (1993).

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 rollcall votes occurred during the Committee's consideration of H.R. 8:

1. An amendment by Mr. Sensenbrenner amending section 3 to add a provision that would exempt from the bill's background check requirement a transfer to an individual who is the holder of a valid permit to carry a concealed firearm, which has been issued by a state was defeated by a rollcall vote of 13 to 21.

ROLLCALL NO. 1

	Ayes	Nos	Present
Jerrold Nadler (NY-10) .....	.....	X	.....
Zoe Lofgren (CA-19) .....	.....	X	.....
Sheila Jackson Lee (TX-18) .....	.....	X	.....
Steve Cohen (TN-09) .....	.....	X	.....
Hank Johnson (GA-04) .....	.....	X	.....
Ted Deutch (FL-02) .....	.....	.....	.....
Karen Bass (CA-37) .....	.....	.....	.....
Cedric Richmond (LA-02) .....	.....	X	.....
Hakeem Jeffries (NY-08) .....	.....	X	.....
David Cicilline (RI-01) .....	.....	X	.....
Eric Swalwell (CA-15) .....	.....	.....	.....
Ted Lieu (CA-33) .....	.....	X	.....
Jamie Raskin (MD-08) .....	.....	X	.....
Pramila Jayapal (WA-07) .....	.....	X	.....
Val Demings (FL-10) .....	.....	X	.....
Lou Correa (CA-46) .....	.....	X	.....
Mary Gay Scanlon (PA-05) .....	.....	X	.....
Sylvia Garcia (TX-29) .....	.....	X	.....
Joseph Neguse (CO-02) .....	.....	X	.....
Lucy McBath (GA-06) .....	.....	X	.....
Greg Stanton (AZ-09) .....	.....	X	.....
Madeleine Dean (PA-04) .....	.....	X	.....
Debbie Mucarsel-Powell (FL-26) .....	.....	X	.....
Veronica Escobar (TX-16) .....	.....	X	.....
Doug Collins (GA-27)	X	.....	.....
James F. Sensenbrenner (WI-05)	X	.....	.....
Steve Chabot (OH-01) .....	.....	.....	.....
Louie Gohmert (TX-01)	X	.....	.....
Jim Jordan (OH-04)	X	.....	.....
Ken Buck (CO-04)	X	.....	.....
John Ratcliffe (TX-04)	X	.....	.....
Martha Roby (AL-02)	X	.....	.....
Matt Gaetz (FL-01)	X	.....	.....
Mike Johnson (LA-04)	X	.....	.....
Andy Biggs (AZ-05)	X	.....	.....
Tom McClintock (CA-04)	X	.....	.....
Debbie Lesko (AZ-08) .....	.....	.....	.....
Guy Reschenthaler (PA-14) .....	.....	.....	.....
Ben Cline (VA-06)	X	.....	.....

ROLLCALL NO. 1—Continued

	Ayes	Nos	Present
Kelly Armstrong (ND-AL)	X	.....	.....
Greg Steube (FL-17) .....	.....	.....	.....
Total	13	21	.....

2. An amendment by Mr. Gohmert amending section 3 to add a provision that would exempt the exchange of firearms from the bill's background check requirement was defeated by a rollcall vote of 12 to 17.

ROLLCALL NO. 2

	Ayes	Nos	Present
Jerrold Nadler (NY-10) .....	.....	X	.....
Zoe Lofgren (CA-19) .....	.....	X	.....
Sheila Jackson Lee (TX-18) .....	.....	.....	.....
Steve Cohen (TN-09) .....	.....	.....	.....
Hank Johnson (GA-04) .....	.....	X	.....
Ted Deutch (FL-02) .....	.....	X	.....
Karen Bass (CA-37) .....	.....	.....	.....
Cedric Richmond (LA-02) .....	.....	.....	.....
Hakeem Jeffries (NY-08) .....	.....	X	.....
David Cicilline (RI-01) .....	.....	X	.....
Eric Swalwell (CA-15) .....	.....	.....	.....
Ted Lieu (CA-33) .....	.....	X	.....
Jamie Raskin (MD-08) .....	.....	X	.....
Pramila Jayapal (WA-07) .....	.....	.....	.....
Val Demings (FL-10) .....	.....	.....	.....
Lou Correa (CA-46) .....	.....	X	.....
Mary Gay Scanlon (PA-05) .....	.....	X	.....
Sylvia Garcia (TX-29) .....	.....	X	.....
Joseph Neguse (CO-02) .....	.....	X	.....
Lucy McBath (GA-06) .....	.....	X	.....
Greg Stanton (AZ-09) .....	.....	X	.....
Madeleine Dean (PA-04) .....	.....	X	.....
Debbie Mucarsel-Powell (FL-26) .....	.....	X	.....
Veronica Escobar (TX-16) .....	.....	X	.....
Doug Collins (GA-27)	X	.....	.....
James F. Sensenbrenner (WI-05)	X	.....	.....
Steve Chabot (OH-01) .....	.....	.....	.....
Louie Gohmert (TX-01)	X	.....	.....
Jim Jordan (OH-04)	X	.....	.....
Ken Buck (CO-04)	X	.....	.....
John Ratcliffe (TX-04) .....	.....	.....	.....
Martha Roby (AL-02)	X	.....	.....
Matt Gaetz (FL-01)	X	.....	.....
Mike Johnson (LA-04)	X	.....	.....
Andy Biggs (AZ-05)	X	.....	.....
Tom McClintock (CA-04)	X	.....	.....
Debbie Lesko (AZ-08) .....	.....	.....	.....

ROLLCALL NO. 2—Continued

	Ayes	Nos	Present
Guy Reschenthaler (PA-14)	X	.....	.....
Ben Cline (VA-06) .....	.....	.....	.....
Kelly Armstrong (ND-AL) .....	.....	.....	.....
Greg Steube (FL-17)	X	.....	.....
Total	12	17	.....

3. An amendment by Mr. Gaetz to require the Attorney General to promulgate regulations to cap the amount a firearms dealer may charge at zero dollars for any transfer for which the background check is not complete within 24 hours and is ultimately approved was defeated by a rollcall vote of 15 to 18.

ROLLCALL NO. 4

	Ayes	Nos	Present
Jerrold Nadler (NY-10) .....	.....	X	.....
Zoe Lofgren (CA-19) .....	.....	X	.....
Sheila Jackson Lee (TX-18) .....	.....	X	.....
Steve Cohen (TN-09) .....	.....	X	.....
Hank Johnson (GA-04) .....	.....	X	.....
Ted Deutch (FL-02) .....	.....	X	.....
Karen Bass (CA-37) .....	.....	.....	.....
Cedric Richmond (LA-02) .....	.....	.....	.....
Hakeem Jeffries (NY-08) .....	.....	.....	.....
David Cicilline (RI-01) .....	.....	X	.....
Eric Swalwell (CA-15) .....	.....	.....	.....
Ted Lieu (CA-33) .....	.....	.....	.....
Jamie Raskin (MD-08) .....	.....	X	.....
Pramila Jayapal (WA-07) .....	.....	X	.....
Val Demings (FL-10) .....	.....	X	.....
Lou Correa (CA-46) .....	.....	X	.....
Mary Gay Scanlon (PA-05) .....	.....	X	.....
Sylvia Garcia (TX-29) .....	.....	X	.....
Joseph Neguse (CO-02) .....	.....	.....	.....
Lucy McBath (GA-06) .....	.....	X	.....
Greg Stanton (AZ-09) .....	.....	X	.....
Madeleine Dean (PA-04) .....	.....	X	.....
Debbie Mucarsel-Powell (FL-26) .....	.....	X	.....
Veronica Escobar (TX-16) .....	.....	X	.....
Doug Collins (GA-27)	X	.....	.....
James F. Sensenbrenner (WI-05) .....	.....	.....	.....
Steve Chabot (OH-01)	X	.....	.....
Louie Gohmert (TX-01)	X	.....	.....
Jim Jordan (OH-04)	X	.....	.....
Ken Buck (CO-04)	X	.....	.....
John Ratcliffe (TX-04)	X	.....	.....
Martha Roby (AL-02)	X	.....	.....
Matt Gaetz (FL-01)	X	.....	.....
Mike Johnson (LA-04) .....	.....	.....	.....

ROLLCALL NO. 4—Continued

	Ayes	Nos	Present
Andy Biggs (AZ-05)	X	.....	.....
Tom McClintock (CA-04)	X	.....	.....
Debbie Lesko (AZ-08)	X	.....	.....
Guy Reschenthaler (PA-14)	X	.....	.....
Ben Cline (VA-06)	X	.....	.....
Kelly Armstrong (ND-AL)	X	.....	.....
Greg Steube (FL-17)	X	.....	.....
Total	15	18	.....

4. An amendment by Mr. Chabot amending section 3 to add an exemption from the bill's background check requirement to allow a transfer to a law enforcement officer who is authorized to carry a firearm as part of his employment was defeated by a rollcall vote of 9 to 19.

ROLLCALL NO. 6

	Ayes	Nos	Present
Jerrold Nadler (NY-10)	X	.....
Zoe Lofgren (CA-19)	X	.....
Sheila Jackson Lee (TX-18)	X	.....
Steve Cohen (TN-09)	X	.....
Hank Johnson (GA-04)	X	.....
Ted Deutch (FL-02)	X	.....
Karen Bass (CA-37)
Cedric Richmond (LA-02)
Hakeem Jeffries (NY-08)	X	.....
David Cicilline (RI-01)	X	.....
Eric Swalwell (CA-15)
Ted Lieu (CA-33)	X	.....
Jamie Raskin (MD-08)	X	.....
Pramila Jayapal (WA-07)	X	.....
Val Demings (FL-10)	X	.....
Lou Correa (CA-46)	X	.....
Mary Gay Scanlon (PA-05)	X	.....
Sylvia Garcia (TX-29)	X	.....
Joseph Neguse (CO-02)	X	.....
Lucy McBath (GA-06)	X	.....
Greg Stanton (AZ-09)	X	.....
Madeleine Dean (PA-04)	X	.....
Debbie Mucarsel-Powell (FL-26)
Veronica Escobar (TX-16)
Doug Collins (GA-27)	X	.....	.....
James F. Sensenbrenner (WI-05)
Steve Chabot (OH-01)	X	.....	.....
Louie Gohmert (TX-01)
Jim Jordan (OH-04)	X	.....	.....
Ken Buck (CO-04)
John Ratcliffe (TX-04)

ROLLCALL NO. 6—Continued

	Ayes	Nos	Present
Martha Roby (AL-02) .....	.....	.....	.....
Matt Gaetz (FL-01) .....	.....	.....	.....
Mike Johnson (LA-04)	X	.....	.....
Andy Biggs (AZ-05)	X	.....	.....
Tom McClintock (CA-04)	X	.....	.....
Debbie Lesko (AZ-08) .....	.....	.....	.....
Guy Reschenthaler (PA-14) .....	.....	.....	.....
Ben Cline (VA-06)	X	.....	.....
Kelly Armstrong (ND-AL)	X	.....	.....
Greg Steube (FL-17)	X	.....	.....
Total	9	19	.....

