

## DEFINITION OF "HANDGUN"

Section 10 of Pub. L. 99-408 provided that: "For purposes of section 921(a)(17)(B) of title 18, United States Code, as added by the first section of this Act, 'handgun' means any firearm including a pistol or revolver designed to be fired by the use of a single hand. The term also includes any combination of parts from which a handgun can be assembled."

**§ 922. Unlawful acts**

(a) It shall be unlawful—

(1) for any person—

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

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

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

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

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

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

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm 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 maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

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

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

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

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

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

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

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

(B) is for the purpose of exportation; or

(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;<sup>1</sup>

(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 ammuni-

<sup>1</sup> So in original. Probably should be followed with "and".

tion 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<sup>2</sup> 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 trans-

ported 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

<sup>2</sup>So in original. The word "who" probably should not appear.

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 firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

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

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

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

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

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

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

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

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

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

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

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

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

(2) For purposes of this subsection—

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

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

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

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

(ii) suitable for testing and calibrating metal detectors:

*Provided, however,* That at the close of such 12-month period, and at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a "Security Exemplar" which contains 3.7 ounces of material type 17-4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

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

pair 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<sup>3</sup> 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 provi-

sions 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

<sup>3</sup> So in original. Probably should be followed by "of".

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)<sup>4</sup>) 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;

<sup>4</sup>See References in Text note below.

(v) is not an alien who—

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

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

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

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

(C) the date the statement is made; and  
(D) notice that the transferee intends to obtain a handgun from the transferor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) provide the licensee with the number; and

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

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

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

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

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

(ii) the law of the State provides that such a permit is to be issued only after an authorized

government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

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

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

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

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

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

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

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

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

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

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

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

[(v), (w) Repealed. Pub. L. 103-322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000.]

(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 NONIMMIGRANT VISAS.—

(1) DEFINITIONS.—In this subsection—

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

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

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

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

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

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

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

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

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

(3) WAIVER.—

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

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

(ii) the Attorney General approves the petition.

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

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

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

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

(i) would be in the interests of justice; and

(ii) would not jeopardize the public safety.

(Z) SECURE GUN STORAGE OR SAFETY DEVICE.—

(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

(B) the transfer to, or possession by, a rail police officer employed 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.

**[APPENDIX A Repealed. Pub. L. 103-322, title XI, § 110105(2), Sept. 13, 1994, 108 Stat. 2000]**

(Added Pub. L. 90-351, title IV, § 902, June 19, 1968, 82 Stat. 228; amended Pub. L. 90-618, title I, § 102, Oct. 22, 1968, 82 Stat. 1216; Pub. L. 97-377, title I, § 165(a), Dec. 21, 1982, 96 Stat. 1923; Pub. L. 99-308, § 102, May 19, 1986, 100 Stat. 451; Pub. L. 99-408, § 2, Aug. 28, 1986, 100 Stat. 920; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-649, § 2(a), (f)(2)(A), Nov. 10, 1988, 102 Stat. 3816, 3818; Pub. L. 100-690, title VII, § 7060(c), Nov. 18, 1988, 102 Stat. 4404; Pub. L. 101-647, title XVII, § 1702(b)(1), title XXII, §§ 2201, 2202, 2204(b), title XXXV, § 3524, Nov. 29, 1990, 104 Stat. 4844, 4856, 4857, 4924; Pub. L. 103-159, title I, § 102(a)(1), (b), title III, § 302(a)–(c), Nov. 30, 1993, 107 Stat. 1536, 1539, 1545; Pub. L. 103-322, title XI, §§ 110102(a), 110103(a), 110105(2), 110106, 110201(a), 110401(b), (c), 110511, 110514, title XXXII, §§ 320904, 320927, title XXXIII, § 330011(i), Sept. 13, 1994, 108 Stat. 1996, 1998, 2000, 2010, 2014, 2019, 2125, 2131, 2145; Pub. L. 104-208, div. A, title I, § 101(f) [title VI, §§ 657, 658(b)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-369, 3009-372; Pub. L. 104-294, title VI, § 603(b), (c)(1), (d)–(f)(1), (g), Oct. 11, 1996, 110 Stat. 3503, 3504; Pub. L. 105-277, div. A, § 101(b) [title I, § 121], Oct. 21, 1998, 112 Stat. 2681-50, 2681-71; Pub. L. 107-273, div. B, title IV, § 4003(a)(1), Nov. 2, 2002, 116 Stat. 1811; Pub. L. 107-296, title XI, § 1112(f)(4), (6), Nov. 25, 2002, 116 Stat. 2276; Pub. L. 109-92, §§ 5(c)(1), 6(a), Oct. 26, 2005, 119 Stat. 2099, 2101.)

**AMENDMENT OF SECTION**

*Pub. L. 100-649, § 2(f)(2)(A), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 105-277, div. A, § 101(h) [title VI, § 649], Oct. 21, 1998, 112 Stat. 2681-480, 2681-528; Pub. L. 108-174, § 1(1), Dec. 9, 2003, 117 Stat. 2481, provided that, effective 25 years after the 30th day beginning after Nov. 10, 1988, subsection (p) of this section is repealed.*

**REFERENCES IN TEXT**

The effective date of this chapter, referred to in subsec. (a)(3), is December 16, 1968.

Section 5845 of the Internal Revenue Code of 1986, referred to in subsecs. (a)(4) and (b)(4), is classified to section 5845 of Title 26, Internal Revenue Code.

For date this subsection takes effect, referred to in subsec. (o)(2)(B), as May 19, 1986, see Effective Date of 1986 Amendment note, set out below.

The date of the enactment of this subsection and the date of the enactment of the Undetectable Firearms Act of 1988, referred to in subsec. (p)(2)(C)(i), (6), respectively, are both the date of enactment of Pub. L. 100-649, which enacted subsec. (p) of this section and which was approved Nov. 10, 1988.

The date of enactment of this subsection, referred to in subsec. (s)(1), is the date of enactment of Pub. L. 103-159, which was approved Nov. 30, 1993.

Section 5812 of the Internal Revenue Code of 1986, referred to in subsecs. (s)(1)(E) and (t)(3)(B), is classified to section 5812 of Title 26, Internal Revenue Code.

Section 1028 of this title, referred to in subsec. (s)(3)(A), was subsequently amended, and section 1028(d)(1) no longer defines the term “identification document”. However, such term is defined elsewhere in that section.

Section 102 of the Controlled Substances Act, referred to in subsec. (s)(3)(B)(iii), is classified to section 802 of Title 21, Food and Drugs.

Section 103 of the Brady Handgun Violence Prevention Act, referred to in subsec. (t)(1), is section 103 of Pub. L. 103-159, which is set out below.

**AMENDMENTS**

2005—Subsec. (a)(7), (8). Pub. L. 109-92, § 6(a), added pars. (7) and (8) and struck out former pars. (7) and (8) which related to prohibitions on the manufacture, importation, sale, and delivery of armor piercing ammunition.

Subsec. (z). Pub. L. 109-92, § 5(c)(1), added subsec. (z). 2002—Subsecs. (a) to (c), (p)(2) to (4). Pub. L. 107-296, § 1112(f)(6), substituted “Attorney General” for “Secretary” wherever appearing.

Subsec. (p)(5)(A). Pub. L. 107-296, § 1112(f)(4), substituted “after consultation with the Attorney General” for “after consultation with the Secretary”.

Subsecs. (r), (s). Pub. L. 107-296, § 1112(f)(6), substituted “Attorney General” for “Secretary” wherever appearing.

Subsec. (t)(1)(C). Pub. L. 107-273 substituted “1028(d)” for “1028(d)(1)”.

Subsecs. (t)(3), (5), (v), (w). Pub. L. 107-296, § 1112(f)(6), substituted “Attorney General” for “Secretary” wherever appearing.

