

106TH CONGRESS  
1ST SESSION

# H. R. 515

To prevent children from injuring themselves with handguns.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1999

Ms. CARSON (for herself, Ms. JACKSON-LEE of Texas, Mr. BRADY of Pennsylvania, Mr. STARK, Mr. MORAN of Virginia, Ms. KILPATRICK, Mr. LUTHER, Mr. BERMAN, Mr. SHERMAN, Mr. WEXLER, Mrs. CHRISTIAN-CHRISTENSEN, Mr. NADLER, Mr. LEWIS of Georgia, Mr. FORD, Ms. MILLENDER-MCDONALD, Mr. MCGOVERN, Mr. LAFALCE, Mr. CLAY, Ms. DEGETTE, Mrs. JONES of Ohio, Mr. LANTOS, Mrs. CLAYTON, Ms. PELOSI, Mr. DAVIS of Illinois, Ms. SCHAKOWSKY, Mr. GEORGE MILLER of California, and Mr. ABERCROMBIE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prevent children from injuring themselves with handguns.

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 “Child Handgun Injury  
5        Prevention Act”.

### 6    **SEC. 2. FINDINGS.**

7        The Congress makes the following findings:

1           (1) In the 10 years from 1987 through 1996,  
2       nearly 2,200 children in the United States who were  
3       14 years of age or younger died from unintentional  
4       shootings, and in 1996 alone, 138 children were shot  
5       and killed unintentionally, which is an average of 11  
6       children every month, or 1 child every third day, ac-  
7       cording to the National Center for Health Statistics.

8           (2) The United States leads the industrialized  
9       world in the rates of children lost to unintentional  
10      firearms-related death. A 1997 study from the Cen-  
11      ters for Disease Control and Prevention found that  
12      for unintentional firearms-related deaths for children  
13      under the age of 15, the rate in the United States  
14      was 9 times greater than in 25 other industrialized  
15      countries combined.

16          (3) While the number of unintentional deaths  
17      from firearms is an unacceptable toll on the children  
18      of the United States, nearly 8 times that number are  
19      treated annually in hospital emergency rooms in the  
20      United States for nonfatal unintentional gunshot  
21      wounds, according to an article in the June 12,  
22      1996, issue of the Journal of the American Medical  
23      Association.

24          (4) In the June 12, 1987, issue of the Journal  
25      of the American Medical Association, a study of un-

1 intentional firearms deaths among children in Cali-  
2 fornia found that unintentional gunshot wounds  
3 most often involve handguns.

4 (5) A study in the December 1995 issue of the  
5 Archives of Pediatric and Adolescent Medicine found  
6 that children as young as 3 years old are strong  
7 enough to fire most commercially available hand-  
8 guns. The study found that 25 percent of 3- to 4-  
9 year-olds and 70 percent of 5- to 6-year-olds had  
10 sufficient finger strength to fire 59 (or 92 percent)  
11 of the 64 commonly available handguns examined in  
12 the study.

13 (6) Currently, firearms are the only products  
14 manufactured in the United States that are not sub-  
15 ject to minimum safety standards.

16 (7) A 1997 public opinion poll conducted by the  
17 National Opinion Research Center at the University  
18 of Chicago in conjunction with the Johns Hopkins  
19 Center for Gun Policy and Research found that 74  
20 percent of the people of the United States support  
21 safety regulation of the firearms industry.

22 (8) Firearms, their component parts, and safety  
23 locks designed to prevent firearms from accidentally  
24 discharging, all move in interstate commerce.

1           (9) Many currently available trigger locks and  
2           other similar devices are inadequate to prevent the  
3           accidental discharge of the firearms to which they  
4           are attached, or to prevent children from gaining ac-  
5           cess to the firearms.