5. An amendment by Mr. Johnson of Louisiana eliminating from the bill's background check requirement certain requirements for a temporary transfer of a firearm to qualify under the bill's exemptions was defeated by a rollcall vote of 11 to 18.

ROLLCALL NO. 7

	Ayes	Nos	Present
Jerrold Nadler (NY-10)	X	.....
Zoe Lofgren (CA-19)	X	.....
Sheila Jackson Lee (TX-18)
Steve Cohen (TN-09)	X	.....
Hank Johnson (GA-04)
Ted Deutch (FL-02)	X	.....
Karen Bass (CA-37)
Cedric Richmond (LA-02)
Hakeem Jeffries (NY-08)	X	.....
David Cicilline (RI-01)	X	.....
Eric Swalwell (CA-15)	X	.....
Ted Lieu (CA-33)	X	.....
Jamie Raskin (MD-08)	X	.....
Pramila Jayapal (WA-07)	X	.....
Val Demings (FL-10)	X	.....
Lou Correa (CA-46)
Mary Gay Scanlon (PA-05)	X	.....
Sylvia Garcia (TX-29)	X	.....
Joseph Neguse (CO-02)	X	.....
Lucy McBath (GA-06)	X	.....
Greg Stanton (AZ-09)	X	.....
Madeleine Dean (PA-04)	X	.....
Debbie Mucarsel-Powell (FL-26)	X	.....
Veronica Escobar (TX-16)
Doug Collins (GA-27)	X	.....	.....
James F. Sensenbrenner (WI-05)
Steve Chabot (OH-01)	X	.....	.....
Louie Gohmert (TX-01)
Jim Jordan (OH-04)

ROLLCALL NO. 7—Continued

	Ayes	Nos	Present
Ken Buck (CO-04)	X	.....	.....
John Ratcliffe (TX-04) .....	.....	.....	.....
Martha Roby (AL-02) .....	.....	.....	.....
Matt Gaetz (FL-01)	X	.....	.....
Mike Johnson (LA-04)	X	.....	.....
Andy Biggs (AZ-05)	X	.....	.....
Tom McClintock (CA-04) .....	.....	.....	.....
Debbie Lesko (AZ-08)	X	.....	.....
Guy Reschenthaler (PA-14)	X	.....	.....
Ben Cline (VA-06)	X	.....	.....
Kelly Armstrong (ND-AL)	X	.....	.....
Greg Steube (FL-17)	X	.....	.....
Total	11	18	.....

6. An amendment by Mr. Biggs adding a new section to the bill expressing a Sense of Congress that rights guaranteed by the U.S. Constitution should not be hampered by financial restrictions or constraints on the exercise of those rights; that the exercise of citizens' Second Amendment rights must not be abridged or restricted by burdensome payments or delays in the conduct of background checks for lawful firearms transfers; and that financial constraints have no place in the exercise of constitutional rights in that a citizen's right to bear arms, just like a citizen's right to vote, must not be qualified by the ability to pay a certain sum of money in order to exercise those rights was defeated by a rollcall vote of 13 to 20.

ROLLCALL NO. 8

	Ayes	Nos	Present
Jerrold Nadler (NY-10)	X	.....
Zoe Lofgren (CA-19)	X	.....
Sheila Jackson Lee (TX-18)	X	.....
Steve Cohen (TN-09)	X	.....
Hank Johnson (GA-04)	X	.....
Ted Deutch (FL-02)	X	.....
Karen Bass (CA-37)
Cedric Richmond (LA-02)
Hakeem Jeffries (NY-08)	X	.....
David Cicilline (RI-01)	X	.....
Eric Swalwell (CA-15)
Ted Lieu (CA-33)	X	.....
Jamie Raskin (MD-08)	X	.....
Pramila Jayapal (WA-07)	X	.....
Val Demings (FL-10)	X	.....
Lou Correa (CA-46)	X	.....
Mary Gay Scanlon (PA-05)	X	.....
Sylvia Garcia (TX-29)	X	.....
Joseph Neguse (CO-02)	X	.....
Lucy McBath (GA-06)	X	.....
Greg Stanton (AZ-09)	X	.....

ROLLCALL NO. 8—Continued

	Ayes	Nos	Present
Madeleine Dean (PA-04) .....	.....	X	.....
Debbie Mucarsel-Powell (FL-26) .....	.....	X	.....
Veronica Escobar (TX-16) .....	.....		.....
Doug Collins (GA-27)	X		.....
James F. Sensenbrenner (WI-05) .....	.....		.....
Steve Chabot (OH-01)	X		.....
Louie Gohmert (TX-01)	X		.....
Jim Jordan (OH-04)	X		.....
Ken Buck (CO-04)	X		.....
John Ratcliffe (TX-04) .....	.....		.....
Martha Roby (AL-02) .....	.....		.....
Matt Gaetz (FL-01)	X		.....
Mike Johnson (LA-04) .....	.....		.....
Andy Biggs (AZ-05)	X		.....
Tom McClintock (CA-04)	X		.....
Debbie Lesko (AZ-08)	X		.....
Guy Reschenthaler (PA-14)	X		.....
Ben Cline (VA-06)	X		.....
Kelly Armstrong (ND-AL)	X		.....
Greg Steube (FL-17)	X		.....
Total	13	20	.....

7. An amendment by Mr. Steube requiring regulations promulgated pursuant to section 922 of title 18, as amended by this measure, to require notification to the field office of the Federal Bureau of Investigation, the local law enforcement agency, the state law enforcement agency; and U.S. Immigration and Customs Enforcement in the case of a person illegally or unlawfully in the United States was defeated by a rollcall vote of 14 to 20.

ROLLCALL NO. 10

	Ayes	Nos	Present
Jerrold Nadler (NY-10)	X	.....
Zoe Lofgren (CA-19)	X	.....
Sheila Jackson Lee (TX-18)	X	.....
Steve Cohen (TN-09)
Hank Johnson (GA-04)	X	.....
Ted Deutch (FL-02)	X	.....
Karen Bass (CA-37)	X	.....
Cedric Richmond (LA-02)
Hakeem Jeffries (NY-08)
David Cicilline (RI-01)	X	.....
Eric Swalwell (CA-15)
Ted Lieu (CA-33)	X	.....
Jamie Raskin (MD-08)	X	.....
Pramila Jayapal (WA-07)	X	.....
Val Demings (FL-10)	X	.....
Lou Correa (CA-46)	X	.....

ROLLCALL NO. 10—Continued

	Ayes	Nos	Present
Mary Gay Scanlon (PA-05) .....	.....	X	.....
Sylvia Garcia (TX-29) .....	.....	X	.....
Joseph Neguse (CO-02) .....	.....	X	.....
Lucy McBath (GA-06) .....	.....	X	.....
Greg Stanton (AZ-09) .....	.....	X	.....
Madeleine Dean (PA-04) .....	.....	X	.....
Debbie Mucarsel-Powell (FL-26) .....	.....	X	.....
Veronica Escobar (TX-16) .....	.....	X	.....
Doug Collins (GA-27)	X	.....	.....
James F. Sensenbrenner (WI-05) .....	.....	.....	.....
Steve Chabot (OH-01)	X	.....	.....
Louie Gohmert (TX-01)	X	.....	.....
Jim Jordan (OH-04)	X	.....	.....
Ken Buck (CO-04)	X	.....	.....
John Ratcliffe (TX-04) .....	.....	.....	.....
Martha Roby (AL-02) .....	.....	.....	.....
Matt Gaetz (FL-01)	X	.....	.....
Mike Johnson (LA-04)	X	.....	.....
Andy Biggs (AZ-05)	X	.....	.....
Tom McClintock (CA-04)	X	.....	.....
Debbie Lesko (AZ-08)	X	.....	.....
Guy Reschenthaler (PA-14)	X	.....	.....
Ben Cline (VA-06)	X	.....	.....
Kelly Armstrong (ND-AL)	X	.....	.....
Greg Steube (FL-17)	X	.....	.....
Total	14	20	.....

8. An amendment by Mrs. Lesko, as amended by Mr. Gaetz, to add an exemption from the bill's background check requirement for a transfer to a victim of domestic violence or sexual assault who is to be protected under an order of protection issued by a court of law was defeated by a rollcall vote of 15 to 19.

ROLLCALL NO. 11

	Ayes	Nos	Present
Jerrold Nadler (NY-10)	X	.....
Zoe Lofgren (CA-19)	X	.....
Sheila Jackson Lee (TX-18)	X	.....
Steve Cohen (TN-09)
Hank Johnson (GA-04)	X	.....
Ted Deutch (FL-02)	X	.....
Karen Bass (CA-37)	X	.....
Cedric Richmond (LA-02)
Hakeem Jeffries (NY-08)
David Cicilline (RI-01)
Eric Swalwell (CA-15)	X	.....
Ted Lieu (CA-33)	X	.....
Jamie Raskin (MD-08)

ROLLCALL NO. 11—Continued

	Ayes	Nos	Present
Pramila Jayapal (WA-07) .....	.....	X	.....
Val Demings (FL-10) .....	.....	X	.....
Lou Correa (CA-46) .....	.....	X	.....
Mary Gay Scanlon (PA-05) .....	.....	X	.....
Sylvia Garcia (TX-29) .....	.....	X	.....
Joseph Neguse (CO-02) .....	.....	X	.....
Lucy McBath (GA-06) .....	.....	X	.....
Greg Stanton (AZ-09) .....	.....	X	.....
Madeleine Dean (PA-04) .....	.....	X	.....
Debbie Mucarsel-Powell (FL-26) .....	.....	X	.....
Veronica Escobar (TX-16) .....	.....	X	.....
Doug Collins (GA-27)	X	.....	.....
James F. Sensenbrenner (WI-05) .....	.....	.....	.....
Steve Chabot (OH-01)	X	.....	.....
Louie Gohmert (TX-01)	X	.....	.....
Jim Jordan (OH-04)	X	.....	.....
Ken Buck (CO-04)	X	.....	.....
John Ratcliffe (TX-04) .....	.....	.....	.....
Martha Roby (AL-02)	X	.....	.....
Matt Gaetz (FL-01)	X	.....	.....
Mike Johnson (LA-04)	X	.....	.....
Andy Biggs (AZ-05)	X	.....	.....
Tom McClintock (CA-04)	X	.....	.....
Debbie Lesko (AZ-08)	X	.....	.....
Guy Reschenthaler (PA-14)	X	.....	.....
Ben Cline (VA-06)	X	.....	.....
Kelly Armstrong (ND-AL)	X	.....	.....
Greg Steube (FL-17)	X	.....	.....
Total	15	19	.....