1998—Subsec. (d)(5). Pub. L. 105-277, § 101(b) [title I, § 121(1)], added par. (5) and struck out former par. (5) which read as follows: “who, being an alien, is illegally or unlawfully in the United States;”.

Subsec. (g)(5). Pub. L. 105-277, § 101(b) [title I, § 121(2)], added par. (5) and struck out former par. (5) which read as follows: “who, being an alien, is illegally or unlawfully in the United States;”.

Subsec. (s)(3)(B)(v). Pub. L. 105-277, § 101(b) [title I, § 121(3)], added cl. (v) and struck out former cl. (v) which read as follows: “is not an alien who is illegally or unlawfully in the United States;”.

Subsec. (y). Pub. L. 105-277, § 101(b) [title I, § 121(4)], added subsec. (y).

1996—Pub. L. 104-294, § 603(g), amended Appendix A by substituting “Uberty 1866 Sporting Rifle” for “Uberty 1866 Sporting Rifle” in category designated “Centerfire Rifles—Lever & Slide”, “Sako FiberClass Sporter” for “Sako Fiberclass Sporter” in category designated “Centerfire Rifles—Bolt Action”, “Remington 870 SPS Special Purpose Magnum” for “Remington 879 SPS Special Purpose Magnum” in category designated “Shotguns—Slide Actions”, and “E.A.A./Sabatti Falcon-Mon Over/Under” for “E.A.A./Sabatti Falcon-Mon Over/Under” in category designated “Shotguns—Over/Unders”.

Subsec. (d)(9). Pub. L. 104-208, § 101(f) [§ 658(b)(1)], added par. (9).

Subsec. (g)(7). Pub. L. 104-208, § 101(f) [§ 658(b)(2)(A)], struck out “or” at end.

Subsec. (g)(8)(C)(ii). Pub. L. 104-294, § 603(b), which directed the amendment of cl. (ii) by substituting a semicolon for the comma at end, could not be executed because of the prior amendment by Pub. L. 104-208, § 101(f) [§ 658(b)(2)]. See below.

Pub. L. 104-208, § 101(f) [§ 658(b)(2)(B)], substituted “; or” for comma at end.

Subsec. (g)(9). Pub. L. 104-208, § 101(f) [§ 658(b)(2)(C)], added par. (9).

Subsec. (q). Pub. L. 104-208, § 101(f) [title VI, § 657], amended subsec. generally, revising and restating former provisions.

Subsec. (s)(1). Pub. L. 104-294, § 603(c)(1), amended directory language of Pub. L. 103-322, § 320927. See 1994 Amendment note below.

Subsec. (s)(3)(B)(i). Pub. L. 104-208, § 101(f) [title VI, § 658(b)(3)], inserted “, and has not been convicted in any court of a misdemeanor crime of domestic violence” before the semicolon.

Subsec. (t)(2). Pub. L. 104-294, § 603(d), substituted “subsection (g) or (n)” for “section 922(g) or (n)” in introductory provisions.

Subsec. (w)(4). Pub. L. 104-294, § 603(e), substituted “section 923(i) of this title” for “section 923(i) of title 18, United States Code.”

Subsec. (x). Pub. L. 104-294, § 603(f)(1), amended directory language of Pub. L. 103-322, § 110201(a). See 1994 Amendment note below.

1994—Pub. L. 103-322, § 110106, which added Appendix A specifying firearms that were not prohibited by subsec. (v)(1) at end of section, was repealed by Pub. L. 103-322, § 110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(9). Pub. L. 103-322, § 110514, added par. (9).

Subsec. (b)(1). Pub. L. 103-322, § 330011(i), amended directory language of Pub. L. 101-647, § 3524. See 1990 Amendment note below.

Subsec. (d)(8). Pub. L. 103-322, § 110401(b), added par. (8).

Subsec. (g)(8). Pub. L. 103-322, § 110401(c), added par. (8).

Subsec. (j). Pub. L. 103-322, § 110511, amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: “It shall be unlawful for any person to receive, 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, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.”

Subsec. (q). Pub. L. 103-322, § 320904, added par. (1) and redesignated former pars. (1) to (3) as (2) to (4), respectively.

Subsec. (s)(1). Pub. L. 103-322, § 320927, as amended by Pub. L. 104-294, § 603(c)(1), inserted “(other than the return of a handgun to the person from whom it was received)” after “handgun” in introductory provisions.

Subsec. (v). Pub. L. 103-322, § 110102(a), which added subsec. (v) prohibiting the manufacture, transfer, or possession of automatic assault weapons, was repealed by Pub. L. 103-322, § 110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (w). Pub. L. 103-322, § 110103(a), which added subsec. (w) prohibiting the transfer or possession of a large capacity ammunition feeding device, was repealed by Pub. L. 103-322, § 110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (x). Pub. L. 103-322, § 110201(a), as amended by Pub. L. 104-294, § 603(f)(1), added subsec. (x).

1993—Subsec. (e). Pub. L. 103-159, § 302(a), inserted at end “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.”

Subsec. (f). Pub. L. 103-159, § 302(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (s). Pub. L. 103-159, § 102(a)(1), added subsec. (s).

Subsec. (t). Pub. L. 103-159, § 102(b), added subsec. (t).

Subsec. (u). Pub. L. 103-159, § 302(c), added subsec. (u).

1990—Subsec. (a)(5). Pub. L. 101-647, § 2201, substituted “does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;” for “resides in any State other than that in which the transferor resides (or other than that in which its place of business is located if the transferor is a corporation or other business entity);”.

Subsec. (b)(1). Pub. L. 101-647, § 3524, as amended by Pub. L. 103-322, § 330011(i), substituted semicolon for period at end.

Subsec. (j). Pub. L. 101-647, § 2202(a), substituted “which constitutes, or which has been shipped or transported in” for “or which constitutes”.

Subsec. (k). Pub. L. 101-647, § 2202(b), inserted before period at end “or to possess or receive any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce”.

Subsec. (q). Pub. L. 101-647, § 1702(b)(1), added subsec. (q).

Subsec. (r). Pub. L. 101-647, § 2204(b), added subsec. (r). 1988—Subsec. (g)(3). Pub. L. 100-690 inserted “who” before “is”.

Subsec. (p). Pub. L. 100-649 added subsec. (p).

1986—Subsec. (a)(1). Pub. L. 99-308, § 102(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce;”

Subsec. (a)(2). Pub. L. 99-308, § 102(2)(A), in provision preceding subpar. (A) struck out “or ammunition” after “any firearm”.

Subsec. (a)(2)(A). Pub. L. 99-308, § 102(2)(B), substituted “licensed dealer, or licensed collector” for “or licensed dealer for the sole purpose of repair or customizing”.

Subsec. (a)(3)(B). Pub. L. 99-308, § 102(3), substituted “firearm” for “rifle or shotgun” and “with subsection (b)(3) of this section” for “with the provisions of subsection (b)(3) of this section”.

Subsec. (a)(4). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (a)(7), (8). Pub. L. 99-408 added pars. (7) and (8).

Subsec. (b)(2). Pub. L. 99-308, § 102(4)(A), struck out “or ammunition” after “firearm” in two places.

Subsec. (b)(3)(A). Pub. L. 99-308, § 102(4)(B), inserted a new cl. (A) and struck out former cl. (A) which provided that par. (3) “shall not apply to the sale or delivery of a rifle or shotgun to a resident of a State contiguous to the State in which the licensee’s place of business is located if the purchaser’s State of residence permits such sale or delivery by law, the sale fully complies with the legal conditions of sale in both such contiguous States, and the purchaser and the licensee have, prior to the sale, or delivery for sale, of the rifle or shotgun, complied with all of the requirements of section 922(c) applicable to intrastate transactions other than at the licensee’s business premises.”

