

106TH CONGRESS  
1ST SESSION

# S. 560

To reform the manner in which firearms are manufactured and distributed by providing an incentive to State and local governments to bring claims for the rising costs of gun violence in their communities.

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## IN THE SENATE OF THE UNITED STATES

MARCH 8, 1999

Mr. DASCHLE (for Mr. LAUTENBERG) (for himself, Mr. DURBIN, Mr. SCHUMER, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To reform the manner in which firearms are manufactured and distributed by providing an incentive to State and local governments to bring claims for the rising costs of gun violence in their communities.

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 “Gun Industry Account-  
5       ability Act”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

1           (1) Across the Nation, local communities are  
2           bringing rightful legal claims against the gun indus-  
3           try to seek changes in the manner in which the in-  
4           dustry conducts business in the civilian market in  
5           those communities.

6           (2) Since firearms are the only widely available  
7           consumer product designed to kill, firearm manufac-  
8           tures, distributors, and retailers have a special re-  
9           sponsibility to take into account the health and safe-  
10          ty of the public in marketing firearms.

11          (3) The gun industry has failed in this respon-  
12          sibility by engaging in practices that have contrib-  
13          uted directly to the terrible burden of firearm-relat-  
14          ed violence on society.

15          (4) The gun industry has generally refused to  
16          include numerous safety devices with their products,  
17          including devices to prevent the unauthorized use of  
18          a firearm, indicators that a firearm is loaded, and  
19          child safety locks, and the absence of such safety de-  
20          vices has rendered these products unreasonably dan-  
21          gerous.

22          (5) The gun industry has also engaged in dis-  
23          tribution practices in which the industry oversupplies  
24          certain legal markets with firearms with the knowl-

1 edge that the excess firearms will be distributed into  
2 nearby illegal markets.

3 (6) According to the National Center for Injury  
4 Prevention and Control—

5 (A) at least 80 percent of the economic  
6 costs of treating firearms injuries are paid for  
7 by taxpayer dollars; and

8 (B) in 1990, firearm injuries resulted in  
9 costs of more than \$24,000,000,000 in hospital  
10 and other medical care for long-term disability  
11 and premature death.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) **FEDERAL DAMAGES.**—The term “Federal  
15 damages” means the amount of damages sustained  
16 by the Federal Government as a result of the sale,  
17 distribution, use or misuse of a firearm (including  
18 gun violence) including damages relating to medical  
19 expenses, the costs of continuing care and disabili-  
20 ties, law enforcement expenses, and lost wages.

21 (2) **FIREARM.**—The term “firearm” has the  
22 meaning given the term in section 921 of title 18,  
23 United States Code.

1           (3) GUN VIOLENCE.—The term “gun violence”  
 2       means any offense under Federal or State law  
 3       that—

4                   (A) constitutes a crime of violence (as de-  
 5       fined in section 16 of title 18, United States  
 6       Code); and

7                   (B) involves the use of a firearm.

8           (4) MANUFACTURER.—The term “manufac-  
 9       turer” has the meaning given the term in section  
 10      921 of title 18, United States Code;

11          (5) STATE.—The term “State” means each of  
 12      the several States of the United States, the District  
 13      of Columbia, the Commonwealth of Puerto Rico, the  
 14      Virgin Islands, Guam, American Samoa, and the  
 15      Commonwealth of the Northern Mariana Islands.

16          (6) UNIT OF LOCAL GOVERNMENT.—The term  
 17      “unit of local government” means any city, town,  
 18      township, county, parish, village, or other general  
 19      purpose political subdivision of a State.

20   **SEC. 4. RECOVERY OF FEDERAL DAMAGES BY STATES AND**  
 21                   **UNITS OF LOCAL GOVERNMENT SEEKING**  
 22                   **FEDERAL DAMAGES.**

23          (a) IN GENERAL.—In any civil action by a State or  
 24      unit of local government against a manufacturer of fire-  
 25      arms to recover damages relating to the sale, distribution,

1 use or misuse of a firearm (including gun violence) in the  
 2 State or unit of local government, the State or unit of  
 3 local government may, in addition to other damages, re-  
 4 cover any Federal damages associated with the claim as  
 5 provided in this section.

6 (b) FEDERAL ACTIONS.—If the Attorney General  
 7 files an action against a manufacturer of firearms to re-  
 8 cover Federal damages, a State or unit of local govern-  
 9 ment may not recover those Federal damages under this  
 10 section in any action filed on or after the date on which  
 11 the Attorney General files that action.

12 (c) ACTIONS BROUGHT BY A STATE OR UNIT OF  
 13 LOCAL GOVERNMENT.—

14 (1) NOTICE OF CIVIL ACTION.—A State or unit  
 15 of local government seeking to recover Federal dam-  
 16 ages under this section shall serve a copy of the  
 17 complaint on Attorney General in accordance with  
 18 rule 4 of the Federal Rules of Civil Procedure.