9. An amendment by Mr. Reschenthaler to add an exemption from the bill's background check requirement for a transfer by an individual who, by his or her own determination, may be a risk to himself or herself or others to a person who is not prohibited by federal law from receiving a firearm was defeated by a rollcall vote of 15 to 20.

ROLLCALL NO. 12

	Ayes	Nos	Present
Jerrold Nadler (NY-10)	X	.....
Zoe Lofgren (CA-19)	X	.....
Sheila Jackson Lee (TX-18)	X	.....
Steve Cohen (TN-09)
Hank Johnson (GA-04)	X	.....
Ted Deutch (FL-02)	X	.....
Karen Bass (CA-37)	X	.....
Cedric Richmond (LA-02)
Hakeem Jeffries (NY-08)	X	.....

ROLLCALL NO. 12—Continued

	Ayes	Nos	Present
David Cicilline (RI-01) .....	.....	.....	.....
Eric Swalwell (CA-15) .....	.....	X	.....
Ted Lieu (CA-33) .....	.....	X	.....
Jamie Raskin (MD-08) .....	.....	.....	.....
Pramila Jayapal (WA-07) .....	.....	X	.....
Val Demings (FL-10) .....	.....	X	.....
Lou Correa (CA-46) .....	.....	X	.....
Mary Gay Scanlon (PA-05) .....	.....	X	.....
Sylvia Garcia (TX-29) .....	.....	X	.....
Joseph Neguse (CO-02) .....	.....	X	.....
Lucy McBath (GA-06) .....	.....	X	.....
Greg Stanton (AZ-09) .....	.....	X	.....
Madeleine Dean (PA-04) .....	.....	X	.....
Debbie Mucarsel-Powell (FL-26) .....	.....	X	.....
Veronica Escobar (TX-16) .....	.....	X	.....
Doug Collins (GA-27)	X	.....	.....
James F. Sensenbrenner (WI-05) .....	.....	.....	.....
Steve Chabot (OH-01)	X	.....	.....
Louie Gohmert (TX-01)	X	.....	.....
Jim Jordan (OH-04)	X	.....	.....
Ken Buck (CO-04)	X	.....	.....
John Ratcliffe (TX-04) .....	.....	.....	.....
Martha Roby (AL-02)	X	.....	.....
Matt Gaetz (FL-01)	X	.....	.....
Mike Johnson (LA-04)	X	.....	.....
Andy Biggs (AZ-05)	X	.....	.....
Tom McClintock (CA-04)	X	.....	.....
Debbie Lesko (AZ-08)	X	.....	.....
Guy Reschenthaler (PA-14)	X	.....	.....
Ben Cline (VA-06)	X	.....	.....
Kelly Armstrong (ND-AL)	X	.....	.....
Greg Steube (FL-17)	X	.....	.....
Total	15	20	.....

10. An amendment by Mr. Armstrong to add an exemption for a temporary transfer of a firearm for the purpose of hunting, trapping, fishing, ranching, farming, or target practice from the bill's background check requirement, and eliminating provisions of the temporary transfer section that require transferors to have no reason to believe that the transferee will use the firearm in a place where that is illegal and the transferor has reason to believe that the transferee will abide by all licensing and permit requirements for such hunting, trapping, and fishing; or the transferee will use the firearm in the transferor's presence was defeated by a rollcall vote of 15 to 23.

ROLLCALL NO. 13

	Ayes	Nos	Present
Jerrold Nadler (NY-10) .....	.....	X	.....
Zoe Lofgren (CA-19) .....	.....	X	.....
Sheila Jackson Lee (TX-18) .....	.....	X	.....
Steve Cohen (TN-09) .....	.....	X	.....
Hank Johnson (GA-04) .....	.....	X	.....
Ted Deutch (FL-02) .....	.....	X	.....
Karen Bass (CA-37) .....	.....	X	.....
Cedric Richmond (LA-02) .....	.....	X	.....
Hakeem Jeffries (NY-08) .....	.....	X	.....
David Cicilline (RI-01) .....	.....	X	.....
Eric Swalwell (CA-15) .....	.....	X	.....
Ted Lieu (CA-33) .....	.....	X	.....
Jamie Raskin (MD-08) .....	.....	X	.....
Pramila Jayapal (WA-07) .....	.....	X	.....
Val Demings (FL-10) .....	.....	X	.....
Lou Correa (CA-46) .....	.....	X	.....
Mary Gay Scanlon (PA-05) .....	.....	X	.....
Sylvia Garcia (TX-29) .....	.....	X	.....
Joseph Neguse (CO-02) .....	.....	X	.....
Lucy McBath (GA-06) .....	.....	X	.....
Greg Stanton (AZ-09) .....	.....	X	.....
Madeleine Dean (PA-04) .....	.....	X	.....
Debbie Mucarsel-Powell (FL-26) .....	.....	X	.....
Veronica Escobar (TX-16) .....	.....	X	.....
Doug Collins (GA-27)	X	.....	.....
James F. Sensenbrenner (WI-05) .....	.....	.....	.....
Steve Chabot (OH-01)	X	.....	.....
Louie Gohmert (TX-01)	X	.....	.....
Jim Jordan (OH-04)	X	.....	.....
Ken Buck (CO-04)	X	.....	.....
John Ratcliffe (TX-04) .....	.....	.....	.....
Martha Roby (AL-02)	X	.....	.....
Matt Gaetz (FL-01)	X	.....	.....
Mike Johnson (LA-04)	X	.....	.....
Andy Biggs (AZ-05)	X	.....	.....
Tom McClintock (CA-04)	X	.....	.....
Debbie Lesko (AZ-08)	X	.....	.....
Guy Reschenthaler (PA-14)	X	.....	.....
Ben Cline (VA-06)	X	.....	.....
Kelly Armstrong (ND-AL)	X	.....	.....
Greg Steube (FL-17)	X	.....	.....
Total	15	23	.....

11. An amendment in the nature of a substitute by Mr. Deutch, changing the effective date of the bill from 180 days to 210 days was agreed to by a rollcall vote of 23 to 15.

ROLLCALL NO. 14

	Ayes	Nos	Present
Jerrold Nadler (NY-10)	X	.....	.....
Zoe Lofgren (CA-19)	X	.....	.....
Sheila Jackson Lee (TX-18)	X	.....	.....
Steve Cohen (TN-09)	X	.....	.....
Hank Johnson (GA-04)	X	.....	.....
Ted Deutch (FL-02)	X	.....	.....
Karen Bass (CA-37)	X	.....	.....
Cedric Richmond (LA-02) .....	.....	.....	.....
Hakeem Jeffries (NY-08)	X	.....	.....
David Cicilline (RI-01)	X	.....	.....
Eric Swalwell (CA-15)	X	.....	.....
Ted Lieu (CA-33)	X	.....	.....
Jamie Raskin (MD-08)	X	.....	.....
Pramila Jayapal (WA-07)	X	.....	.....
Val Demings (FL-10)	X	.....	.....
Lou Correa (CA-46)	X	.....	.....
Mary Gay Scanlon (PA-05)	X	.....	.....
Sylvia Garcia (TX-29)	X	.....	.....
Joseph Neguse (CO-02)	X	.....	.....
Lucy McBath (GA-06)	X	.....	.....
Greg Stanton (AZ-09)	X	.....	.....
Madeleine Dean (PA-04)	X	.....	.....
Debbie Mucarsel-Powell (FL-26)	X	.....	.....
Veronica Escobar (TX-16)	X	.....	.....
Doug Collins (GA-27) .....	.....	X	.....
James F. Sensenbrenner (WI-05) .....	.....	.....	.....
Steve Chabot (OH-01) .....	.....	X	.....
Louie Gohmert (TX-01) .....	.....	X	.....
Jim Jordan (OH-04) .....	.....	X	.....
Ken Buck (CO-04) .....	.....	X	.....
John Ratcliffe (TX-04) .....	.....	.....	.....
Martha Roby (AL-02) .....	.....	X	.....
Matt Gaetz (FL-01) .....	.....	X	.....
Mike Johnson (LA-04) .....	.....	X	.....
Andy Biggs (AZ-05) .....	.....	X	.....
Tom McClintock (CA-04) .....	.....	X	.....
Debbie Lesko (AZ-08) .....	.....	X	.....
Guy Reschenthaler (PA-14) .....	.....	X	.....
Ben Cline (VA-06) .....	.....	X	.....
Kelly Armstrong (ND-AL) .....	.....	X	.....
Greg Steube (FL-17) .....	.....	X	.....
Total	23	15	.....