Subsec. (b)(3)(B), (C). Pub. L. 99-308, § 102(4)(C), (D), inserted “and” before “(B)” and struck out cl. (C), which provided that par. (3) “shall not preclude any person who is participating in any organized rifle or shotgun match or contest, or is engaged in hunting, in a State other than his State of residence and whose rifle or shotgun has been lost or stolen or has become inoperative in such other State, from purchasing a rifle or shotgun in such other State from a licensed dealer if such person presents to such dealer a sworn statement (i) that his rifle or shotgun was lost or stolen or became inoperative while participating in such a match or contest, or while engaged in hunting, in such other

State, and (ii) identifying the chief law enforcement officer of the locality in which such person resides, to whom such licensed dealer shall forward such statement by registered mail”.

Subsec. (b)(4). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (b)(5). Pub. L. 99-308, §102(4)(E), substituted “or armor-piercing ammunition” for “or ammunition except .22 caliber rimfire ammunition”.

Subsec. (d). Pub. L. 99-308, §102(5)(A), substituted “person” for “licensed importer, licensed manufacturer, licensed dealer, or licensed collector” in provision preceding par. (1).

Subsec. (d)(3). Pub. L. 99-308, §102(5)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or”.

Subsec. (d)(5) to (7). Pub. L. 99-308, §102(5)(C), (D), added pars. (5) to (7).

Subsec. (g). Pub. L. 99-308, §102(6)(D), in concluding provision substituted “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” for “any firearm or ammunition in interstate or foreign commerce”.

Subsec. (g)(1). Pub. L. 99-308, §102(6)(A), struck out “is under indictment for, or who” after “who”.

Subsec. (g)(3). Pub. L. 99-308, §102(6)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “who is an unlawful user of or addicted to marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or”.

Subsec. (g)(5) to (7). Pub. L. 99-308, §102(6)(C), added pars. (5) to (7).

Subsec. (h). Pub. L. 99-308, §102(7), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “It shall be unlawful for any person—

“(1) who is under indictment for, or 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 marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954); or

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

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

Subsec. (n). Pub. L. 99-308, §102(8), added subsec. (n).

Subsec. (o). Pub. L. 99-308, §102(9), added subsec. (o). 1982—Subsec. (b)(5). Pub. L. 97-377 inserted “except .22 caliber rimfire ammunition” after “or ammunition”.

1968—Subsec. (a)(1). Pub. L. 90-618 reenacted par. (1) without change.

Subsec. (a)(2). Pub. L. 90-618 added licensed collectors to the enumerated list of licensees subject to the provisions of this chapter, struck out exemption for the shipment or transportation in interstate or foreign commerce for rifles or shotguns, and inserted exemption authorizing an individual to mail a lawfully owned firearm to the specified licensees for the sole purpose of repair or customizing.

Subsec. (a)(3). Pub. L. 90-618 added licensed collectors to the enumerated list of licensees, struck out exemption for shotguns or rifles purchased or otherwise obtained outside the state of residence of the recipient, struck out provision making it unlawful for any person to purchase or otherwise obtain outside his state of residence any firearm which it would be unlawful for him

to purchase or possess in that state, and provided for exemptions when any person outside of his state of residence acquires a firearm by bequest or interstate succession and transports the firearm or otherwise receives it in his state of residence, if it is lawful for such person to purchase or possess such firearm in his state of residence, when a rifle or shotgun is obtained in conformity with the provisions of subsec. (b)(3) of this section, and when any firearm has been acquired in any state prior to the effective date of this chapter.

Subsec. (a)(4). Pub. L. 90-618 added licensed collectors to the enumerated list of licensees, and provided that the transporting of the specified articles be authorized by the Secretary when consistent with public safety and necessity.

Subsec. (a)(5). Pub. L. 90-618 added licensed collectors to the enumerated list of exempted licensees, prohibited the transfer, etc., of any firearm when the transferor has reasonable cause to believe that the transferee resides in a State other than that in which the transferor resides, and substituted provisions which exempted the transfer, transportation, or delivery of firearms incident to a bequest or intestate succession and the loan or rental of firearms to any person for temporary use for lawful sporting purposes for provisions which exempted the transfer, etc., of any firearm which the transferee could not lawfully purchase or possess in accord with the applicable laws, regulations or ordinances of the state or political subdivision in which the transferee resides.

Subsec. (a)(6). Pub. L. 90-618 added licensed collectors to the enumerated list of licensees, and extended the provisions to include the acquisition or attempted acquisition of ammunition.

Subsec. (b). Pub. L. 90-618, in provision preceding par. (1), added licensed collectors to the enumerated list of licensees.

Subsec. (b)(1). Pub. L. 90-618 substituted provisions making it unlawful to sell or deliver any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than 18, and to sell or deliver any firearm, other than a rifle or shotgun, or ammunition, other than ammunition for a rifle or shotgun, to any individual who the licensee knows or has reasonable cause to believe is less than 21, for provisions making it unlawful to sell or deliver any firearm to any individual who the licensee knows or has reasonable cause to believe is less than 21, if the firearm is other than a shotgun or rifle.

Subsec. (b)(2). Pub. L. 90-618 extended the prohibition to include the sale or delivery of ammunition to any person where the purchase or possession by such person of such ammunition would be unlawful, and struck out “or in the locality in which such person resides” after “or other disposition.”.

Subsec. (b)(3). Pub. L. 90-618 inserted the exemptions to the prohibition against the sale or delivery of any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in the state in which the licensee’s place of business is located.

Subsec. (b)(4). Pub. L. 90-618 substituted provisions making it unlawful to sell or deliver any of the specified articles, except as specifically authorized by the Secretary as consistent with public safety and necessity, for provisions making it unlawful to sell or deliver any of the specified articles, unless the transferor has obtained a sworn statement executed by the principal law enforcement officer of the locality in which the transferee resides stating that such person’s receipt or possession would not be unlawful, and that the receipt or possession is intended for lawful purposes, with such sworn statement to be retained by the licensee as part of the records required to be kept under this chapter.

Subsec. (b)(5). Pub. L. 90-618 extended the prohibition to include the sale or delivery of ammunition and, in the material following subsec. (b)(5), added licensed collectors to the enumerated list of licensees, and the provision that subsec. (b)(4) shall not apply to a sale or delivery to any research organization designated by the Secretary.

Subsecs. (c), (d). Pub. L. 90-618 added subsec. (c), redesignated former subsec. (c) as (d), added licensed collectors to the enumerated list of licensees, extended the prohibition against disposal of firearms or ammunition to include the disposal by any person who is an unlawful user of or addicted to marihuana or any depressant, stimulant, or narcotic drug, or any person who has been adjudicated a mental defective or has been committed to any mental institution, and inserted "or ammunition" after "the sale or disposition of a firearm". Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 90-618 added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 90-618 redesignated former subsec. (d) as (f) and extended the prohibition against transportation or delivery to include ammunition. Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 90-618 redesignated former subsec. (e) as (g) and extended the prohibition against the shipment or transportation of firearms or ammunition to include the shipment or transportation by any persons who is an unlawful user of or addicted to marihuana or any depressant, stimulant, or narcotic drug, or any person who has been adjudicated a mental defective or has been committed to a mental institution. Former subsec. (g) redesignated (i).

Subsec. (h). Pub. L. 90-618 redesignated former subsec. (f) as (h) and extended the prohibition against the receipt of any firearms or ammunition to include the receipt by any person who is an unlawful user of or addicted to marihuana or any depressant, stimulant, or narcotic drug, or any person who has been adjudicated a mental defective or has been committed to any mental institution. Former subsec. (h) redesignated (j).

Subsec. (i). Pub. L. 90-618 redesignated former subsec. (g) as (i) and substituted "that the firearm or ammunition was" for "the same to have been". Former subsec. (i) redesignated (k).

Subsec. (j). Pub. L. 90-618 redesignated former subsec. (h) as (j) and substituted "which is moving as, which is a part of," for "moving as or which is a part of" and "that the firearm or ammunition was" for "the same to have been". Former subsec. (j) redesignated (l).

