

106TH CONGRESS
1ST SESSION

S. 1306

To amend chapter 44 of title 18, United States Code, relating to the regulation of firearms dealers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 1999

Mr. SCHUMER (for himself, Mr. DURBIN, Mrs. FEINSTEIN, Mr. KENNEDY, Mrs. BOXER, Mr. LEVIN, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend chapter 44 of title 18, United States Code, relating to the regulation of firearms dealers, and for other purposes.

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 “Targeted Gun Dealer
5 Enforcement Act of 1999”.

6 **SEC. 2. REGULATION OF LICENSED DEALERS.**

7 (a) PROHIBITION ON STRAW PURCHASES.—

8 (1) IN GENERAL.—Section 922(a)(6) of title
9 18, United States Code, is amended by inserting “,

1 or with respect to the identity of the person in fact
 2 purchasing or attempting to purchase such firearm
 3 or ammunition,” before “under the”.

4 (2) PENALTIES.—Section 924(a)(3) of title 18,
 5 United States Code, is amended by adding at the
 6 end the following: “Notwithstanding the preceding
 7 sentence, a violation in relation to section 922(a)(6)
 8 or 922(d) by a licensed dealer, licensed importer, li-
 9 censed manufacturer, or licensed collector shall be
 10 subject to the penalties under paragraph (2) of this
 11 subsection.”.

12 (b) NOTIFICATION OF STATE LAW REGARDING CAR-
 13 RYING CONCEALED FIREARMS.—Section 922 of title 18,
 14 United States Code, is amended by inserting after sub-
 15 section (y) the following:

16 “(z) NOTIFICATION OF STATE REQUIREMENTS.—It
 17 shall be unlawful for a licensed dealer to transfer a firearm
 18 to any person, unless the dealer notifies that person
 19 whether applicable State law requires persons to be li-
 20 censed to carry concealed firearms in the State, or pro-
 21 hibits the carrying of concealed firearms in the State.”.

22 (c) REVOCATION OR SUSPENSION OF LICENSE; CIVIL
 23 PENALTIES.—Section 923 of title 18, United States Code,
 24 is amended by striking subsections (e) and (f) and insert-
 25 ing the following:

1 “(e) REVOCATION OR SUSPENSION OF LICENSE;
2 CIVIL PENALTIES.—

3 “(1) IN GENERAL.—The Secretary may, after
4 notice and opportunity for hearing—

5 “(A) suspend or revoke any license issued
6 under this section, if the holder of such
7 license—

8 “(i) willfully violates any provision of
9 this chapter or any rule or regulation pre-
10 scribed by the Secretary under this chap-
11 ter; or

12 “(ii) fails to have secure gun storage
13 or safety devices available at any place in
14 which firearms are sold under the license
15 to persons who are not licensees (except
16 that in any case in which a secure gun
17 storage or safety device is temporarily un-
18 available because of theft, casualty loss,
19 consumer sales, backorders from a manu-
20 facturer, or any other similar reason be-
21 yond the control of the licensee, the li-
22 censed dealer shall not be considered to be
23 in violation of the requirement to make
24 available such a device);

1 “(B) suspend or revoke the license issued
2 under this section to a dealer who willfully
3 transfers armor piercing ammunition; and

4 “(C) assess and collect a civil penalty of
5 not more than \$10,000 per violation against
6 any holder of a license, if the Secretary is au-
7 thorized to suspend or revoke the license of that
8 holder under subparagraph (A) or (B).

9 “(2) LIABILITY.—The Secretary may at any
10 time compromise, mitigate, or remit the liability with
11 respect to any willful violation of this subsection or
12 any rule or regulation prescribed by the Secretary
13 under this subsection.

14 “(3) REVIEW.—An action of the Secretary
15 under this subsection may be reviewed only as pro-
16 vided in subsection (f).

17 “(4) NOTIFICATION REQUIREMENT.—Not less
18 than once every 6 months, the Secretary shall notify
19 each licensed manufacturer and each licensed dealer
20 of the name, address, and license number of each
21 dealer whose license was suspended or revoked under
22 this section during the preceding 6-month period.