12. Passage of the bill, as amended, was agreed to by a rollcall vote of 23 to 15.

ROLLCALL NO. 17

	Ayes	Nos	Present
Jerrold Nadler (NY-10)	X	.....	.....
Zoe Lofgren (CA-19)	X	.....	.....
Sheila Jackson Lee (TX-18)	X	.....	.....
Steve Cohen (TN-09)	X	.....	.....
Hank Johnson (GA-04)	X	.....	.....
Ted Deutch (FL-02)	X	.....	.....
Karen Bass (CA-37)	X	.....	.....
Cedric Richmond (LA-02) .....	.....	.....	.....
Hakeem Jeffries (NY-08)	X	.....	.....
David Cicilline (RI-01)	X	.....	.....
Eric Swalwell (CA-15)	X	.....	.....
Ted Lieu (CA-33)	X	.....	.....
Jamie Raskin (MD-08)	X	.....	.....
Pramila Jayapal (WA-07)	X	.....	.....
Val Demings (FL-10)	X	.....	.....
Lou Correa (CA-46)	X	.....	.....
Mary Gay Scanlon (PA-05)	X	.....	.....
Sylvia Garcia (TX-29)	X	.....	.....
Joseph Neguse (CO-02)	X	.....	.....
Lucy McBath (GA-06)	X	.....	.....
Greg Stanton (AZ-09)	X	.....	.....
Madeleine Dean (PA-04)	X	.....	.....
Debbie Mucarsel-Powell (FL-26)	X	.....	.....
Veronica Escobar (TX-16)	X	.....	.....
Doug Collins (GA-27) .....	.....	X	.....
James F. Sensenbrenner (WI-05) .....	.....	.....	.....
Steve Chabot (OH-01) .....	.....	X	.....
Louie Gohmert (TX-01) .....	.....	X	.....
Jim Jordan (OH-04) .....	.....	X	.....
Ken Buck (CO-04) .....	.....	X	.....
John Ratcliffe (TX-04) .....	.....	.....	.....
Martha Roby (AL-02) .....	.....	X	.....
Matt Gaetz (FL-01) .....	.....	X	.....
Mike Johnson (LA-04) .....	.....	X	.....
Andy Biggs (AZ-05) .....	.....	X	.....
Tom McClintock (CA-04) .....	.....	X	.....
Debbie Lesko (AZ-08) .....	.....	X	.....
Guy Reschenthaler (PA-14) .....	.....	X	.....
Ben Cline (VA-06) .....	.....	X	.....
Kelly Armstrong (ND-AL) .....	.....	X	.....
Greg Steube (FL-17) .....	.....	X	.....
Total	23	15	.....

13. Motion to report H.R. 8, as amended, favorably was agreed to by a rollcall vote of 23 to 15.

ROLLCALL NO. 18

	Ayes	Nos	Present
Jerrold Nadler (NY-10)	X	.....	.....
Zoe Lofgren (CA-19)	X	.....	.....
Sheila Jackson Lee (TX-18)	X	.....	.....
Steve Cohen (TN-09)	X	.....	.....
Hank Johnson (GA-04)	X	.....	.....
Ted Deutch (FL-02)	X	.....	.....
Karen Bass (CA-37)	X	.....	.....
Cedric Richmond (LA-02) .....	.....	.....	.....
Hakeem Jeffries (NY-08)	X	.....	.....
David Cicilline (RI-01)	X	.....	.....
Eric Swalwell (CA-15)	X	.....	.....
Ted Lieu (CA-33)	X	.....	.....
Jamie Raskin (MD-08)	X	.....	.....
Pramila Jayapal (WA-07)	X	.....	.....
Val Demings (FL-10)	X	.....	.....
Lou Correa (CA-46)	X	.....	.....
Mary Gay Scanlon (PA-05)	X	.....	.....
Sylvia Garcia (TX-29)	X	.....	.....
Joseph Neguse (CO-02)	X	.....	.....
Lucy McBath (GA-06)	X	.....	.....
Greg Stanton (AZ-09)	X	.....	.....
Madeleine Dean (PA-04)	X	.....	.....
Debbie Mucarsel-Powell (FL-26)	X	.....	.....
Veronica Escobar (TX-16)	X	.....	.....
Doug Collins (GA-27) .....	.....	X	.....
James F. Sensenbrenner (WI-05) .....	.....	.....	.....
Steve Chabot (OH-01) .....	.....	X	.....
Louie Gohmert (TX-01) .....	.....	X	.....
Jim Jordan (OH-04) .....	.....	X	.....
Ken Buck (CO-04) .....	.....	X	.....
John Ratcliffe (TX-04) .....	.....	.....	.....
Martha Roby (AL-02) .....	.....	X	.....
Matt Gaetz (FL-01) .....	.....	X	.....
Mike Johnson (LA-04) .....	.....	X	.....
Andy Biggs (AZ-05) .....	.....	X	.....
Tom McClintock (CA-04) .....	.....	X	.....
Debbie Lesko (AZ-08) .....	.....	X	.....
Guy Reschenthaler (PA-14) .....	.....	X	.....
Ben Cline (VA-06) .....	.....	X	.....
Kelly Armstrong (ND-AL) .....	.....	X	.....
Greg Steube (FL-17) .....	.....	X	.....
Total	23	15	.....

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 and Congressional Budget Office Cost Estimate

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

Duplication of Federal Programs

No provision of H.R. 8 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.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 8 would require a background check on nearly every gun sale or transfer, with limited exception for certain exempt gifts to family members, hunting, target shooting, and self-defense.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 8 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of Rule XXI.

Section-by-Section Analysis

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

Sec 1. Short Title. Section 1 sets forth the short title of the bill as the “Bipartisan Background Checks Act 2019.”

Sec 2. Purpose. Section 2 states that purpose of this measure is to utilize the current background check process in the United States to ensure individuals prohibited from gun possession are not able to obtain firearms.

Sec. 3. Firearms Transfers. Section 3 amends section 922 of title 18 of the U.S. Code to make it illegal for any person who is not a licensed firearm importer, manufacturer, or dealer to transfer a firearm to any other person who is not so licensed without a background check. Individuals seeking to transfer a firearm under this

section would be required to visit a licensed firearms dealer to run the necessary background check before the transfer is finalized.

In addition, this section would require the licensed firearms dealer, upon taking possession of a firearm, to perform the background check as though the gun were part of the dealer's own inventory.

This section further provides that, if a transfer under this section cannot be completed for any reason, the return of the firearm would not constitute a transfer and the dealer would be permitted to return the firearm to the seller without having to conduct a background check.

Section 3 also sets forth certain exemptions to the bill's mandatory background check requirement. The expanded requirement would not apply to:

- A law enforcement agency or law enforcement officer, armed private security professional, or member of the armed forces, to the extent such officer, professional, or service member is acting within the course and scope of his or her employment and official duties.
- A transfer that is a loan or bona fide gift between spouses, between domestic partners, between parents and their children, between siblings, between aunts or uncles and their nieces or nephews, or between grandparents and their grandchildren.
- A transfer to an executor, administrator, trustee, or personal representative of an estate or a trust that occurs by operation of law upon the death of another person.
- A temporary transfer that is necessary to prevent imminent death or great bodily harm, if the possession by the transferee lasts only as long as immediately necessary to prevent the imminent death or great bodily harm.
- National Firearms Act transfers that pertain to special weapons, such as automatic weapons, which require a permit to own.
- A temporary transfer if the transferor has no reason to believe that the transferee will use or intends to use the firearm in a crime or is prohibited from possessing firearms under state or federal law, and the transfer takes place and the transferee's possession of the firearm is exclusively—
 - at a shooting range or in a shooting gallery or other area designated for target shooting;
 - for hunting, trapping, or fishing so long as the transferee has no reason to believe the firearm will be used in a place where it is illegal and has reason to believe all necessary licensing and permitting requirements will be followed; or
 - while in the presence of the transferor.

Additionally, section 3 would authorize the Attorney General to promulgate any necessary regulations to implement this legislation. It also would prohibit the Attorney General from requiring dealers to process private transfers, requiring private sellers to keep records of transactions, or placing a cap on the fee that dealers can charge to facilitate a private transfer.

Lastly, this section would make it unlawful for a licensed importer, manufacturer, or dealer to transfer a firearm to a person

without providing a notice to the person of the background check specified by this provision.

Sec. 4. Technical and Conforming Amendments. Section 4 makes technical and conforming revisions. In addition, it prohibits the use of any tax or fee to expand NICS and prohibits the use of funding for a system that keeps information on purchasers who are approved to purchase firearms for longer than 24-hours.¹²

Sec. 5. Rules of Construction. Section 5 sets forth a rule of construction that prohibits the establishment of a national gun registry.

Sec. 6. Effective Date. Section 6 states that the changes to current law under this bill would take effect 210 days after enactment.

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, H.R. 8, as reported, are shown as follows:

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

* * * * *

§ 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

¹² See the Consolidated Appropriations Act of 2012, Pub. L. No. 112—74, 125 Stat. 785 (2011).

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 otherwise 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 main-

tain 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 re-

moved, 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) 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.

(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)] (s)(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.

(t)(1)(A) It shall be unlawful for any person who is not a licensed importer, licensed manufacturer, or licensed dealer to transfer a firearm to any other person who is not so licensed, unless a licensed importer, licensed manufacturer, or licensed dealer has first taken possession of the firearm for the purpose of complying with subsection (s).

(B) Upon taking possession of a firearm under subparagraph (A), a licensee shall comply with all requirements of this chapter as if the licensee were transferring the firearm from the inventory of the licensee to the unlicensed transferee.

(C) If a transfer of a firearm described in subparagraph (A) will not be completed for any reason after a licensee takes possession of the firearm (including because the transfer of the firearm to, or receipt of the firearm by, the transferee would violate this chapter), the return of the firearm to the transferor by the licensee shall not constitute the transfer of a firearm for purposes of this chapter.

(2) Paragraph (1) shall not apply to—

(A) a law enforcement agency or any law enforcement officer, armed private security professional, or member of the armed forces, to the extent the officer, professional, or member is acting within the course and scope of employment and official duties;

(B) a transfer that is a loan or bona fide gift between spouses, between domestic partners, between parents and their children, between siblings, between aunts or uncles and their nieces or nephews, or between grandparents and their grandchildren;

(C) a transfer to an executor, administrator, trustee, or personal representative of an estate or a trust that occurs by operation of law upon the death of another person;

(D) a temporary transfer that is necessary to prevent imminent death or great bodily harm, if the possession by the transferee lasts only as long as immediately necessary to prevent the imminent death or great bodily harm;

(E) a transfer that is approved by the Attorney General under section 5812 of the Internal Revenue Code of 1986; or

(F) a temporary transfer if the transferor has no reason to believe that the transferee will use or intends to use the firearm in a crime or is prohibited from possessing firearms under State or Federal law, and the transfer takes place and the transferee's possession of the firearm is exclusively—

(i) at a shooting range or in a shooting gallery or other area designated for the purpose of target shooting;

(ii) while reasonably necessary for the purposes of hunting, trapping, or fishing, if the transferor—

(I) has no reason to believe that the transferee intends to use the firearm in a place where it is illegal; and

(II) has reason to believe that the transferee will comply with all licensing and permit requirements for such hunting, trapping, or fishing; or

(iii) while in the presence of the transferor.