Subsec. (k). Pub. L. 90-618 redesignated former subsec. (i) as (k). Former subsec. (k) redesignated (m).

Subsec. (l). Pub. L. 90-618 redesignated former subsec. (j) as (l).

Subsec. (m). Pub. L. 90-618 redesignated former subsec. (k) as (m) and added licensed collectors to the enumerated list of licensees.

#### CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

Post Office Department, referred to in subsec. (c)(2), redesignated United States Postal Service pursuant to Pub. L. 91-375, §6(o), Aug. 12, 1970, 84 Stat. 733, set out as a note preceding section 101 of Title 39, Postal Service.

#### EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-92, §5(d), Oct. 26, 2005, 119 Stat. 2101, provided that: "This section [amending this section and section 924 of this title and enacting provisions set out as notes under this section and section 921 of this title] and the amendments made by this section shall take effect 180 days after the date of enactment of this Act [Oct. 26, 2005]."

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as

an Effective Date note under section 101 of Title 6, Domestic Security.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 603(c)(2) of Pub. L. 104-294 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in section 320927 of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994]."

Section 603(f)(2) of Pub. L. 104-294 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in section 110201 of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994]."

Section 603(i)(2) of Pub. L. 104-294 provided that: "The amendment made by paragraph (1) [amending section 210603(b) of Pub. L. 103-322, which amended sections 103(k) and 106(b)(2) of Pub. L. 103-159, set out as notes below] shall take effect as if the amendment had been included in section 210603(b) of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994]."

#### EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by sections 110102(a), 110103(a), and 110106 of Pub. L. 103-322 repealed 10 years after Sept. 13, 1994, see section 110105(2) of Pub. L. 103-322, formerly set out as a note under section 921 of this title.

Section 33001(i) of Pub. L. 103-322 provided that the amendment made by that section is effective as of the date on which section 3524 of Pub. L. 101-647 took effect.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1702(b)(1) of Pub. L. 101-647 applicable to conduct engaged in after the end of the 60-day period beginning on Nov. 29, 1990, see section 1702(b)(4) of Pub. L. 101-647, set out as a note under section 921 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT; SUNSET PROVISION

Pub. L. 100-649, §2(f), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 101-647, title XXXV, §3526(b), Nov. 29, 1990, 104 Stat. 4924; Pub. L. 105-277, div. A, §101(h) [title VI, §649], Oct. 21, 1998, 112 Stat. 2681-480, 2681-528; Pub. L. 108-174, §1, Dec. 9, 2003, 117 Stat. 2481, provided that:

"(1) EFFECTIVE DATE.—This Act and the amendments made by this Act [amending this section and sections 924 and 925 of this title and enacting provisions set out as notes under this section, section 921 of this title, and section 1356 of former Title 49, Transportation] shall take effect on the 30th day beginning after the date of the enactment of this Act [Nov. 10, 1988]."

"(2) Sunset.—Effective 25 years after the effective date of this Act—

"(A) subsection (p) of section 922 of title 18, United States Code, is hereby repealed;

"(B) subsection (f) of section 924 of such title is hereby repealed and subsections (g) through (o) of such section are hereby redesignated as subsections (f) through (n), respectively;

"(C) subsection (f) of section 925 of such title is hereby repealed;

"(D) section 924(a)(1) of such title is amended by striking 'this subsection, subsection (b), (c), or (f) of this section, or in section 929' and inserting 'this chapter'; and

"(E) section 925(a) of such title is amended—

"(i) in paragraph (1), by striking 'and provisions relating to firearms subject to the prohibitions of section 922(p)'; and

"(ii) in paragraph (2), by striking ', except for provisions relating to firearms subject to the prohibitions of section 922(p),'; and

"(iii) in each of paragraphs (3) and (4), by striking 'except for provisions relating to firearms subject to the prohibitions of section 922(p),'."

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 102(1)–(8) of Pub. L. 99–308 effective 180 days after May 19, 1986, and amendment by section 102(9) of Pub. L. 99–308 effective May 19, 1986, see section 110(a), (c) of Pub. L. 99–308, set out as a note under section 921 of this title.

## EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–618 effective Dec. 16, 1968, except subsec. (l) effective Oct. 22, 1968, see section 105 of Pub. L. 90–618, set out as a note under section 921 of this title.

## PURPOSES

Pub. L. 109–92, §5(b), Oct. 26, 2005, 119 Stat. 2099, provided that: “The purposes of this section [amending this section and section 924 of this title and enacting provisions set out as notes under this section and section 921 of this title] are—

“(1) to promote the safe storage and use of handguns by consumers;

“(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

“(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.”

[For definition of “person” as used in section 5(b) of Pub. L. 109–92, set out above, see section 7903 of Title 15, Commerce and Trade.]

## LIABILITY; EVIDENCE

Pub. L. 109–92, §5(c)(3), Oct. 26, 2005, 119 Stat. 2101, provided that:

“(A) LIABILITY.—Nothing in this section [amending this section and section 924 of this title and enacting provisions set out as notes under this section and section 921 of this title] shall be construed to—

“(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

“(ii) establish any standard of care.

“(B) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

“(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.”

[For definition of “person” as used in section 5(c)(3) of Pub. L. 109–92, set out above, see section 7903 of Title 15, Commerce and Trade.]

## CRIMINAL BACKGROUND CHECKS FOR PERSONS OFFERING FIREARM AS COLLATERAL

Pub. L. 106–58, title VI, §634, Sept. 29, 1999, 113 Stat. 473, provided that: “None of the funds made available in this or any other Act with respect to any fiscal year may be used for any system to implement section 922(t) of title 18, United States Code, unless the system allows, in connection with a person’s delivery of a firearm to a Federal firearms licensee as collateral for a loan, the background check to be performed at the time the collateral is offered for delivery to such licensee: *Provided*, That the licensee notifies local law enforcement within 48 hours of the licensee receiving a denial on the person offering the collateral: *Provided further*, That the provisions of section 922(t) shall apply at the time of the redemption of the firearm.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105–277, div. A, §101(h) [title VI, §655], Oct. 21, 1998, 112 Stat. 2681–480, 2681–530.

## AVAILABILITY OF VIOLENT CRIME REDUCTION TRUST FUND TO FUND ACTIVITIES AUTHORIZED BY BRADY HANDGUN VIOLENCE PREVENTION ACT AND NATIONAL CHILD PROTECTION ACT OF 1993

Pub. L. 103–322, title XXI, §210603(a), Sept. 13, 1994, 108 Stat. 2074, which provided that certain amounts authorized in sections 103(k) and 106(b)(2) of Pub. L. 103–159, set out below, and section 5119b(b) of Title 42, The Public Health and Welfare, may be appropriated from the Violent Crime Reduction Trust Fund, was repealed by Pub. L. 109–162, title XI, §1154(b)(4), Jan. 5, 2006, 119 Stat. 3113.

## NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Pub. L. 110–180, Jan. 8, 2008, 121 Stat. 2559, provided that:

“SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

“(a) SHORT TITLE [sic].—This Act may be cited as the ‘NICS Improvement Amendments Act of 2007’.

“(b) Table of Contents.—[Omitted.]

“SEC. 2. FINDINGS.

“Congress finds the following:

“(1) Approximately 916,000 individuals were prohibited from purchasing a firearm for failing a background check between November 30, 1998, (the date the National Instant Criminal Background Check System (NICS) began operating) and December 31, 2004.

“(2) From November 30, 1998, through December 31, 2004, nearly 49,000,000 Brady background checks were processed through NICS.

“(3) Although most Brady background checks are processed through NICS in seconds, many background checks are delayed if the Federal Bureau of Investigation (FBI) does not have automated access to complete information from the States concerning persons prohibited from possessing or receiving a firearm under Federal or State law.

“(4) Nearly 21,000,000 criminal records are not accessible by NICS and millions of criminal records are missing critical data, such as arrest dispositions, due to data backlogs.