6 **SEC. 3. REGULATION OF HANDGUN DISCHARGE PROTEC-**  
7 **TION PRODUCTS.**

8           (a) GENERAL AUTHORITY.—The Secretary of the  
9 Treasury (in this Act referred to as the “Secretary”) shall  
10 prescribe such regulations governing the design, manufac-  
11 ture, and performance of, and commerce in, handgun dis-  
12 charge protection products, as are necessary to reduce or  
13 prevent unreasonable risk of injury to children from the  
14 unintentional discharge of handguns.

15          (b) MINIMUM SAFETY STANDARD.—The regulations  
16 required by subsection (a) shall, at a minimum, set forth  
17 a minimum safety standard that a handgun discharge pro-  
18 tection product must meet in order to be manufactured,  
19 sold, transferred, or delivered consistent with this Act. In  
20 developing the standard, the Secretary shall give appro-  
21 priate consideration to handgun discharge protection  
22 products that are not detachable, but are permanently in-  
23 stalled and incorporated into the design of a handgun. The  
24 standard shall include provisions to ensure that any hand-  
25 gun discharge protection product that meets the standard

1 is of adequate quality and construction to prevent children  
2 from operating a handgun, and to ensure that such a  
3 product cannot be removed from a handgun except  
4 through the use of a key, combination, or other method  
5 of access made possible by the manufacturer of the prod-  
6 uct.

7 (c) USE OF POISON PACKAGING PREVENTION  
8 STANDARDS TEST PROTOCOLS.—In developing the stand-  
9 ard required by subsection (b), the Secretary shall con-  
10 sider using test protocols described in section 1700.20 of  
11 title 16, Code of Federal Regulations, (in effect as of Jan-  
12 uary 1, 1998), related to poison prevention packaging  
13 standards.

14 (d) DEADLINE FOR ISSUANCE OF STANDARD.—With-  
15 in 12 months after the date of the enactment of this Act,  
16 the Secretary shall issue in final form the standard re-  
17 quired by subsection (b).

18 (e) EFFECTIVE DATE OF STANDARD.—The standard  
19 issued under subsection (b) shall take effect 6 months  
20 after the date of issuance.

21 **SEC. 4. ORDERS; INSPECTIONS.**

22 (a) IN GENERAL.—The Secretary may issue an order  
23 prohibiting the manufacture, sale, transfer, or delivery of  
24 a handgun discharge protection product which the Sec-  
25 retary finds has been designed, or has been or is intended

1 to be manufactured, transferred, or distributed in violation  
2 of this Act or a regulation prescribed under this Act.

3 (b) AUTHORITY TO REQUIRE THE RECALL, REPAIR,  
4 OR REPLACEMENT OF, OR THE PROVISION OF RE-  
5 FUNDS.—The Secretary may issue an order requiring the  
6 manufacturer of, and any dealer in, a handgun discharge  
7 protection product which the Secretary finds has been de-  
8 signed, manufactured, transferred, or delivered in viola-  
9 tion of this Act or a regulation prescribed under this Act,  
10 to—

11 (1) provide notice of the risks associated with  
12 the product, and of how to avoid or reduce the risks,  
13 to—

14 (A) the public;

15 (B) in the case of the manufacturer of the  
16 product, each dealer in the product; and

17 (C) in the case of a dealer in the product,  
18 the manufacturer of the product and the other  
19 persons known to the dealer as dealers in the  
20 product;

21 (2) bring the product into conformity with the  
22 regulations prescribed under this Act;

23 (3) repair the product;

1           (4) replace the product with a like or equivalent  
2           product which is in compliance with such regula-  
3           tions;

4           (5) refund the purchase price of the product,  
5           or, if the product is more than 1 year old, a lesser  
6           amount based on the value of the product after rea-  
7           sonable use;

8           (6) recall the product from the stream of com-  
9           merce; or

10          (7) submit to the Secretary a satisfactory plan  
11          for implementation of any action required under this  
12          subsection.