(3)(A) *Notwithstanding any other provision of this chapter, the Attorney General may implement this subsection with regulations.*

(B) *Regulations promulgated under this paragraph may not include any provision requiring licensees to facilitate transfers in accordance with paragraph (1).*

(C) *Regulations promulgated under this paragraph may not include any provision requiring persons not licensed under this chapter to keep records of background checks or firearms transfers.*

(D) *Regulations promulgated under this paragraph may not include any provision placing a cap on the fee licensees may charge to facilitate transfers in accordance with paragraph (1).*

(4) *It shall be unlawful for a licensed importer, licensed manufacturer, or licensed dealer to transfer possession of, or title to, a firearm to another person who is not so licensed unless the importer, manufacturer, or dealer has provided such other person with a notice of the prohibition under paragraph (1), and such other person has certified that such other person has been provided with this notice on a form prescribed by the Attorney General.*

(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)】 and (g)(5)(B) do not apply to any alien who has been lawfully admitted to the United States under a non-immigrant 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 inoperable 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.

* * * * *

**CONSOLIDATED AND FURTHER CONTINUING
APPROPRIATIONS ACT, 2012**

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**DIVISION B—COMMERCE, JUSTICE,
SCIENCE, AND RELATED AGENCIES**

* * * * *

TITLE V

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

* * * * *

SEC. 511. Hereafter, none of the funds appropriated pursuant to this Act or any other provision of law may be used for—

(1) the implementation of any tax or fee in connection with the implementation of **subsection 922(t)** *subsection (s) or (t) of section 922* of title 18, United States Code; and

(2) any system to implement **subsection 922(t)** *subsection (s) or (t) of section 922* of title 18, United States Code, that does not require and result in the destruction of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from possessing or receiving a firearm no more than 24 hours after the system advises a Federal firearms licensee that possession or receipt of a firearm by the prospective transferee would not violate *subsection (g) or (n) of section 922* of title 18, United States Code, or State law.

* * * * *

Dissenting Views

This views document is presented in two parts. Part I contains the Republican Minority’s procedural views regarding the markup of H.R. 8. Part II presents the Minority’s substantive views on the merits of H.R. 8.

PART I: PROCEDURAL VIEWS

The meeting on H.R. 8 marked a radical departure from the open process, encouraging vigorous debate, which has historically controlled the Committee’s consideration of legislation. At one of the Committee’s very first markups to consider legislation, the Chairman of the Committee stifled criticism of the bill, blocking consideration of dozens of amendments that would have exposed critical flaws in H.R. 8. With H.R. 8, the Committee did not fulfill its duty to fully explore every aspect and flaw of the legislation.

After permitting consideration of only ten amendments on their merits and blocking another three on germaneness, the majority took the unprecedented step of offering an amendment in the nature of a substitute—for the sole purpose of cutting off debate—that had not been noticed publicly. Despite clearly acknowledging the amendment constitutes “the text that the committee intends to mark up”, the Chairman overruled a point of order that consideration of the amendment violated Clause 2 of rule XI.

Mr. Collins. Mr. Chairman, I make a point of order that consideration of the legislation before us violates Rule 2 of

the committee rules, as well as Rule 11, Clause (2). An amendment in the nature of a substitute, when offered by the chairman or another majority member at the direction of the chairman, constitutes the text that the committee intends to mark up.

Chairman Nadler. The amendment and the—I am sorry. Mr. Johnson of Georgia. Mr. Chairman?

Chairman Nadler. The point of order is not well taken because the text of the amendment in the nature of a substitute, including the effective date at 210 days, is the text that the committee will consider.

The Chairman then refused to recognize a Member for an amendment to the amendment in the nature of a substitute, falsely claiming the amendment was not yet in order.

Chairman Nadler. For what purpose does the gentleman from Ohio seek recognition?

Voice. Mr. Chairman, I have an amendment at the desk.

Chairman Nadler. We are still on the substitute amendment, and the amendment is not in order yet.

The Chairman then recognized two Members to speak in support of the amendment in the nature of a substitute but refused to recognize any Members opposed to the amendment in the nature of a substitute. At that point he immediately moved the previous question on the amendment in the nature of a substitute and proceeded to consideration of H.R. 8 without permitting any further debate.

The marking up of legislation is one of the Committee's most important functions. It ensures that legislation is fully explored and perfected before going before the full House of Representatives. By preventing members from offering amendments to the legislation, the Chairman prevented the Committee from properly discharging its duties. It is our sincere hope that the Chairman will end his departure from regular order and allow the Committee to discharge its responsibilities.

PART II: SUBSTANTIVE VIEWS

H.R. 8 is based on false premises and provides nothing more than false hope. However, when the bill's numerous flaws were exposed during consideration of the bill, the Chairman refused to hear from Members critical of the bill and hastily and arbitrarily ended debate. The use of such questionable tactics, at the beginning of the Chairman's tenure, does not bode well for bipartisan cooperation. Since H.R. 8 would do nothing to prevent mass casualty shootings, curb violent crime or prevent suicide, we urge our colleagues to oppose this seriously flawed legislation, and we respectfully dissent.

After every major tragedy, the chorus from Democrats to "do something" has also become tragically predictable. Most of the time, these calls for action come before any of the facts are known about the shooting. The "something" most often mentioned is implementation of universal background checks, embodied in H.R. 8. Aside from the obvious and obnoxious exploitation of the tragedy and its victims, there is one very simple problem with their rush to "do something" in the wake of a mass shooting, and that is there

is no logical connection between the mass shootings and universal background checks. The unescapable fact is that H.R. 8 would not have prevented any of the mass casualty shootings over the past two decades.

H.R. 8 would have certainly not stopped the Parkland shootings, where the shooter acquired the firearms legally from a Federal Firearms Licensee (FFL) after undergoing a National Instant Criminal Background Check System (NICS) check. The NICS check showed no derogatory information that would prohibit the shooter from purchasing or possessing a firearm. This is despite the fact that the shooter had numerous interactions with law enforcement which could have potentially led to the arrest and conviction of an offense that would prohibit him from possession a firearm under 18 U.S.C. §922(g).¹ The calls included an anonymous tip on February 5, 2016, that Cruz had threatened to shoot up the school, and a tip on November 30, 2017, that he might be a “school shooter in the making” and that he collected knives and guns.² On September 23, 2016, a peer counselor notified the school resource officer of his suicide attempt and intent to buy a gun.³ The school indicated, at one point, it would do a “threat assessment” to determine if Cruz was a danger to the school and its students.⁴ Again, in September 2016, three people—a sheriff’s deputy who worked as a resource officer at Stoneman Douglas, and two of the school’s counselors—stated the shooter should be forcibly committed for mental evaluation.⁵ This, of course, would have prevented him from purchasing a firearm. On September 24, 2017, a person with a username similar to that of the shooter posted a comment to a YouTube video reading, “Im[sic] going to be a professional school shooter”. The person who uploaded the video to YouTube reported the comment to the FBI.⁶ On January 5, 2018, the FBI’s Public Access Line received a tip from a person who was close to the shooter who indicated the shooter had a “desire to kill people”.⁷ Following the shooting, the FBI released a statement stating, “the caller provided information about [the shooter’s] gun ownership, desire to kill people, erratic behavior, and disturbing social media posts, as well as the potential of him conducting a school shooting.” After conducting an investigation, the FBI said the tip line did not follow protocol when the information was not forwarded to the Miami Field Office, where investigative steps would have been taken.⁸

While the “do something” crowd’s demands were loudest after Parkland, they do not stand alone as an example where universal background checks were demanded after a tragedy. Parkland is not unique, however, when it comes to the logical disconnect between the calls for universal background checks and the actual tragedy. In fact, as pointed out earlier, they all share one common element:

¹ See Nicholas Nehamas, ‘School shooter in the making’: All the times authorities were warned about Nikolas Cruz, The Miami Herald, February 22, 2018, <https://www.miamiherald.com/news/local/community/broward/article201684874.html>

² *Id.*

³ *Id.*

⁴ See Bob Norman, *School considered shooting suspect potential ‘threat’ year before massacre*, wplg.com, February 16, 2018, <https://www.local10.com/news/parkland-school-shooting/school-considered-shooting-suspect-potential-threat-year-before-massacre>

⁵ See <https://www.cbsnews.com/news/nikolas-cruz-parkland-shooter-mental-stability/>

⁶ Nehamas, *supra*.

⁷ *Id.*

⁸ See <https://www.fbi.gov/news/pressrel/press-releases/fbi-statement-on-the-shooting-in-parkland-florida>

not a single provision of H.R. 8 would have prevented a single one of the tragedies.

H.R. 8 would not have stopped the Sutherland Springs, TX shooting. The shooter made purchases from an FFL following a NICS Check. He should have been prohibited from purchasing or possessing firearms due to his arrest and conviction for domestic violence, which was not reported into the NICS system.⁹ Nor would H.R. 8 have stopped the Las Vegas shootings, where the shooter also purchased his firearms legally from an FFL after undergoing a background check. There was nothing in the shooter's history that would have prohibited him from purchasing or possessing a firearm.¹⁰ Likewise, the shooter in the Orlando nightclub purchased his firearms legally from an FFL following a NICS check.¹¹ The same can be said for the perpetrators of the Virginia Tech, Sandy Hook, San Bernardino, Thousand Oaks, Fort Hood, Tucson, Aurora, Navy Yard, the Pittsburgh Synagogue, and any of the other mass casualty events that the majority use to justify H.R. 8.

Many of these tragedies did, however, have some things in common. There were warning signs that were either missed or ignored by law enforcement prior to their occurrence. Simply put, H.R. 8 would not have stopped a single mass casualty shooting the majority uses to justify this bill. If any of these tragedies were preventable by H.R. 8, we would know it, because the supporters of this bill would be shouting the perpetrator's name from the rooftops. When supporters of H.R. 8 are asked which mass casualty shooting would have been prevented by this bill, the ensuing silence is deafening.