“(5) The primary cause of delay in NICS background checks is the lack of—

“(A) updates and available State criminal disposition records; and

“(B) automated access to information concerning persons prohibited from possessing or receiving a firearm because of mental illness, restraining orders, or misdemeanor convictions for domestic violence.

“(6) Automated access to this information can be improved by—

“(A) computerizing information relating to criminal history, criminal dispositions, mental illness, restraining orders, and misdemeanor convictions for domestic violence; or

“(B) making such information available to NICS in a usable format.

“(7) Helping States to automate these records will reduce delays for law-abiding gun purchasers.

“(8) On March 12, 2002, the senseless shooting, which took the lives of a priest and a parishioner at the Our Lady of Peace Church in Lynbrook, New York, brought attention to the need to improve information-sharing that would enable Federal and State law enforcement agencies to conduct a complete background check on a potential firearm purchaser. The man who committed this double murder had a prior disqualifying mental health commitment and a restraining order against him, but passed a Brady background check because NICS did not have the necessary information to determine that he was ineli-

gible to purchase a firearm under Federal or State law.

“(9) On April 16, 2007, a student with a history of mental illness at the Virginia Polytechnic Institute and State University shot to death 32 students and faculty members, wounded 17 more, and then took his own life. The shooting, the deadliest campus shooting in United States history, renewed the need to improve information-sharing that would enable Federal and State law enforcement agencies to conduct complete background checks on potential firearms purchasers. In spite of a proven history of mental illness, the shooter was able to purchase the two firearms used in the shooting. Improved coordination between State and Federal authorities could have ensured that the shooter’s disqualifying mental health information was available to NICS.

### “SEC. 3. DEFINITIONS.

“As used in this Act, the following definitions shall apply:

“(1) COURT ORDER.—The term ‘court order’ includes a court order (as described in section 922(g)(8) of title 18, United States Code).

“(2) MENTAL HEALTH TERMS.—The terms ‘adjudicated as a mental defective’ and ‘committed to a mental institution’ have the same meanings as in section 922(g)(4) of title 18, United States Code.

“(3) MISDEMEANOR CRIME OF DOMESTIC VIOLENCE.—The term ‘misdemeanor crime of domestic violence’ has the meaning given the term in section 921(a)(33) of title 18, United States Code.

### “TITLE I—TRANSMITTAL OF RECORDS

### “SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FEDERAL DEPARTMENTS AND AGENCIES PROVIDE RELEVANT INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

“(a) IN GENERAL.—[Amended section 103 of Pub. L. 103-159, set out below.]

“(b) PROVISION AND MAINTENANCE OF NICS RECORDS.—

“(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall make available to the Attorney General—

“(A) records, updated not less than quarterly, which are relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, for use in background checks performed by the National Instant Criminal Background Check System; and

“(B) information regarding all the persons described in subparagraph (A) of this paragraph who have changed their status to a category not identified under section 922(g)(5) of title 18, United States Code, for removal, when applicable, from the National Instant Criminal Background Check System.

“(2) DEPARTMENT OF JUSTICE.—The Attorney General shall—

“(A) ensure that any information submitted to, or maintained by, the Attorney General under this section is kept accurate and confidential, as required by the laws, regulations, policies, or procedures governing the applicable record system;

“(B) provide for the timely removal and destruction of obsolete and erroneous names and information from the National Instant Criminal Background Check System; and

“(C) work with States to encourage the development of computer systems, which would permit electronic notification to the Attorney General when—

“(i) a court order has been issued, lifted, or otherwise removed by order of the court; or

“(ii) a person has been adjudicated as a mental defective or committed to a mental institution.

“(c) STANDARD FOR ADJUDICATIONS AND COMMITMENTS RELATED TO MENTAL HEALTH.—

“(1) IN GENERAL.—No department or agency of the Federal Government may provide to the Attorney

General any record of an adjudication related to the mental health of a person or any commitment of a person to a mental institution if—

“(A) the adjudication or commitment, respectively, has been set aside or expunged, or the person has otherwise been fully released or discharged from all mandatory treatment, supervision, or monitoring;

“(B) the person has been found by a court, board, commission, or other lawful authority to no longer suffer from the mental health condition that was the basis of the adjudication or commitment, respectively, or has otherwise been found to be rehabilitated through any procedure available under law; or

“(C) the adjudication or commitment, respectively, is based solely on a medical finding of disability, without an opportunity for a hearing by a court, board, commission, or other lawful authority, and the person has not been adjudicated as a mental defective consistent with section 922(g)(4) of title 18, United States Code, except that nothing in this section or any other provision of law shall prevent a Federal department or agency from providing to the Attorney General any record demonstrating that a person was adjudicated to be not guilty by reason of insanity, or based on lack of mental responsibility, or found incompetent to stand trial, in any criminal case or under the Uniform Code of Military Justice.

“(2) TREATMENT OF CERTAIN ADJUDICATIONS AND COMMITMENTS.—

“(A) PROGRAM FOR RELIEF FROM DISABILITIES.—

“(i) IN GENERAL.—Each department or agency of the United States that makes any adjudication related to the mental health of a person or imposes any commitment to a mental institution, as described in subsection (d)(4) and (g)(4) of section 922 of title 18, United States Code, shall establish, not later than 120 days after the date of enactment of this Act [Jan. 8, 2008], a program that permits such a person to apply for relief from the disabilities imposed by such subsections.

“(ii) PROCESS.—Each application for relief submitted under the program required by this subparagraph shall be processed not later than 365 days after the receipt of the application. If a Federal department or agency fails to resolve an application for relief within 365 days for any reason, including a lack of appropriated funds, the department or agency shall be deemed for all purposes to have denied such request for relief without cause. Judicial review of any petitions brought under this clause shall be de novo.

“(iii) JUDICIAL REVIEW.—Relief and judicial review with respect to the program required by this subparagraph shall be available according to the standards prescribed in section 925(c) of title 18, United States Code. If the denial of a petition for relief has been reversed after such judicial review, the court shall award the prevailing party, other than the United States, a reasonable attorney’s fee for any and all proceedings in relation to attaining such relief, and the United States shall be liable for such fee. Such fee shall be based upon the prevailing rates awarded to public interest legal aid organizations in the relevant community.

“(B) RELIEF FROM DISABILITIES.—In the case of an adjudication related to the mental health of a person or a commitment of a person to a mental institution, a record of which may not be provided to the Attorney General under paragraph (1), including because of the absence of a finding described in subparagraph (C) of such paragraph, or from which a person has been granted relief under a program established under subparagraph (A) or (B), or because of a removal of a record under section 103(e)(1)(D) of the Brady Handgun Violence Prevention Act [Pub. L. 103-159, set out below], the adju-

dication or commitment, respectively, shall be deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code. Any Federal agency that grants a person relief from disabilities under this subparagraph shall notify such person that the person is no longer prohibited under 922(d)(4) or 922(g)(4) of title 18, United States Code, on account of the relieved disability for which relief was granted pursuant to a proceeding conducted under this subparagraph, with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms.

“(3) NOTICE REQUIREMENT.—Effective 30 days after the date of enactment of this Act, any Federal department or agency that conducts proceedings to adjudicate a person as a mental defective under 922(d)(4) or 922(g)(4) of title 18, United States Code, shall provide both oral and written notice to the individual at the commencement of the adjudication process including—

“(A) notice that should the agency adjudicate the person as a mental defective, or should the person be committed to a mental institution, such adjudication, when final, or such commitment, will prohibit the individual from purchasing, possessing, receiving, shipping or transporting a firearm or ammunition under section 922(d)(4) or section 922(g)(4) of title 18, United States Code;

“(B) information about the penalties imposed for unlawful possession, receipt, shipment or transportation of a firearm under section 924(a)(2) of title 18, United States Code; and

“(C) information about the availability of relief from the disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, transportation, or possession of firearms.