19 (2) ENTRY OF APPEARANCE.—If the Attorney  
 20 General is served under paragraph (1), the Attorney  
 21 General may proceed with the action by entering an  
 22 appearance before the expiration of the 30-day pe-  
 23 riod beginning on the date on which the Attorney  
 24 General is served under paragraph (1).

1           (3) EFFECT OF FAILURE TO ENTER APPEAR-  
 2           ANCE OR PROCEED WITH THE ACTION.—If a State  
 3           or unit of local government serves the Attorney Gen-  
 4           eral under paragraph (1), the State or unit of local  
 5           government may recover Federal damages under this  
 6           section only if the Attorney General—

7                   (A) fails to enter an appearance in the ac-  
 8                   tion in accordance with paragraph (2) or gives  
 9                   written notice to the court of an intent not to  
 10                  enter the action; or

11                  (B) does not proceed with the action before  
 12                  the expiration of the 6-month period (or such  
 13                  additional period as the court may allow after  
 14                  notice) beginning on the date on which the At-  
 15                  torney General enters an appearance under  
 16                  paragraph (2).

17           (4) LIMITATION.—If the Attorney General en-  
 18           ters an appearance under paragraph (2) and pro-  
 19           ceeds with the action before the expiration of the 6-  
 20           month period described in paragraph (3)(B), the  
 21           State or unit of local government may not recover  
 22           Federal damages under this section.

23           (d) PREVENTION OF DUAL RECOVERY OF FEDERAL  
 24           DAMAGES.—If there is a conflict between a State and 1  
 25           or more units of local government within the State over

1 which jurisdiction may recover Federal damages under  
 2 this section on behalf of a certain area in the State, only  
 3 the first jurisdiction to file an action described in sub-  
 4 section (a) may recover those Federal damages.

5 (e) FEDERAL RIGHT TO DAMAGES IN OTHER AC-  
 6 TIONS.—The recovery of Federal damages by a State or  
 7 unit of local government under this section may not be  
 8 construed to waive any right of the Federal Government  
 9 to recover other Federal damages in an action by the At-  
 10 torney General.

11 (f) DISMISSAL OR COMPROMISE.—

12 (1) IN GENERAL.—In an action for Federal  
 13 damages brought by a State or unit of local govern-  
 14 ment under this section—

15 (A) the action may not be dismissed or  
 16 compromised without the approval of the court;  
 17 and

18 (B) notice of the proposed dismissal or  
 19 compromise shall be given to the Attorney Gen-  
 20 eral in such manner as the court directs.

21 (2) COURT APPROVAL.—In approving the dis-  
 22 missal or compromise of an action described in para-  
 23 graph (1), the court shall—

24 (A) state whether the dismissal or com-  
 25 promise is with or without prejudice to the

1 right of the Federal Government to bring an ac-  
 2 tion for the Federal damages at issue; and

3 (B) determine the percentage of any  
 4 amount recovered by the State or unit of local  
 5 government that represents Federal damages.

6 (g) DISTRIBUTION AND USE OF FEDERAL DAMAGES  
 7 RECOVERED.—Of the total amount of Federal damages  
 8 recovered by a State or local government under this sec-  
 9 tion (including any amount recovered pursuant to a dis-  
 10 missal or compromise under subsection (f))—

11 (1)  $\frac{1}{3}$  shall be paid to the Federal Government,  
 12 to be used for crime prevention, mentoring pro-  
 13 grams, and firearm injury prevention research and  
 14 activities; and

15 (2)  $\frac{2}{3}$  shall be retained by the State or unit of  
 16 local government, of which—

17 (A)  $\frac{1}{3}$  shall be used for—

18 (i) law enforcement activities;

19 (ii) families of law enforcement offi-  
 20 cers injured or killed in the line of duty as  
 21 a result of gun violence; and

22 (iii) a compensation fund for the vic-  
 23 tims of gun violence; and

24 (B)  $\frac{1}{3}$  shall be used for education (reduce  
 25 class size, school modernization, after school,



1 summer school, and tutoring), child care, or  
 2 children's health care; and

3 (C)  $\frac{1}{3}$  may be used by the State or unit  
 4 of local government in the discretion of the  
 5 State or unit of local government.

6 (h) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Subject to paragraph (2),  
 8 this section only applies to an action described in  
 9 subsection (a) that is filed on or after the date of  
 10 enactment of this Act.

11 (2) AMENDMENT OF COMPLAINT IN PENDING  
 12 ACTIONS.—This section applies to an action de-  
 13 scribed in subsection (a) that is filed before the date  
 14 of enactment of this Act, if—

15 (A) as of such date of enactment, there  
 16 has been no dismissal, compromise, or other  
 17 final disposition of the action; and

18 (B) after such date of enactment, the  
 19 State or unit of local government amends the  
 20 complaint to include relief for Federal damages  
 21 pursuant to this section.

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