Similarly, H.R. 8 will do nothing to stem the tide of violence plaguing our urban communities. Supporters of H.R. 8 fail to recognize the way criminals obtain their firearms. A recent report from the Bureau of Justice Statistics of the Department of Justice detailed how criminals acquire their firearms.¹² A survey of prisoners incarcerated for a crime during which they possessed a firearm shows nearly half obtained their firearm either through theft (6 percent) or on the underground market (43 percent).¹³ H.R. 8 does nothing to address either of these issues. It is mind-boggling that the "do something" majority on this Committee did nothing to address the methods that nearly half of all criminals use to get their firearms. In fact, the Chairman ruled as non-germane an amendment that would have potentially prevented these tragedies. Despite the fact Committee Democrats consistently point to the gun show "loophole" as a reason for implementing the draconian requirements of H.R. 8, a mere 0.8 percent of prisoners polled purchased firearms at gun shows.¹⁴ Because the survey does not dis-

⁹ See Katie Mettler and Alex Horton, *Air Force failed 6 times to keep guns from Texas church shooter before he killed 26, report finds*, The Washington Post, December 7, 2018, https://www.washingtonpost.com/national-security/2018/12/08/air-force-failed-six-times-keep-guns-texas-church-shooter-before-he-killed-report-finds/?utm_term=.b77ea6af13c0

¹⁰ See Dakin Andone, *The Las Vegas shooter's road to 47 guns*, cnn.com, October 6, 2017, <https://www.cnn.com/2017/10/06/us/stephen-paddock-47-guns/index.html>

¹¹ See <https://www.cbsnews.com/news/gun-shop-owner-orlando-nightclub-shooter-omar-mateen-passed-background-check/>

¹² See *Source and Use of Firearms Involved in Crimes: Survey of Prison Inmates, 2016*, January 2019, Special Report, Bureau of Justice Statistics, <https://www.bjs.gov/content/pub/pdf/suficspi16.pdf>

¹³ *Id.*

¹⁴ *Id.*

tinguish between whether the criminal purchased the firearm from an FFL or a private seller at a gun show, it cannot be known if H.R. 8 would have prevented anyone from obtaining a firearm. H.R. 8 also makes the foolish assumption that criminals will all of a sudden start obeying the law.

Not only is H.R. 8 ineffective, it is also unenforceable. The National Institute of Justice of the Department of Justice concluded in 2013 that background checks are unenforceable without a gun registry.¹⁵ However, H.R. 8 explicitly prohibits the establishment of a registry. We in no way support or advocate for the establishment of a registry, but point this out as to further proof that this bill is a fraud being perpetrated upon the people being asked to support it.

Not only is H.R. 8 ineffective and unenforceable, it is simply bad policy that will do nothing more than burden the lives of law-abiding citizens wishing to exercise their Second Amendment rights. It will turn a neighbor lending his firearm to a victim of domestic abuse for her own self-defense into a criminal. It will likewise turn the victim into a criminal. If an individual sells her firearm to a police officer, they would both be criminals under H.R. 8. There are countless other scenarios that will put law-abiding Americans in legal jeopardy for a myriad of reasons that make little to no sense. When these scenarios were presented to the Majority party during Committee consideration of H.R. 8, they rejected the remedies we offered outright.

Furthermore, the bill uses undefined and vague terms, leaving it open to Constitutional challenges that will infringe upon the rights of law-abiding rights of Americans. The bill uses undefined terms such as “imminent.” What does “imminent” mean within the proposed statute? Can one cousin transfer a firearm to her cousin who fears her domestic abuser? The legislation is unclear. How long does the exemption for hunting last? Can I loan my lifelong friend my rifle to hunt deer for one day or a week? Once again, what does “great bodily harm” mean under the proposed statute? There are definitions of “substantial bodily injury” and “serious bodily injury” within the U.S. Criminal code,¹⁶ but there is no definition of “great bodily harm” in the criminal code, which is the term that this bill uses. Had the Republican minority not been prematurely and inappropriately cut off from debate on the matter, we would have offered and hoped that the majority would have accepted amendments to cure these concerns.

This bill is anything but “common sense” legislation to address mass casualty shootings or gun violence. It is a political maneuver that will do nothing to address the root causes of violence or prevent criminals from obtaining firearms. If the Democrat majority actually cared about preventing gun violence, it is hard to understand why they rejected an amendment that would notify U.S. Immigration and Customs Enforcement when an illegal alien attempts to purchase a firearm from an FFL. If they truly cared about gun violence, it seems that the amendment should have been accepted. Perhaps it had not been cleared by the special interests

¹⁵ See Greg Ridgeway, Ph.D., *Summary of Select Firearm Violence Prevention Strategies*, National Institute of Justice, January 4, 2013 <https://d3uw8j9pzw49g.cloudfront.net/sharedmedia/1507342/nij-gun-policy-memo.pdf>

¹⁶ See 18 U.S.C. §§ 113, 1365.

promoting this bill. Again, we urge our colleagues to reject this bad public policy that is both ineffective and unenforceable.

Sincerely,

DOUG COLLINS.
KEN BUCK.
MATT GAETZ.
JIM SENSENBRENNER.
MIKE JOHNSON.
ANDY BIGGS.
DEBBIE LESKO.
BEN CLINE.
GREG STEUBE.
GUY RESCENTIALER.
KELLY ARMSTRONG.

Dissenting Views

H.R. 8, the “Bipartisan Background Check Act of 2019,” is dishonest, misguided, poorly drafted, ambiguous, impractical, unworkable, and intentionally designed to deprive law-abiding Americans of their fundamental rights.

LIES, DAMN LIES, AND POLLING DATA

During the markup of H.R. 8, members of the majority consistently declared “97% of Americans support universal background checks.” Is this true? In a word—NO. Supporters of this legislation are misrepresenting the polling. It should also be noted that, when given a choice at the ballot box, voters have voted down universal background checks.

The Giffords Law Center to Prevent Gun Violence explains that a “universal background check” is a policy to “require background checks by every person who sells or transfers a gun.”¹ A universal background check would require a potentially costly background check before a father can give a firearm that is a family heirloom to his son. A universal background check could unnecessarily delay the ability of a friend to loan a firearm to the victim of domestic violence, so she can protect herself from her abusive ex-husband. In this last instance, a delay could be the difference between giving the woman a chance to defend herself or death. In a universal background check system, the transferor would face criminal prosecution, jail time and a substantial fine if the individual transfers a firearm to anyone prior to completing a background check on the transferee.

Despite the majority members’ false characterization, Americans by and large have not indicated support for universal background checks if it means the father or friend described above would go to jail. Rather, polling has simply gauged support for background checks in relation to “gun sales.” The following reflects recent polling questions on this issue:

“Please tell me whether you favor or oppose each of the following approaches to prevent mass shootings at schools

¹Giffords Law Center, *Universal Background Checks*, <https://lawcenter.giffords.org/gun-laws/policy-areas/background-checks/universal-background-checks/>

. . . requiring background checks for all gun sales.”—Gallup, March 5–11, 2018.

“Do you support or oppose requiring background checks for all gun buyers?”—Quinnipiac, June 17–20, 2017.

“Do you support requiring all sellers to run background checks on anyone who buys a gun?”—Morning Consult, June 17–20, 2016.

Nowhere do these questions ask about universal background checks. Clearly, the polling is asking about gun sales—not a gift of loan of gun, as would be regulated under a universal background check scheme. A gun sale is a commercial transaction and, as is common knowledge, these transactions are primarily conducted by gun dealers. Therefore, a poll respondent could reasonably understand the poll to be asking: “Should a gun dealer be required to conduct background checks as part of any sale?” A “yes” answer to this question is entirely different than what the members of the majority have represented. That the public supports requiring gun dealers to run a background check isn’t even news-worthy because it is already required by federal law.

In addition, it should be noted that many of these polls were conducted by the media immediately following a mass shooting. For example, the Gallup poll was conducted three weeks after the Parkland shooting and Morning Consult initiated its June 2016 poll less than one week after the Orlando nightclub shooting. Could the timing of these polls skew the results given their proximity to a significant tragedy? Potentially. In that sense, not only has the public not been asked about universal background checks, but when asked about gun sales, a poll response in the mid 80-percent range as to gun sales could be somewhat overstated. The best evidence we have as to where public sentiment lies on the issue of universal background checks is the voters’ response at the ballot box. In Maine, voters rejected a 2016 referendum that would have instituted a state-based universal background system.²

LEGISLATION IS MISGUIDED

The preliminary purpose stated in the bill will “require a background check for every firearm sale.” That statement is closer to public sentiment in terms of the polling. The legislative text, however, is a bait and switch. The bill not only seeks to regulate gun sales, it would also regulate non-commercial transfers between private parties, including between family members, in significant ways. The bill criminalizes many common and often necessary firearms transfers between law-abiding citizens.

This legislation will not reduce criminals’ access to guns. During the markup, the majority cited statistics implying that H.R. 8 was necessary to prevent criminals from gaining access to a firearm. According to a Bureau of Justice Statistics survey released in January 2019, however, only 7.0% of convicted criminals purchased the gun they used during the commission of a crime “under their own name from a licensed firearm dealer.”³ The same survey indicated

²The New York Times, Maine Question 3—Expand Gun Background Checks—Results: Rejected. <https://www.nytimes.com/elections/2016/results/maine-ballot-measure-3-expand-gun-background-checks>

³U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Source and Use of Firearms in Crimes: Survey of Prison Inmates, 2016, January 2019.

that most criminals gained access to a firearm through unlawful means—by theft, being present at a crime scene, through a straw purchaser or through the black market.

Will this legislation stem the sale of illegal guns on the black market? That's unlikely. It, therefore, strains credulity to think that H.R. 8 would have any meaningful impact on reducing criminals' access to firearms or to reduce gun crimes. Given the facts, the purpose of this legislation, therefore, is laid bare. The bill is designed to regulate gun transfers between law-abiding persons who have no criminal intent or past criminal history.

A STRAIGHTFORWARD READING OF THE STATUTE

In a weak attempt to defend H.R. 8, members of the majority party stated the bill's text has been around for "decades." It should also be noted that the bill is only six pages in length—which means it shouldn't take too long to read and comprehend the bill's language. Despite both the legislation's longevity and brevity, the members in the majority party repeatedly demonstrated their superficial understanding of the bill and its implications.

