

106TH CONGRESS  
1ST SESSION

# S. 686

To regulate interstate commerce by providing a Federal cause of action against firearms manufacturers, dealers, and importers for the harm resulting from gun violence.

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## IN THE SENATE OF THE UNITED STATES

MARCH 23, 1999

Mrs. BOXER (for herself, Mr. CHAFEE, Mr. LAUTENBERG, Mr. REED, Mr. SCHUMER, and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To regulate interstate commerce by providing a Federal cause of action against firearms manufacturers, dealers, and importers for the harm resulting from gun violence.

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 “Firearms Rights, Re-  
5 sponsibilities, and Remedies Act of 1999”.

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

7 (a) FINDINGS.—Congress finds that—

8 (1) the manufacture, distribution, and importa-  
9 tion of firearms is inherently commercial in nature;

1           (2) firearms regularly move in interstate com-  
2 merce;

3           (3) firearms trafficking is so prevalent and  
4 widespread in and among the States that it is usu-  
5 ally impossible to distinguish between intrastate  
6 trafficking and interstate trafficking;

7           (4) to the extent firearms trafficking is intra-  
8 state in nature, it arises out of and is substantially  
9 connected with a commercial transaction, which,  
10 when viewed in the aggregate, substantially affects  
11 interstate commerce;

12           (5) gun violence results in great costs to soci-  
13 ety, including the costs of law enforcement, medical  
14 care, lost productivity, and loss of life;

15           (6) to the extent possible, the costs of gun vio-  
16 lence should be borne by those liable for them, in-  
17 cluding manufacturers, dealers, and importers;

18           (7) in any action to recover the costs associated  
19 with gun violence to a particular entity or to a given  
20 community, it is usually impossible to trace the por-  
21 tion of costs attributable to intrastate versus inter-  
22 state commerce;

23           (8) the law governing the liability of manufac-  
24 turers, dealers, and importers for gun violence is  
25 evolving inconsistently within and among the States,

1       resulting in a contradictory and uncertain regime  
2       that is inequitable and that unduly burdens inter-  
3       state commerce;

4           (9) the inability to obtain adequate compensa-  
5       tion for the costs of gun violence results in a serious  
6       commercial distortion to a single national market  
7       and a stable national economy, thereby creating a  
8       barrier to interstate commerce;

9           (10) it is an essential and appropriate role of  
10      the Federal Government, under the Constitution of  
11      the United States, to remove burdens and barriers  
12      to interstate commerce;

13          (11) because the intrastate and interstate traf-  
14      ficking of firearms are so commingled, full regula-  
15      tion of interstate commerce requires the incidental  
16      regulation of intrastate commerce; and

17          (12) it is in the national interest and within the  
18      role of the Federal Government to ensure that man-  
19      ufacturers, dealers, and importers can be held liable  
20      under Federal law for gun violence.

21      (b) PURPOSE.—Based on the power of Congress in  
22      clause 3 of section 8 of article I of the Constitution of  
23      the United States, the purpose of this Act is to regulate  
24      interstate commerce by—

1 (1) regulating the commercial activity of fire-  
2 arms trafficking;

3 (2) protecting States, units of local government,  
4 organizations, businesses, and other persons from  
5 the adverse effects of interstate commerce in fire-  
6 arms;

7 (3) establishing a uniform legal principle that  
8 manufacturers, dealers, and importers can be held  
9 liable for gun violence; and

10 (4) creating greater fairness, rationality, and  
11 predictability in the civil justice system.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) GUN VIOLENCE.—The term “gun violence”  
15 means any—

16 (A) actual or threatened unlawful use of a  
17 firearm; and

18 (B) unintentional discharge of a firearm.

19 (2) INCORPORATED DEFINITIONS.—The terms  
20 “firearm”, “importer”, “manufacturer”, and “deal-  
21 er” have the meanings given those terms in section  
22 921 of title 18, United States Code.

23 (3) STATE.—The term “State” means each of  
24 the several States of the United States, the District  
25 of Columbia, the Commonwealth of Puerto Rico, the

1 Virgin Islands, Guam, American Samoa, and the  
 2 Commonwealth of the Northern Mariana Islands.

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

7 **SEC. 4. FEDERAL CAUSE OF ACTION.**

8 (a) IN GENERAL.—Notwithstanding any other provi-  
 9 sion of Federal, State, or local law, a State, unit of local  
 10 government, organization, business, or other person that  
 11 has been injured by or incurred costs as a result of gun  
 12 violence may bring a civil action in a Federal or State  
 13 court of original jurisdiction against a manufacturer, deal-  
 14 er, or importer who knew or reasonably should have known  
 15 that its design, manufacturing, marketing, importation,  
 16 sales, or distribution practices would likely result in gun  
 17 violence.

18 (b) REMEDIES.—In an action under subsection (a),  
 19 the court may award appropriate relief, including—

20 (1) actual damages;

21 (2) punitive damages;

22 (3) reasonable attorneys’ fees and other litiga-  
 23 tion costs reasonably incurred, including the costs of  
 24 expert witnesses; and

- 1 (4) such other relief as the court determines to
- 2 be appropriate.