13          (c) INSPECTIONS.—In order to ascertain compliance  
14          with this Act and the regulations and orders issued under  
15          this Act, the Secretary may, at reasonable times—

16               (1) enter any place in which handgun discharge  
17               protection products are manufactured, stored, or  
18               held, for distribution in commerce, and inspect those  
19               areas where the products are manufactured, stored,  
20               or held; and

21               (2) enter and inspect any conveyance being  
22               used to transport for commercial purposes a hand-  
23               gun discharge protection product.

1 **SEC. 5. UNLAWFUL ACTS.**

2 (a) IN GENERAL.—Beginning 30 days after a final  
3 standard issued under section 3(b) takes effect, it shall  
4 be unlawful—

5 (1) for any licensed manufacturer or licensed  
6 importer to sell, transfer, or deliver to any person  
7 any handgun without a handgun discharge protec-  
8 tion product that meets the standard; and

9 (2) for any licensed dealer to sell, transfer, or  
10 deliver to any person any handgun without the  
11 handgun discharge protection product supplied to  
12 the dealer by the licensed manufacturer or importer.

13 (b) EXCEPTION.—Subsection (a) shall not apply to  
14 the sale, transfer, or delivery of a handgun to a depart-  
15 ment or agency of the Federal Government or of any State  
16 government or political subdivision of a State.

17 **SEC. 6. WARNING LABELS FOR HANDGUNS.**

18 (a) INCLUSION OF WARNING LABELS IN HANDGUN  
19 PACKAGING.—

20 (1) IN GENERAL.—A licensed manufacturer, li-  
21 censed importer, or licensed dealer shall not sell,  
22 transfer, or deliver a handgun with accompanying  
23 packaging or other descriptive materials, unless the  
24 warning label described in paragraph (2) is dis-  
25 played on the principal display panel of the packag-  
26 ing and on the materials.



1 (2) WARNING LABEL.—

2 (A) CONTENT.—The warning label re-  
 3 ferred to in paragraph (1) is a label that, in  
 4 conspicuous and legible type, contains the fol-  
 5 lowing statement:



6 **“Children are attracted to and can oper-**  
 7 **ate handguns, which can cause severe inju-**  
 8 **ries or death.**

9 **“Prevent child access by always keeping**  
 10 **handguns locked away and unloaded.”.**

11 (B) APPEARANCE.—The statement re-  
 12 quired by subparagraph (A) shall, by typog-  
 13 raphy, layout, or color, be in contrast with  
 14 other printed matter on the package or descrip-  
 15 tive materials, in a manner similar to that de-  
 16 scribed in section 1500.121 of title 16, Code of  
 17 Federal Regulations (in effect as of January 1,  
 18 1998).

19 (b) AFFIXATION OF WARNING LABEL TO HANDGUN  
 20 TRANSFERRED WITHOUT PACKAGING.—A licensed manu-  
 21 facturer, licensed importer, or licensed dealer shall not  
 22 sell, transfer, or deliver a handgun without accompanying  
 23 packaging or other descriptive materials, unless the label

1 described in subsection (a)(2)(A) is affixed to the handgun  
2 by a method to be prescribed by rule by the Secretary.

3 (c) EFFECTIVE DATE.—This section shall take effect  
4 60 days after the date of the enactment of this Act.

5 **SEC. 7. REPORTING REQUIREMENTS.**

6 Each licensed manufacturer, licensed importer, and  
7 licensed dealer shall report to the Secretary any informa-  
8 tion obtained by the manufacturer, importer, or dealer  
9 which reasonably supports the conclusion that—

10 (1) a child has suffered an unintentional or  
11 self-inflicted gunshot wound inflicted through the  
12 use of a handgun that was sold, transferred, or de-  
13 livered by the manufacturer, importer, or dealer  
14 after the effective date of this Act; and

15 (2) as a result, the individual died, suffered se-  
16 rious injury, or was treated for an injury by a medi-  
17 cal professional.