H.R. 8 consists of six sections. Section 3 contains the operative provision of the bill (amending 18 USC 922). Section 3 creates a new "paragraph "1" under which private party firearm transfers would be restricted. Paragraph 1 lays down the general rule making it "unlawful . . ." to transfer a firearm . . ." to anyone unless: (1) the transferee is federally licensed; or (2) a licensed dealer is used as an intermediary to complete a gun transfer. Paragraph 2 then sets out several narrow exceptions to the general rule established under paragraph 1.

Critical to any understanding of this statutory scheme is the fact that only the conduct of the transferor is criminalized under the bill. This bill does not, contrary to statements made during the markup, criminalize the conduct of the transferee/recipient of the firearm. (Though it should be noted that current law already makes it illegal for many convicted felons to take possession of a firearm).

POORLY CONSTRUCTED EXCEPTIONS

While paragraph 1 contains the general rule establishing criminality, paragraph 2 creates six exceptions, offering immunity for one of a few narrowly tailored qualifying transfers. If a transferor meets one of these exceptions, he or she will not need to use a dealer or dealer intermediary to run a background check to complete a firearms transfer. Because of this construct, the immunity created under these exceptions applies to the act of transfer which means these exceptions must be examined from the perspective of the transferor.

During debate on this bill, no greater misunderstanding of this legislation was evident than with respect to the language, application and implications of these exceptions. Of the six transfer exceptions found in the bill, five appear most applicable to a member of the public. These include the following:

1. Law Enforcement. This exception states paragraph (1) shall not apply to: "a law enforcement agency or any law enforcement officer, armed private security professional, or member of the armed forces to the extent the officer, professional,

or member is acting within the course and scope of their employment and official duties.”

2. Family Exception. This exception states paragraph (1) shall not apply to: “a transfer that is a loan or bona fide gift between spouses, between domestic partners, between parents and their children, between siblings, between aunts or uncles and their nieces and nephews, or between grandparents and their grandchildren.”

3. Estate Exception. This exception states paragraph (1) shall not apply to: “a transfer to an executor, administrator, trustee or personal representative of an estate or a trust that occurs by operation of law upon the death of another person.”

4. Good Samaritan Exception. This exception states paragraph (1) shall not apply to: “a temporary transfer that is necessary to prevent imminent death or great bodily harm, if the possession by the transferee lasts only as long as immediately necessary to prevent the imminent death or great bodily harm.”

5. Recreation and Sport Exception. This exception states paragraph (1) shall not apply to: “a temporary transfer if the transferor has no reason to believe that the transferee will use or intends to use the firearm in a crime or is prohibited from possessing firearms under State or Federal law, and the transfer takes place and the transferee’s possession of the firearm is exclusively—

(i) at a shooting range or in a shooting gallery or other area designated for the purpose of target shooting

(ii) while reasonably necessary for the purposes of hunting, trapping, or fishing, if the transferor (I) has no reason to believe that the transferee intends to use the firearm in a place where it is illegal; and (II) has reason to believe that the transferee will comply with all licensing and permit requirements for such hunting, trapping, or fishing, or

(iii) while in the presence of the transferor.

Law Enforcement Exception

Upon close reading and examination of the five exceptions quoted above, two exceptions relate to a “transfer” to permitted persons (family or in relation to an estate) and two others relate to a “temporary transfer” (preventing harm or in relation to certain activities such as hunting). The fifth exception is an anomaly in terms of language. The “Law Enforcement Exception” reads noticeably different than the other exceptions—it does not use the word “transfer” and therefore should not be read to suggest any transfer to law enforcement is exempt under the statutory scheme.

During debate, the Chairman stated someone contemplating suicide could safely transfer a firearm to law enforcement and the transferor would be shielded from prosecution under the Law Enforcement Exception. That conclusion certainly isn’t supported by the legislative text. The bill doesn’t, for example, exempt “any transfer or temporary transfer to or from a law enforcement agency. . . .”

Rather, this exception can only be read to give immunity to law enforcement in relation to a firearms transfer made by law enforcement. This exception does not provide immunity in relation to

“transfers to” law enforcement. How might this apply in practice? This exception gives law enforcement immunity to transfer a firearm in conjunction with an undercover operation or investigation. This is the only reasonable interpretation of the meaning and application of this exception given the bill’s language.

Where does this leave a citizen transferor who wants to transfer a firearm to law enforcement? If a child finds an abandoned gun in a park, how does this bill treat the parent who surrenders the firearm to the police? As a felon. Can someone who is contemplating suicide give their gun to police temporarily? Not under this exception. Does this provision shield a citizen participating in a state or local gun buyback program⁴ from federal prosecution under this bill? No—not at all. Is an attorney who surrenders a firearm to law enforcement on behalf of a client to allow ballistics testing immune from prosecution? No. The impact of this poorly written exception cannot be understated. Without modification, H.R. 8 criminalizes citizen transfers to law enforcement even when the transfer would promote public safety, in an emergency, or during gun buyback programs. This legislation will substantially curb public cooperation with law enforcement in many circumstances.

In addition, the text of the Law Enforcement Exception also provides special treatment for a “private security professional.” This language gives special rights and privileges to the wealthy elites, like former Mayor Bloomberg—a notorious advocate of gun control legislation to deprive citizens of their Second Amendment rights—and his bodyguards. At the same time, this bill denies similar protections to persons who have a need for personal protection but who lack the wealth and resources to hire private security. No law should be more offensive to our Constitution and the idea of freedom than a bill that denies nearly all citizens their rights while giving wealthy elites special protection, privileges and dispensations.

The minority offered an amendment to expand the bill’s exemptions to include concealed carry permit (CCP) holders. The majority argued that the training of CCP holders is inconsistent from state to state and perhaps inadequate. Couldn’t the same be said for a “private security professional?” Many states don’t require licensing of private security professionals. Many that do, do not require any form of firearms training. The result is that the majority has put forward a bill that ensures someone without firearms training, knowledge and experience can transfer a firearm while a CCP holder, who has extensive training, knowledge and experience, cannot complete a similar transfer.

Given the obvious flaws in the legislation, the minority filed at least twenty-one amendments to bring much needed clarity and fairness to the Law Enforcement Exception. These good faith amendments were offered consistent with the interests of public safety. They included:

⁴Whether gun buybacks programs are effective is debatable. Nevertheless, states and localities should be free to undertake these programs. Under these programs, citizens are free to surrender a firearm to their local police department—often with no questions asked. These programs are common in the congressional districts of many members of the Judiciary Committee. New York City, the hometown of the Chairman, conducts a year-round program. San Jose, Providence, Rhode Island, Los Angeles and Houston—all cities in districts represented by members in the majority on this committee—have conducted gun buybacks in recent years.

Buck Amendment #1—clarifying existing exceptions and allowing transfers to, among other persons, first responders, military reservists, the National Guard, Coast Guard and Coast Guard Reservists, medical professionals and in emergency situations.

Buck Amendment #5—allowing transfers to law enforcement as part of gun buyback programs and for other purposes.

Buck Amendment #35—allowing a transfer to an intermediary, such as an attorney, where the purpose of the transfer is to facilitate a firearm transfer to law enforcement.

Sensenbrenner Amendment—allowing a transfer to someone who has a concealed-carry permit (defeated in committee).

Chabot Amendment—allowing a transfer to law enforcement officers authorized to carry a firearm as part of his or her employment (defeated in committee).

Buck Amendments #15 through #19, #21 through #24, #26, and #28—allowing transfers to persons who might be present at the scene of an emergency, who might be engaged in search and rescue activities following a natural disaster or other tragedy or might, by taking possession of a firearm, be able to diffuse a potentially volatile situation.

The majority defeated the Sensenbrenner and Chabot Amendments and used procedural measures to block consideration of at least nineteen other clarifying public safety amendments.

Family Exception

As admitted by the majority, the language of H.R. 8 is decades old. The language in the Family Exception clearly reflects the bill's age. Its language is outdated and, in fact, discriminatory. The language of this exception fails to recognize many of today's common family relationships that are deserving of recognition and protection by Congress, including in relation to the transfer of a firearm.

H.R. 8 creates an exception allowing a transfer between spouses. Under federal law, however, common law marriage must meet a different legal standard. Is the transfer of a firearm between spouses in a common law marriage permitted under the Family Exception? The answer is, at best, unclear but it is likely excluded from this exception. Transfers between common law spouses should be given clear and unambiguous protection.

The bill allows a firearm transfer from a parent to child. Are transfers between a step-parent and step-child, between a foster-parent and foster-child or legal guardian and child treated similarly? No—not under the bill. These relationships are legally distinct from the relationships that are covered under this exception. Is this legally defensible? Not at all. Ask a step-parent to name their children. Most will include the names of their step-children without hesitation. These relationships should not be denied equal protection.

The bill creates an exception allowing a grandparent to transfer a firearm to a grandchild. Transfers between a great-grandparent and great-grandchild, however, are not afforded the same protection. Shouldn't H.R. 8 afford legal protections based on the reality of the family makeup rather than discriminate against it? Absolutely, but the bill doesn't do that.

The bill allows a transfer between aunt and uncle and niece or nephew. First cousins are excluded from this portion of the Family Exception. Under the bill, Uncle Dave and Aunt Ruth can give their nephew, Craig, a shotgun for Christmas. But if, under the bill, Dave and Ruth's son, James, joins in the gift giving, that transfer would not be exempted from prosecution. Under the bill, transfers between cousins are not permitted without use of a dealer intermediary. That makes no logical sense.

The minority filed numerous amendments to bring much needed clarity to the Family Exception. As with other amendments, the majority used procedural measures to preclude any consideration of these amendments.

Estate Exception

The Estate Exception is incomplete, particularly in relation to the operation of state law. The exception allows the transfer of a firearm to an executor, administrator, trustee, or personal representative of a decedent. Following that, under state law, these firearms must either be transferred: (a) in accordance with the decedent's estate plan such as directed by his or her will or trust; or (b) if the individual dies intestate, then in accordance with state probate law. H.R. 8, however, contains no exemption for an executor who is under a legal obligation to complete a firearms transfer required by state law to do so without using a dealer intermediary.