“(4) EFFECTIVE DATE.—Except for paragraph (3), this subsection shall apply to names and other information provided before, on, or after the date of enactment of this Act. Any name or information provided in violation of this subsection (other than in violation of paragraph (3)) before, on, or after such date shall be removed from the National Instant Criminal Background Check System.

“SEC. 102. REQUIREMENTS TO OBTAIN WAIVER.

“(a) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act [Jan. 8, 2008], a State shall be eligible to receive a waiver of the 10 percent matching requirement for National Criminal History Improvement Grants under the Crime Identification Technology Act of 1988 [1998] (42 U.S.C. 14601 [et seq.]) if the State provides at least 90 percent of the information described in subsection (c). The length of such a waiver shall not exceed 2 years.

“(b) STATE ESTIMATES.—

“(1) INITIAL STATE ESTIMATE.—

“(A) IN GENERAL.—To assist the Attorney General in making a determination under subsection (a) of this section, and under section 104, concerning the compliance of the States in providing information to the Attorney General for the purpose of receiving a waiver under subsection (a) of this section, or facing a loss of funds under section 104, by a date not later than 180 days after the date of the enactment of this Act [Jan. 8, 2008], each State shall provide the Attorney General with a reasonable estimate, as calculated by a method determined by the Attorney General and in accordance with section 104(d), of the number of the records described in subparagraph (C) applicable to such State that concern persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

“(B) FAILURE TO PROVIDE INITIAL ESTIMATE.—A State that fails to provide an estimate described in subparagraph (A) by the date required under such subparagraph shall be ineligible to receive any funds under section 103, until such date as it provides such estimate to the Attorney General.

“(C) RECORD DEFINED.—For purposes of subparagraph (A), a record is the following:

“(i) A record that identifies a person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year.

“(ii) A record that identifies a person for whom an indictment has been returned for a crime punishable by imprisonment for a term exceeding 1 year that is valid under the laws of the State involved or who is a fugitive from justice, as of the date of the estimate, and for which a record of final disposition is not available.

“(iii) A record that identifies a person who is an unlawful user of, or addicted to a controlled substance (as such terms ‘unlawful user’ and ‘addicted’ are respectively defined in regulations implementing section 922(g)(3) of title 18, United States Code, as in effect on the date of the enactment of this Act) as demonstrated by arrests, convictions, and adjudications, and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

“(iv) A record that identifies a person who has been adjudicated as a mental defective or committed to a mental institution, consistent with section 922(g)(4) of title 18, United States Code, and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

“(v) A record that is electronically available and that identifies a person who, as of the date of such estimate, is subject to a court order described in section 922(g)(8) of title 18, United States Code.

“(vi) A record that is electronically available and that identifies a person convicted in any court of a misdemeanor crime of domestic violence, as defined in section 921(a)(33) of title 18, United States Code.

“(2) SCOPE.—The Attorney General, in determining the compliance of a State under this section or section 104 for the purpose of granting a waiver or imposing a loss of Federal funds, shall assess the total percentage of records provided by the State concerning any event occurring within the prior 20 years, which would disqualify a person from possessing a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

“(3) CLARIFICATION.—Notwithstanding paragraph (2), States shall endeavor to provide the National Instant Criminal Background Check System with all records concerning persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, regardless of the elapsed time since the disqualifying event.

“(c) ELIGIBILITY OF STATE RECORDS FOR SUBMISSION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—

“(1) REQUIREMENTS FOR ELIGIBILITY.—

“(A) IN GENERAL.—From the information collected by a State, the State shall make electronically available to the Attorney General records relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, or applicable State law.

“(B) NICS UPDATES.—The State, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall, as soon as practicable—

“(i) update, correct, modify, or remove the record from any database that the Federal or State government maintains and makes available to the National Instant Criminal Background Check System, consistent with the rules pertaining to that database; and

“(ii) notify the Attorney General that such basis no longer applies so that the record system



in which the record is maintained is kept up to date.

The Attorney General upon receiving notice pursuant to clause (ii) shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed within 30 days of receipt.

“(C) CERTIFICATION.—To remain eligible for a waiver under subsection (a), a State shall certify to the Attorney General, not less than once during each 2-year period, that at least 90 percent of all records described in subparagraph (A) has been made electronically available to the Attorney General in accordance with subparagraph (A).

“(D) INCLUSION OF ALL RECORDS.—For purposes of this paragraph, a State shall identify and include all of the records described under subparagraph (A) without regard to the age of the record.

“(2) APPLICATION TO PERSONS CONVICTED OF MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, records relevant to a determination of whether a person has been convicted in any court of a misdemeanor crime of domestic violence. With respect to records relating to such crimes, the State shall provide information specifically describing the offense and the specific section or subsection of the offense for which the defendant has been convicted and the relationship of the defendant to the victim in each case.

“(3) APPLICATION TO PERSONS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, the name and other relevant identifying information of persons adjudicated as a mental defective or those committed to mental institutions to assist the Attorney General in enforcing section 922(g)(4) of title 18, United States Code.

“(d) PRIVACY PROTECTIONS.—For any information provided to the Attorney General for use by the National Instant Criminal Background Check System, relating to persons prohibited from possessing or receiving a firearm under section 922(g)(4) of title 18, United States Code, the Attorney General shall work with States and local law enforcement and the mental health community to establish regulations and protocols for protecting the privacy of information provided to the system. The Attorney General shall make every effort to meet with any mental health group seeking to express its views concerning these regulations and protocols and shall seek to develop regulations as expeditiously as practicable.

“(e) ATTORNEY GENERAL REPORT.—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of States in automating the databases containing the information described in subsection (b) and in making that information electronically available to the Attorney General pursuant to the requirements of subsection (c).

“SEC. 103. IMPLEMENTATION ASSISTANCE TO STATES.

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—From amounts made available to carry out this section and subject to section 102(b)(1)(B), the Attorney General shall make grants to States and Indian tribal governments, in a manner consistent with the National Criminal History Improvement Program, which shall be used by the States and Indian tribal governments, in conjunction with units of local government and State and local courts, to establish or upgrade information and identification technologies for firearms eligibility determinations. Not less than 3 percent, and no more than 10 percent of each grant under this paragraph shall be

used to maintain the relief from disabilities program in accordance with section 105.

“(2) GRANTS TO INDIAN TRIBES.—Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments, including tribal judicial systems.

“(b) USE OF GRANT AMOUNTS.—Grants awarded to States or Indian tribes under this section may only be used to—

“(1) create electronic systems, which provide accurate and up-to-date information which is directly related to checks under the National Instant Criminal Background Check System (referred to in this section as ‘NICS’), including court disposition and corrections records;

“(2) assist States in establishing or enhancing their own capacities to perform NICS background checks;

“(3) supply accurate and timely information to the Attorney General concerning final dispositions of criminal records to databases accessed by NICS;

“(4) supply accurate and timely information to the Attorney General concerning the identity of persons who are prohibited from obtaining a firearm under section 922(g)(4) of title 18, United States Code, to be used by the Federal Bureau of Investigation solely to conduct NICS background checks;

“(5) supply accurate and timely court orders and records of misdemeanor crimes of domestic violence for inclusion in Federal and State law enforcement databases used to conduct NICS background checks;

“(6) collect and analyze data needed to demonstrate levels of State compliance with this Act; and

“(7) maintain the relief from disabilities program in accordance with section 105, but not less than 3 percent, and no more than 10 percent of each grant shall be used for this purpose.

“(c) ELIGIBILITY.—To be eligible for a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

“(d) CONDITION.—As a condition of receiving a grant under this section, a State shall specify the projects for which grant amounts will be used, and shall use such amounts only as specified. A State that violates this subsection shall be liable to the Attorney General for the full amount of the grant received under this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section \$125,000,000 for fiscal year 2009, \$250,000,000 for fiscal year 2010, \$250,000,000 for fiscal year 2011, \$125,000,000 for fiscal year 2012, and \$125,000,000 for fiscal year 2013.