23 “(f) RIGHTS OF APPLICANTS AND LICENSEES.—

24 “(1) IN GENERAL.—If the Secretary denies an
25 application for, or revokes or suspends a license, or

1 assesses a civil penalty under this section, the Sec-
2 retary shall provide written notice of such denial,
3 revocation, suspension, or assessment to the affected
4 party, stating specifically the grounds upon which
5 the application was denied, the license was sus-
6 pended or revoked, or the civil penalty was assessed.
7 Any notice of a revocation or suspension of a license
8 under this paragraph shall be given to the holder
9 of such license before the effective date of the rev-
10 ocation or suspension, as applicable.

11 “(2) APPEAL PROCESS.—

12 “(A) HEARING.—If the Secretary denies
13 an application for, or revokes or suspends a li-
14 cense, or assesses a civil penalty under this sec-
15 tion, the Secretary shall, upon request of the
16 aggrieved party, promptly hold a hearing to re-
17 view the denial, revocation, suspension, or as-
18 sessment. A hearing under this subparagraph
19 shall be held at a location convenient to the ag-
20 grieved party.

21 “(B) NOTICE OF DECISION; APPEAL.—If,
22 after a hearing held under subparagraph (A),
23 the Secretary decides not to reverse the decision
24 of the Secretary to deny the application, revoke

1 or suspend the license, or assess the civil pen-
2 alty, as applicable—

3 “(i) the Secretary shall provide notice
4 of the decision of the Secretary to the ag-
5 grievied party;

6 “(ii) during the 60-day period begin-
7 ning on the date on which the aggrieved
8 party receives a notice under clause (i), the
9 aggrieved party may file a petition with the
10 district court of the United States for the
11 judicial district in which the aggrieved
12 party resides or has a principal place of
13 business for a de novo judicial review of
14 such denial, revocation, suspension, or as-
15 sessment;

16 “(iii) in any judicial proceeding pursu-
17 ant to a petition under clause (ii)—

18 “(I) the court may consider any
19 evidence submitted by the parties to
20 the proceeding, regardless of whether
21 or not such evidence was considered
22 at the hearing held under subpara-
23 graph (A); and

24 “(II) if the court decides that the
25 Secretary was not authorized to make

1 such denial, revocation, suspension, or
2 assessment, the court shall order the
3 Secretary to take such actions as may
4 be necessary to comply with the judg-
5 ment of the court.

6 “(3) STAY PENDING APPEAL.—If the Secretary
7 suspends or revokes a license under this section,
8 upon the request of the holder of the license, the
9 Secretary shall stay the effective date of the revoca-
10 tion, suspension, or assessment.”.

11 (d) EFFECT OF CONVICTION.—Section 925(b) of title
12 18, United States Code, is amended by striking “until any
13 conviction pursuant to the indictment becomes final” and
14 inserting “until the date of any conviction pursuant to the
15 indictment”.

16 (e) REGULATION OF HIGH-VOLUME CRIME GUN
17 DEALERS.—Section 923(g) of title 18, United States
18 Code, is amended by adding at the end the following:

19 “(8) HIGH-VOLUME CRIME GUN DEALERS.—

20 “(A) DEFINITION.—In this paragraph, the term
21 ‘high-volume crime gun dealer’ means any licensed
22 dealer with respect to which a designation under
23 subparagraph (B)(i) is in effect, as provided in sub-
24 paragraph (B)(ii).

1 “(B) DESIGNATION OF HIGH-VOLUME CRIME
2 GUN DEALERS.—

3 “(i) IN GENERAL.—The Secretary shall
4 designate a licensed dealer as a high-volume
5 crime gun dealer—

6 “(I) as soon as practicable, if the Sec-
7 retary determines that the licensed dealer
8 sold, delivered, or otherwise transferred to
9 1 or more persons not licensed under this
10 chapter not less than 25 firearms that,
11 during the preceding calendar year, were
12 used during the commission or attempted
13 commission of a criminal offense under
14 Federal, State, or local law, or were pos-
15 sessed in violation of Federal, State, or
16 local law; or

17 “(II) immediately upon the expiration
18 date of a suspension of the license of that
19 dealer for a willful violation of this chap-
20 ter, if such violation involved 1 or more
21 firearms that were subsequently used dur-
22 ing the commission or attempted commis-
23 sion of a criminal offense under Federal,
24 State, or local law.