As a result, this bill supersedes and interferes with an individual's estate plan and operation of state law, including by allowing potentially significant transfer fees. What if an estate lacks resources to pay the costly firearms transfer fees? Under the Family Exception, a father could transfer a firearm to his son during life but, if the father dies, under the Estate Exemption, the executor is prohibited from transferring the same firearm to the same son one day after the father's death. This makes no sense. The executor, often an attorney or bank and trust company, would be committing a crime if a dealer intermediary was not used to complete a transfer required by state law to the son.

Noticeably absent in the bill is a transfer exception allowing an individual acting under a valid power-of-attorney to lawfully take possession of a firearm. A power-of-attorney is a common component of most estate plans. This document allows the attorney-in-fact to act consistent with the document's instructions, such as to manage the affairs of the principal when he or she is hospitalized or becomes incapacitated. An attorney-in-fact should be able to take temporary possession of a firearm to secure it rather than leave it unsecured in an unoccupied home, such as while the principal is hospitalized. Under state law, the principal would be able to take such actions. H.R. 8, however, makes that common-sense action unlawful. Federal law should give clear affirmation that this kind of action would not constitute a criminal act.

The minority filed several amendments to address these concerns and bring much needed clarity to the Estate Exception. The majority engaged in procedural maneuvers to block full consideration of each of these amendments that would have aided in the administration of state probate law.

Good Samaritan Exception

The Good Samaritan Exception is another problematic and terribly ambiguous provision of the bill. The bill exempts transfers “necessary to prevent imminent death?” “Imminent” means “ready to take place” or “a danger that is menacingly near.” If an individual is having occasional suicidal thoughts and, in an abundance of caution, asks a friend, a good Samaritan, to take custody of his guns for a few days is death “imminent?” Likely, not. As such, this kind of transfer is criminalized under the bill.

This exception also permits a transfer but only where the transfer lasts as long as is “immediately necessary.” In other words, a transfer must be reversed immediately once the threat has been ameliorated. What if the return is not immediate? Could the transferor be charged with a crime if, for example, the transferee was on vacation at the time the transferor stopped having the suicidal thoughts? Under the legislation, yes. Will federal law enforcement use this as a basis to prosecute gun owners whenever there is a delayed return transfer?

Is the return of a firearm to its owner, as required under this exception, an exempt transfer? A plain reading of the legislative language provides no immunity for the return transfer by the good Samaritan—even though the bill requires such transfer. Based on this language, the gun owner (the original transferor) could face prosecution if the firearm is not immediately returned to him while the good Samaritan (acting as a return transferor) could face prosecution if he immediately returns the firearm without using the required dealer intermediary. What if the reason for delay is the lack of availability of a dealer intermediary to complete the return transfer for the good Samaritan? Under the bill, this delay puts the original transferor in criminal jeopardy.

Conflicting and ambiguous language, such as this, will frustrate the very intent of this exception. Any law-abiding gun owner who understands the overly-prescriptive nature of this exception would likely decide to keep his guns, instead of seeking help from a friend. It might also cause someone otherwise willing to act as a good Samaritan to decline to help. The result, in either event, is that the firearm will not be removed to avoid a potentially dangerous situation. A bill that creates this scenario—which could lead to the worst of all possible outcomes—is no success; it’s a failure.

The minority filed several amendments to clarify these issues, but the majority refused to allow these amendments to be offered, to hear the concerns of the minority and to debate these amendments. Consequently, the vague and ambiguous language of the bill as to this exception remains.

Sport and Hunting Exception

As with the other exceptions contained in the bill, the language allowing temporary transfers related to sport, hunting and other activities is overly prescriptive. As such, these provisions contain ambiguities that render the exception unworkable. The result, regrettably, could lead to the prosecution of unlawful firearms transfers based on mere technicalities, including in situations where no person was ever at risk. Given the statements of many supporters of this legislation, that may well be their intent.

Under the hunting component of this exception, the transferor is required to have “no reason to believe” that a transferee will use a firearm in any place that is illegal while also having a “reason to believe that the transferee will comply” with licensing and permitting requirements. Under this language, a transfer is allowed if, under the first component, the transferor possesses no knowledge as to criminality while, under the second component, the transferor must have actual, concrete knowledge in terms of hunting licensing. These are two contrary standards that could cause confusion. It remains to be seen how a transferor would be expected to satisfy the actual knowledge standard contained in the second component. Is the transferor expected to interrogate the transferee? Would he need to ask to inspect his papers, such as requiring presentment of the transferee’s hunting license?

Another point eloquently made during the markup related to how rural states and portions of the United States view farming and ranching as protected activities. One amendment sought to expand this exception to make it complementary to state law. This amendment was defeated.

The minority offered amendments to clarify this exception, but these amendments were denied consideration by the majority.

EFFORTS TO PROVIDE ADDITIONAL PROTECTIONS

Another area of concern raised by the minority members is the provision of the bill that precludes any regulatory cap on the transfer fees that could be charged to facilitate a gun transfer using a dealer intermediary. The minority filed amendments to address this issue. None of these amendments were adopted. It seems clear that the majority wants to use this legislation to impose large and onerous fees on the transfer of previously-owned firearms, including perhaps, by allowing state and local authorities to impose additional significant transfer taxes on top of those fees charged by a dealer intermediary.

In addition, members of the minority filed amendments related to several other issues of Constitutional concern. These amendments would have: (a) allowed federal funds to be used to restore an individual’s gun rights if the individual could prove good character to the Attorney General, using a process that already exists under current law; (b) limited the bill to regulate only interstate firearms transfers; (c) created positive incentives for licensed dealers to facilitate private party firearms transfers, such as offering immunity from tort claims if a previously owned firearm proved defective (by law, the dealer must treat the used firearm as part of his “inventory” which suggests he has put the firearm into the stream of commerce when, instead, he is merely facilitating a transfer of something already in the stream of commerce); (d) allowed states to act consistent with the Tenth Amendment by adopting a regulatory scheme that gives primacy to state regulation in relation to private party gun sales; and (e) required destruction of any government records by the bill if any court rules the bill is unconstitutional. The majority used procedural measures to defeat or block each of these amendments.

SHALL NOT BE INFRINGED

The Second Amendment protects each citizen's right to keep and bear arms. The reason a law-abiding American might chose to own a firearm is as unique as the individual gun owner. These reasons include for sport and recreation, such as hunting or target practice. For work-related reasons, as is common among farmers and ranchers, law enforcement and other security professionals. For personal protection, including the protection of loved ones and property. Regardless of the purpose, the Constitution provides that this right "shall not be infringed."

As outlined above, H.R. 8 is terribly flawed legislation. The legislation will deprive law-abiding Americans of their fundamental rights. In total, Republicans filed 107 amendments to address and fix the obvious flaws of this bill. Democrats permitted votes on only a handful of amendments and used procedural maneuvers to block debate on nearly 100 amendments. It is apparent that the markup of this bill had one purpose—to rush a flawed bill out of committee and bring it hastily to the floor of the House of Representatives, rather than taking the time to scrutinize a bill that is obviously unworkable in its present form.

While H.R. 8 may pass the House of Representatives in the near future, it will not pass the Senate this Congress. Law-abiding gun owners and defenders of the Second Amendment, however, should not rest. During the markup of this legislation, several members of the majority promised H.R. 8 was "only the first step" and suggested that "there would be more to come." That is exactly what law-abiding gun owners and defenders of the Constitution should fear. It will take nothing short of complete vigilance to protect our Second Amendment rights and to defeat this poorly crafted legislation—and whatever else its proponents have in mind.

"The laws that forbid the carrying of arms are laws of such a nature. They disarm only those who are neither inclined nor determined to commit crimes. . . . Such laws make things worse for the assaulted and better for the assailants; they serve rather to encourage than to prevent homicides, for an unarmed man may be attacked with greater confidence than an armed man."—Thomas Jefferson, *Commonplace Book*, Quoting 18th century criminologist, Cesare Beccaria.

For the reasons stated above, I dissent from the views contained in the Committee's report.

Sincerely,

KEN BUCK.

Dissenting Views

I am a strong supporter of the Second Amendment and an individual's right to keep and bear arms. The overwhelming majority of gun owners are law-abiding citizens who use firearms for sporting purposes, as historical collector's items, to go hunting with their children, and if necessary, to protect themselves and their families. The legislation that we are considering today would do nothing more than criminalize common transfers of firearms while doing nothing to prevent gun violence.

However, some lawmakers view the Second Amendment as being an inferior Amendment, to be restricted and curtailed. But the Founding Fathers included the first 10 Amendments, also known as the Bill of Rights, in the Constitution because they understood the need to place restrictions on the Federal Government in order to protect individual liberty.

The Second Amendment states that “the right of the people to keep and bear arms, shall not be infringed.” In 2008, the Supreme Court held that the Second Amendment protects an individual’s right to possess a firearm for traditionally lawful purposes, such as for self-defense within the home. Anytime we are discussing placing restrictions on an enumerated Constitutional right, we must very carefully weigh the different competing interests.

I, along with fellow colleagues here on our side of the aisle, do want to see a reduction in violent crime and rates of gun violence. Unfortunately, the legislation we are considering today would do nothing to help combat gun violence, especially in relation to mass shootings. None of the recent mass shootings that have occurred in this country would have been prevented with this legislation. The only effect this legislation would have that I can clearly determine would be preventing law-abiding citizens from exercising their Second Amendment Constitutional right.

This legislation is poorly drafted and ill considered. Some of the actions that would become illegal include loaning a gun to a long-time neighbor, say because of recent break-ins in the neighborhood, donating a historic firearm to a museum, or gifting a gun to a step-child. This legislation would even make it illegal to remove firearms from a friend’s or neighbor’s house at their request if they were having suicidal thoughts. This simply punishes lawful gun owners without addressing the realities behind gun violence.

In California, which has some of the strictest gun laws in the country, universal background checks have proven to be a failure. A recent study by the Violence Prevention Research Program at UC Davis and Johns Hopkins University found that the implementation of universal background checks had no effect on the rates of suicide or homicide by firearms. Simply put, universal background checks have been proven to not reduce gun violence and will do nothing to protect the American people.

To combat gun violence, we must look at improvements to our mental health system, and we must more effectively enforce the laws currently on the books. We should not be wasting valuable time on an ineffective bill that will only serve to impede upon the Constitutional rights of law-abiding Americans. I urge my colleagues to vote against this measure and work on finding real solutions to gun violence. We should stop playing politics with legislation that won’t benefit the American people.

MARTHA ROBY.