“(2) ALLOCATIONS.—For fiscal years 2009 and 2010, the Attorney General shall endeavor to allocate at least ½ of the authorized appropriations to those States providing more than 50 percent of the records required to be provided under sections 102 and 103. For fiscal years 2011, 2012, and 2013, the Attorney General shall endeavor to allocate at least ½ of the authorized appropriations to those States providing more than 70 percent of the records required to be provided under section 102 and 103. The allocations in this paragraph shall be subject to the discretion of the Attorney General, who shall have the authority to make adjustments to the distribution of the authorized appropriations as necessary to maximize incentives for State compliance.

“(f) USER FEE.—The Federal Bureau of Investigation shall not charge a user fee for background checks pursuant to section 922(t) of title 18, United States Code.

“SEC. 104. PENALTIES FOR NONCOMPLIANCE.

“(a) ATTORNEY GENERAL REPORT.—

“(1) IN GENERAL.—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of the States in auto-

inating the databases containing information described under sections 102 and 103, and in providing that information pursuant to the requirements of sections 102 and 103.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, such funds as may be necessary to carry out paragraph (1).

“(b) PENALTIES.—

“(1) DISCRETIONARY REDUCTION.—

“(A) During the 2-year period beginning 3 years after the date of enactment of this Act [Jan. 8, 2008], the Attorney General may withhold not more than 3 percent of the amount that would otherwise be allocated to a State under section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) if the State provides less than 50 percent of the records required to be provided under sections 102 and 103.

“(B) During the 5-year period after the expiration of the period referred to in subparagraph (A), the Attorney General may withhold not more than 4 percent of the amount that would otherwise be allocated to a State under section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) if the State provides less than 70 percent of the records required to be provided under sections 102 and 103.

“(2) MANDATORY REDUCTION.—After the expiration of the periods referred to in paragraph (1), the Attorney General shall withhold 5 percent of the amount that would otherwise be allocated to a State under section 505 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755), if the State provides less than 90 percent of the records required to be provided under sections 102 and 103.

“(3) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the applicability of paragraph (2) to a State if the State provides substantial evidence, as determined by the Attorney General, that the State is making a reasonable effort to comply with the requirements of sections 102 and 103, including an inability to comply due to court order or other legal restriction.

“(c) REALLOCATION.—Any funds that are not allocated to a State because of the failure of the State to comply with the requirements of this Act shall be reallocated to States that meet such requirements.

“(d) METHODOLOGY.—The method established to calculate the number of records to be reported, as set forth in section 102(b)(1)(A), and State compliance with the required level of reporting under sections 102 and 103 shall be determined by the Attorney General. The Attorney General shall calculate the methodology based on the total number of records to be reported from all subcategories of records, as described in section 102(b)(1)(C).

“SEC. 105. RELIEF FROM DISABILITIES PROGRAM REQUIRED AS CONDITION FOR PARTICIPATION IN GRANT PROGRAMS.

“(a) PROGRAM DESCRIBED.—A relief from disabilities program is implemented by a State in accordance with this section if the program—

“(1) permits a person who, pursuant to State law, has been adjudicated as described in subsection (g)(4) of section 922 of title 18, United States Code, or has been committed to a mental institution, to apply to the State for relief from the disabilities imposed by subsections (d)(4) and (g)(4) of such section by reason of the adjudication or commitment;

“(2) provides that a State court, board, commission, or other lawful authority shall grant the relief, pursuant to State law and in accordance with the principles of due process, if the circumstances regarding the disabilities referred to in paragraph (1), and the person's record and reputation, are such that the person will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest; and

“(3) permits a person whose application for the relief is denied to file a petition with the State court of appropriate jurisdiction for a de novo judicial review of the denial.

“(b) AUTHORITY TO PROVIDE RELIEF FROM CERTAIN DISABILITIES WITH RESPECT TO FIREARMS.—If, under a State relief from disabilities program implemented in accordance with this section, an application for relief referred to in subsection (a)(1) of this section is granted with respect to an adjudication or a commitment to a mental institution or based upon a removal of a record under section 102(c)(1)(B), the adjudication or commitment, as the case may be, is deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code.

“SEC. 106. ILLEGAL IMMIGRANT GUN PURCHASE NOTIFICATION.

“(a) IN GENERAL.—Notwithstanding any other provision of law or of this Act, all records obtained by the National Instant Criminal Background Check system relevant to whether an individual is prohibited from possessing a firearm because such person is an alien illegally or unlawfully in the United States shall be made available to U.S. Immigration and Customs Enforcement.

“(b) REGULATIONS.—The Attorney General, at his or her discretion, shall promulgate guidelines relevant to what records relevant to illegal aliens shall be provided pursuant to the provisions of this Act.

“TITLE II—FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF RELEVANT RECORDS

“SEC. 201. CONTINUING EVALUATIONS.

“(a) EVALUATION REQUIRED.—The Director of the Bureau of Justice Statistics (referred to in this section as the ‘Director’) shall study and evaluate the operations of the National Instant Criminal Background Check System. Such study and evaluation shall include compilations and analyses of the operations and record systems of the agencies and organizations necessary to support such System.

“(b) REPORT ON GRANTS.—Not later than January 31 of each year, the Director shall submit to Congress a report containing the estimates submitted by the States under section 102(b).

“(c) REPORT ON BEST PRACTICES.—Not later than January 31 of each year, the Director shall submit to Congress, and to each State participating in the National Criminal History Improvement Program, a report of the practices of the States regarding the collection, maintenance, automation, and transmittal of information relevant to determining whether a person is prohibited from possessing or receiving a firearm by Federal or State law, by the State or any other agency, or any other records relevant to the National Instant Criminal Background Check System, that the Director considers to be best practices.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2009 through 2013 to complete the studies, evaluations, and reports required under this section.

“TITLE III—GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

“SEC. 301. DISPOSITION RECORDS AUTOMATION AND TRANSMITTAL IMPROVEMENT GRANTS.

“(a) GRANTS AUTHORIZED.—From amounts made available to carry out this section, the Attorney General shall make grants to each State, consistent with State plans for the integration, automation, and accessibility of criminal history records, for use by the State court system to improve the automation and transmittal of criminal history dispositions, records relevant to determining whether a person has been convicted of a misdemeanor crime of domestic violence, court orders, and mental health adjudications or commitments, to

Federal and State record repositories in accordance with sections 102 and 103 and the National Criminal History Improvement Program.

“(b) GRANTS TO INDIAN TRIBES.—Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments for use by Indian tribal judicial systems.

“(c) USE OF FUNDS.—Amounts granted under this section shall be used by the State court system only—

“(1) to carry out, as necessary, assessments of the capabilities of the courts of the State for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories; and

“(2) to implement policies, systems, and procedures for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories.

“(d) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section \$62,500,000 for fiscal year 2009, \$125,000,000 for fiscal year 2010, \$125,000,000 for fiscal year 2011, \$62,500,000 for fiscal year 2012, and \$62,500,000 for fiscal year 2013.

#### “TITLE IV—GAO AUDIT

##### “SEC. 401. GAO AUDIT.

“(a) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the expenditure of all funds appropriated for criminal records improvement pursuant to section 106(b) of the Brady Handgun Violence Prevention Act (Public Law 103-159) [set out below] to determine if the funds were expended for the purposes authorized by the Act and how those funds were expended for those purposes or were otherwise expended.

“(b) REPORT.—Not later than 6 months after the date of enactment of this Act [Jan. 8, 2008], the Comptroller General shall submit a report to Congress describing the findings of the audit conducted pursuant to subsection (a).”