18 **SEC. 8. ENFORCEMENT.**

19 (a) CIVIL PENALTIES.—The Secretary may assess a  
20 civil money penalty not to exceed \$10,000 for each viola-  
21 tion of this Act.

22 (b) REVOCATION OF FEDERAL FIREARMS LI-  
23 CENSE.—Section 923(e) of title 18, United States Code,  
24 is amended by inserting after the 2nd sentence the follow-  
25 ing: “The Secretary may, after notice and opportunity for

1 hearing, revoke any license issued under this section if the  
2 holder of the license violates any provision of the Child  
3 Handgun Injury Prevention Act or any rule or regulation  
4 prescribed under such Act.”.

5 (c) PRIVATE CAUSE OF ACTION.—

6 (1) IN GENERAL.—Any person aggrieved by any  
7 violation of this Act or of any regulation prescribed  
8 or order issued under this Act by another person  
9 may bring an action against such other person in  
10 any United States district court for damages, includ-  
11 ing consequential damages. In any action under this  
12 subsection, the court, in its discretion, may award to  
13 a prevailing plaintiff a reasonable attorney’s fee as  
14 part of the costs.

15 (2) RULE OF INTERPRETATION.—The remedy  
16 provided for in paragraph (1) shall be in addition to  
17 any other remedy provided by common law or under  
18 Federal or State law.

19 (d) PRIVATE ENFORCEMENT OF THIS ACT.—Any in-  
20 terested person may bring an action in any United States  
21 district court to enforce this Act, or restrain any violation  
22 of this Act or of any regulation prescribed or order issued  
23 under this Act. In any action under this subsection, the  
24 court, in its discretion, may award to a prevailing plaintiff  
25 a reasonable attorney’s fee as part of the costs.

1 (e) EFFECT ON PRIVATE REMEDIES.—

2 (1) IRRELEVANCY OF COMPLIANCE WITH THIS  
3 ACT.—Compliance with this Act or any order issued  
4 or regulation prescribed under this Act shall not re-  
5 lieve any person from liability to any person under  
6 common law or State statutory law.

7 (2) IRRELEVANCY OF FAILURE TO TAKE AC-  
8 TION UNDER THIS ACT.—The failure of the Sec-  
9 retary to take any action authorized under this Act  
10 shall not be admissible in litigation relating to the  
11 product under common law or State statutory law.

12 (f) CRIMINAL PENALTIES.—Any person who has re-  
13 ceived from the Secretary a notice that the person has vio-  
14 lated a provision of this Act or of a regulation prescribed  
15 under this Act with respect to a handgun discharge protec-  
16 tion product, and who subsequently knowingly violates  
17 such provision with respect to the product shall be fined  
18 under title 18, United States Code, imprisoned not more  
19 than 2 years, or both.

20 **SEC. 9. NO EFFECT ON STATE LAW.**

21 This Act does not annul, alter, impair, or affect, or  
22 exempt any person subject to the provisions of this Act  
23 from complying with, any provision of the law of any State  
24 or any political subdivision thereof, except to the extent  
25 that such provisions of State law are inconsistent with any

1 provision of this Act, and then only to the extent of the  
2 inconsistency. A provision of State law is not inconsistent  
3 with this Act if such provision affords greater protection  
4 to children in respect of handguns than is afforded by this  
5 Act.

6 **SEC. 10. DEFINITIONS.**

7 In this Act:

8 (1) The term “handgun discharge protection  
9 product” means any device (including a handgun)  
10 that is designed, manufactured, or represented in  
11 commerce, as useful in protecting children from in-  
12 jury from the unintentional discharge of a handgun.

13 (2) The term “children” means individuals who  
14 have not attained 18 years of age.

15 (3) The terms “licensed importer”, “licensed  
16 manufacturer”, “licensed dealer”, “Secretary”, and  
17 “handgun” have the meanings given in paragraphs  
18 (9), (10), (11), (18), and (29), respectively, of sec-  
19 tion 921(a) of title 18, United States Code.

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