1 “(ii) EFFECTIVE PERIOD OF DESIGNA-
2 TION.—A designation under clause (i) shall re-
3 main in effect during the period beginning on
4 the date on which the designation is made and
5 ending on the later of—

6 “(I) the expiration of the 18-month
7 period beginning on that date; or

8 “(II) the date on which the license
9 issued to that dealer under this section ex-
10 pires.

11 “(C) NOTIFICATION REQUIREMENT.—Upon the
12 designation of a licensed dealer as a high-volume
13 crime gun dealer under subparagraph (B), the Sec-
14 retary shall notify the appropriate United States at-
15 torney’s office, the appropriate State and local law
16 enforcement agencies (including the district attor-
17 ney’s offices and the police or sheriff’s departments),
18 and each State and local agency responsible for the
19 issuance of business licenses in the jurisdiction in
20 which the high-volume crime gun dealer is located of
21 such designation.

22 “(D) REPORTING AND RECORDKEEPING RE-
23 QUIREMENTS.—Notwithstanding any other provision
24 of this paragraph—

1 “(i) not later than 10 days after the date
2 on which a handgun is sold, delivered, or other-
3 wise transferred by a high-volume crime gun
4 dealer to a person not licensed under this chap-
5 ter, the high-volume crime gun dealer shall sub-
6 mit to the Secretary and to the department of
7 State police or State law enforcement agency of
8 the State or local jurisdiction in which the sale,
9 delivery, or transfer took place, on a form pre-
10 scribed by the Secretary, a report of the sale,
11 delivery, or transfer, which report shall
12 include—

13 “(I) the manufacturer or importer of
14 the handgun;

15 “(II) the model, type, caliber, gauge,
16 and serial number of the handgun; and

17 “(III) the name, address, date of
18 birth, and height and weight of the pur-
19 chaser or transferee, as applicable;

20 “(ii) each high-volume crime gun dealer
21 shall submit to the Secretary, on a form pre-
22 scribed by the Secretary, a monthly report of
23 each firearm received and each firearm disposed
24 of by the dealer during that month, which re-
25 port shall include only the name of the manu-

1 facturer or importer and the model, type, cal-
2 iber, gauge, serial number, date of receipt, and
3 date of disposition of each such firearm, except
4 that the initial report submitted by a dealer
5 under this clause shall include such information
6 with respect to the entire inventory of the high-
7 volume crime gun dealer; and

8 “(iii) a high-volume crime gun dealer may
9 not destroy any record required to be main-
10 tained under paragraph (1)(A).

11 “(E) INSPECTION.—Notwithstanding paragraph
12 (1), the Secretary may inspect or examine the inven-
13 tory and records of a high-volume crime gun dealer
14 at any time without a showing of reasonable cause
15 or a warrant for purposes of determining compliance
16 with the requirements of this chapter.

17 “(F) RECORDKEEPING BY LOCAL POLICE DE-
18 PARTMENTS.—Notwithstanding paragraph (3)(B), a
19 State or local law enforcement agency that receives
20 a report under subparagraph (D)(i) may retain a
21 copy of that record for not more than 5 years.

22 “(G) LICENSE RENEWAL.—Notwithstanding
23 subsection (d)(2), the Secretary shall approve or
24 deny an application for a license submitted by a
25 high-volume crime gun dealer before the expiration

1 of the 120-day period beginning on the date on
2 which the application is received.

3 “(H) EFFECT OF FAILURE TO COMPLY.—

4 “(i) IN GENERAL.—Notwithstanding sub-
5 section (e), the Secretary shall, after notice and
6 an opportunity for a hearing—

7 “(I) suspend for not less than 90 days
8 any license issued under this section to a
9 high-volume crime gun dealer who willfully
10 violates any provision of this section (in-
11 cluding any requirement of this para-
12 graph);

13 “(II) revoke any license issued under
14 this section to a high-volume crime gun
15 dealer who willfully violates any provision
16 of this section (including any requirement
17 of this paragraph) and who has committed
18 a prior willful violation of any provision of
19 this section (including any requirement of
20 this paragraph); and

21 “(III) revoke any license issued under
22 this section to a high-volume crime gun
23 dealer who willfully violates any provision
24 of section 922 or 924.