Pub. L. 103-159, title I, §103, Nov. 30, 1993, 107 Stat. 1541, as amended by Pub. L. 103-322, title XXI, §210603(b), Sept. 13, 1994, 103 Stat. 2074; Pub. L. 104-294, title VI, §603(h), (i)(1), Oct. 11, 1996, 110 Stat. 3504; Pub. L. 110-180, title I, §101(a), Jan. 8, 2008, 121 Stat. 2561, provided that:

“(a) DETERMINATION OF TIMETABLES.—Not later than 6 months after the date of enactment of this Act [Nov. 30, 1993], the Attorney General shall—

“(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

“(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

“(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

“(b) ESTABLISHMENT OF SYSTEM.—Not later than 60 months after the date of the enactment of this Act [Nov. 30, 1993], the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law.

“(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

“(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

“(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

“(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

“(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of the existence and purpose of the system and the means to be used to contact the system.

“(e) ADMINISTRATIVE PROVISIONS.—

“(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—

“(A) IN GENERAL.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law, as is necessary to enable the system to operate in accordance with this section.

“(B) REQUEST OF ATTORNEY GENERAL.—On request of the Attorney General, the head of such department or agency shall furnish electronic versions of the information described under subparagraph (A) to the system.

“(C) QUARTERLY SUBMISSION TO ATTORNEY GENERAL.—If a Federal department or agency under subparagraph (A) has any record of any person demonstrating that the person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code, the head of such department or agency shall, not less frequently than quarterly, provide the pertinent information contained in such record to the Attorney General.

“(D) INFORMATION UPDATES.—The Federal department or agency, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall—

“(i) update, correct, modify, or remove the record from any database that the agency maintains and makes available to the Attorney General, in accordance with the rules pertaining to that database; and

“(ii) notify the Attorney General that such basis no longer applies so that the National Instant Criminal Background Check System is kept up to date.

The Attorney General upon receiving notice pursuant to clause (ii) shall ensure that the record in the National Instant Criminal Background Check System is updated, corrected, modified, or removed within 30 days of receipt.

“(E) ANNUAL REPORT.—The Attorney General shall submit an annual report to Congress that describes the compliance of each department or agency with the provisions of this paragraph.

“(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

“(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system

shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

“(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code, or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

“(h) REGULATIONS.—After 90 days’ notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

“(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

“(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

“(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922(g) or (n) of title 18, United States Code, or State law, from receiving a firearm.

“(j) DEFINITIONS.—As used in this section:

“(1) LICENSEE.—The term ‘licensee’ means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

“(2) OTHER TERMS.—The terms ‘firearm’, ‘handgun’, ‘licensed importer’, ‘licensed manufacturer’, and ‘licensed dealer’ have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to enable the Attorney General to carry out this section.”

#### FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS

Section 106(b) of Pub. L. 103-159, as amended by Pub. L. 103-322, title XXI, § 210603(b), Sept. 13, 1994, 103 Stat. 2074; Pub. L. 104-294, title VI, § 603(i)(1), Oct. 11, 1996, 110 Stat. 3504, provided that:

“(1) GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act [Nov. 30, 1993] have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

“(A) for the creation of a computerized criminal history record system or improvement of an existing system;

“(B) to improve accessibility to the national instant criminal background system; and

“(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under paragraph (1) a total of \$200,000,000 for fiscal year 1994 and all fiscal years thereafter.”

#### GUN-FREE ZONE SIGNS

Section 1702(b)(5) of Pub. L. 101-647 provided that: “Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone.”

#### IDENTIFICATION OF FELONS AND OTHER PERSONS INELIGIBLE TO PURCHASE HANDGUNS

Section 6213 of Pub. L. 100-690 provided that:

“(a) IDENTIFICATION OF FELONS INELIGIBLE TO PURCHASE HANDGUNS.—The Attorney General shall develop a system for immediate and accurate identification of felons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g)(1) of title 18, United States Code. The system shall be accessible to dealers but only for the purpose of determining whether a potential purchaser is a convicted felon. The Attorney General shall establish a plan (including a cost analysis of the proposed system) for implementation of the system. In developing the system, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. The Attorney General shall begin implementation of the system 30 days after the report to the Congress as provided in subsection (b).

“(b) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act [Nov. 18, 1988], the Attorney General shall report to the Congress a description of the system referred to in subsection (a) and a plan (including a cost analysis of the proposed system) for implementation of the system. Such report may include, if appropriate, recommendations for modifications of the system and legislation necessary in order to fully implement such system.

“(c) ADDITIONAL STUDY OF OTHER PERSONS INELIGIBLE TO PURCHASE FIREARMS.—The Attorney General in consultation with the Secretary of the Treasury shall conduct a study to determine if an effective method for immediate and accurate identification of other persons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g) of title 18, United States Code. In conducting the study, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. Such study shall be completed within 18 months after the date of the enactment of this Act [Nov. 18, 1988] and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

“(d) DEFINITIONS.—As used in this section, the terms ‘firearm’ and ‘dealer’ shall have the meanings given such terms in section 921(a) of title 18, United States Code.”

#### STUDIES TO IDENTIFY EQUIPMENT CAPABLE OF DISTINGUISHING SECURITY EXEMPLAR FROM OTHER METAL OBJECTS LIKELY TO BE CARRIED ON ONE'S PERSON

Section 2(e) of Pub. L. 100-649 provided that: “The Attorney General, the Secretary of the Treasury, and the Secretary of Transportation shall each conduct studies to identify available state-of-the-art equipment capable of detecting the Security Exemplar (as defined in section 922(p)(2)(C) of title 18, United States Code) and distinguishing the Security Exemplar from innocuous metal objects likely to be carried on one’s person. Such studies shall be completed within 6 months after the date of the enactment of this Act [Nov. 10, 1988] and shall include a schedule providing for the installation of such equipment at the earliest practicable time at security checkpoints maintained or regulated by the agency conducting the study. Such equipment shall be

installed in accordance with each schedule. In addition, such studies may include recommendations, where appropriate, concerning the use of secondary security equipment and procedures to enhance detection capability at security checkpoints.”

### § 923. Licensing

(a) No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility for licensing as the Attorney General shall by regulation prescribe and shall include a photograph and fingerprints of the applicant. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

(1) If the applicant is a manufacturer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of \$1,000 per year;

(B) of firearms other than destructive devices, a fee of \$50 per year; or

(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of \$10 per year.

(2) If the applicant is an importer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of \$1,000 per year; or

(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of \$50 per year.

(3) If the applicant is a dealer—

(A) in destructive devices or ammunition for destructive devices, a fee of \$1,000 per year; or

(B) who is not a dealer in destructive devices, a fee of \$200 for 3 years, except that the fee for renewal of a valid license shall be \$90 for 3 years.

(b) Any person desiring to be licensed as a collector shall file an application for such license with the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility as the Attorney General shall by regulation prescribe. The fee for such license shall be \$10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

(c) Upon the filing of a proper application and payment of the prescribed fee, the Attorney General shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license. Nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to

dispositions by a person other than a licensed manufacturer, importer, or dealer. If any firearm is so disposed of by a licensee within one year after its transfer from his business inventory into such licensee's personal collection or if such disposition or any other acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of such licensee's business inventory, except that any licensed manufacturer, importer, or dealer who has maintained a firearm as part of a personal collection for one year and who sells or otherwise disposes of such firearm shall record the description of the firearm in a bound volume, containing the name and place of residence and date of birth of the transferee if the transferee is an individual, or the identity and principal and local places of business of the transferee if the transferee is a corporation or other business entity: *Provided*, That no other recordkeeping shall be required.

(d)(1) Any application submitted under subsection (a) or (b) of this section shall be approved if—

(A) the applicant is twenty-one years of age or over;

(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922(g) and (n) of this chapter;

(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application;

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time;

(F) the applicant certifies that—

(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and

(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

(iii) that the applicant has sent or delivered a form to be prescribed by the Attorney General, to the chief law enforcement officer of the locality in which the premises are lo-