

105TH CONGRESS
1ST SESSION

H. R. 1009

To repeal section 658 of Public Law 104–208, commonly referred to as the Lautenberg amendment.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1997

Mrs. CHENOWETH (for herself, Mr. GOODE, Mr. YOUNG of Alaska, Mr. SKEEN, Mr. PAUL, Mr. COBURN, Mr. HOSTETTLER, Mr. GIBBONS, Mr. HERGER, Mr. LEWIS of Kentucky, Mr. DOOLITTLE, and Mrs. CUBIN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To repeal section 658 of Public Law 104–208, commonly referred to as the Lautenberg amendment.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “States’ Rights and Sec-
5 ond and Tenth Amendment Restoration Act of 1997”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) Congressional findings:

8 (1) Domestic Violence remains a very serious
9 problem in the United States. It is a dangerous

1 crime and should be punished as such, including,
2 where appropriate, as a felony.

3 (2) Many States have classified Domestic Vio-
4 lence crimes as misdemeanors, others as felonies.
5 States are the proper authority, rather than the
6 Federal Government, to classify Domestic Violence
7 offenses.

8 (3) Where appropriate, States should classify
9 Domestic Violence offenses as a felony.

10 (4) Section 658 of Public Law 104–208, com-
11 monly referred to as the Lautenberg amendment,
12 oversteps Federal authority, violating States’ rights,
13 because no nexus has been shown to exist between
14 Domestic Violence and interstate commerce.

15 (5) The Lautenberg amendment does not deal
16 with a subject delegated to Congress under article I,
17 section 8 of the Constitution of the United States
18 and is therefore unconstitutional under the tenth
19 amendment to the Constitution, as interpreted by
20 United States v. Lopez.

21 (6) The Lautenberg amendment oversteps
22 Congress’s power to regulate commerce as delineated
23 by the Commerce Clause of the United States Con-
24 stitution.

1 (7) Some of the strictest gun control laws are
2 found in cities where the number of incidents of
3 guns being used in violent crimes is the highest.
4 Therefore, the Lautenberg amendment does not re-
5 duce incidents of domestic violence.

6 (8) State and Federal judges already have the
7 power to deny persons convicted of misdemeanors
8 the right to possess firearms as a condition of proba-
9 tion or parole.

10 (9) The Lautenberg amendment is an unfunded
11 Federal mandate because States are liable for the
12 costs of monitoring those citizens who have been
13 banned for life from owning a firearm. Many times
14 this lifetime ban is a result of a misdemeanor, not
15 a felony.

16 (10) Section 658 of the Treasury-Postal portion
17 of Public Law 104–208 violates all notions of con-
18 stitutional due process and constitutes an ex post
19 facto law because it imposes a criminal penalty on
20 crimes which were not subject to that penalty at the
21 time of the Act.

22 (11) Law-abiding citizens use guns to defend
23 themselves against criminals as many as 2.5 million
24 times every year. Of these self-defense cases, as

1 many as 200,000 are by women defending them-
2 selves against sexual assault.

3 (12) Section 658 of the Treasury-Postal portion
4 of Public Law 104–208 will, if allowed to stand, re-
5 sult in the disarming of millions of citizens, includ-
6 ing women, on account of misdemeanor offenses,
7 which in many cases, were committed long before
8 the effective date of that Act.

9 (13) Section 658 of the Treasury-Postal portion
10 of Public Law 104–208 will, in many cases, disarm
11 battered women who need access to firearms in
12 order to protect themselves from their battering
13 spouses as well as from common criminals.

14 (14) Section 658 of the Treasury-Postal portion
15 of Public Law 104–208 will, if allowed to stand, im-
16 pose a lifetime gun ban on persons who committed
17 acts so minor that they were not even entitled to a
18 jury trial prior to conviction.

19 (15) Section 658 of the Treasury-Postal portion
20 of Public Law 104–208, will, if allowed to stand, re-
21 sult in the disarming and dismissal of a significant
22 number of law enforcement officers and American
23 servicemen, on account of misdemeanors, which in
24 many cases, were committed long before the effective
25 date of that Act.

1 (16) Section 658 of the Treasury-Postal portion
2 of Public Law 104–208 ignores the real problem
3 surrounding domestic violence in that truly violent
4 offenders are allowed to plea-bargain down to mis-
5 demeanors.

6 (b) PURPOSE.—It is the purpose of this Act to re-
7 store States’ rights, the tenth amendment, and second
8 amendment freedoms.

9 **SEC. 3. REPEALER.**

10 Section 658 of the Treasury-Postal portion of Public
11 Law 104–208 is repealed and is null and void as if it had
12 not been enacted, and all provisions of law amended by
13 such section are restored as if section 658 had not been
14 enacted.

15 **SEC. 4. EFFECTIVE DATE.**

16 This Act shall take effect immediately upon enact-
17 ment.

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