1 “(ii) STAY PENDING APPEAL.—Notwith-
 2 standing subsection (f)(3), the Secretary may
 3 not stay the effective date of a suspension or
 4 revocation under this subparagraph pending an
 5 appeal.”.

6 **SEC. 3. ENHANCED ABILITY TO TRACE FIREARMS.**

7 (a) VOLUNTARY SUBMISSION OF DEALER’S
 8 RECORDS.—Section 923(g)(4) of title 18, United States
 9 Code, is amended to read as follows:

10 “(4) VOLUNTARY SUBMISSION OF DEALER’S
 11 RECORDS.—

12 “(A) BUSINESS DISCONTINUED.—

13 “(i) SUCCESSOR.—When a firearms or
 14 ammunition business is discontinued and
 15 succeeded by a new licensee, the records
 16 required to be kept by this chapter shall
 17 appropriately reflect that fact and shall be
 18 delivered to the successor. Upon receipt of
 19 those records, the successor licensee may
 20 retain the records of the discontinued busi-
 21 ness or submit the discontinued business
 22 records to the Secretary.

23 “(ii) NO SUCCESSOR.—When a fire-
 24 arms or ammunition business is discon-
 25 tinued without a successor, records re-

1 quired to be kept by this chapter shall be
2 delivered to the Secretary within 30 days
3 after the business is discontinued.

4 “(B) OLD RECORDS.—A licensee maintaining a
5 firearms business may voluntarily submit the records
6 required to be kept by this chapter to the Secretary
7 if such records are at least 20 years old.

8 “(C) STATE OR LOCAL REQUIREMENTS.—If
9 State law or local ordinance requires the delivery of
10 records regulated by this paragraph to another re-
11 sponsible authority, the Secretary may arrange for
12 the delivery of records to such other responsible au-
13 thority.”

14 (b) CENTRALIZATION AND MAINTENANCE OF
15 RECORDS.—Section 923(g) of title 18, United States
16 Code, is amended by adding at the end the following:

17 “(9) CENTRALIZATION AND MAINTENANCE OF
18 RECORDS BY SECRETARY.—Notwithstanding any
19 other provision of law, the Secretary—

20 “(A) may receive and centralize any infor-
21 mation or records submitted to the Secretary
22 under this chapter and maintain such informa-
23 tion or records in whatever manner will enable
24 their most efficient use in law enforcement in-
25 vestigations; and

1 “(B) shall retain a record of each firearms
 2 trace conducted by the Secretary, unless the
 3 Secretary determines that there is a valid law
 4 enforcement reason not to retain the record.”.

5 (c) LICENSEE REPORTS OF SECONDHAND FIRE-
 6 ARMS.—Section 923(g) of title 18, United States Code,
 7 is amended by adding at the end the following:

8 “(10) LICENSEE REPORTS OF SECONDHAND
 9 FIREARMS.—A licensed importer, licensed manufac-
 10 turer, and licensed dealer shall submit to the Sec-
 11 retary, on a form prescribed by the Secretary, a
 12 monthly report of each firearm received from a per-
 13 son not licensed under this chapter during that
 14 month, which report shall not include any identifying
 15 information relating to the transferor or any subse-
 16 quent purchaser.”.

17 **SEC. 4. GENERAL REGULATION OF FIREARMS TRANSFERS.**

18 (a) TRANSFERS OF CRIME GUNS.—Section 924(h) of
 19 title 18, United States Code, is amended by inserting “or
 20 having reasonable cause to believe” after “knowing”.

21 (b) INCREASED PENALTIES FOR TRAFFICKING IN
 22 FIREARMS WITH OBLITERATED SERIAL NUMBERS.—Sec-
 23 tion 924(a) of title 18, United States Code, is amended—
 24 (1) in paragraph (1)(B), by striking “(k),”; and

1 (2) in paragraph (2), by inserting “(k),” after
2 “(j),”.

3 **SEC. 5. AMENDMENT OF FEDERAL SENTENCING GUIDE-**
4 **LINES.**

5 The United States Sentencing Commission shall
6 amend the Federal sentencing guidelines to reflect the
7 amendments made by this Act.

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