

106TH CONGRESS
2D SESSION

S. 783

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 2000

Referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform, 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

AN ACT

To limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

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 “James Guelff Body
5 Armor Act of 2000”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) nationally, police officers and ordinary citi-
4 zens are facing increased danger as criminals use
5 more deadly weaponry, body armor, and other so-
6 phisticated assault gear;

7 (2) crime at the local level is exacerbated by the
8 interstate movement of body armor and other as-
9 sault gear;

10 (3) there is a traffic in body armor moving in
11 or otherwise affecting interstate commerce, and ex-
12 isting Federal controls over such traffic do not ade-
13 quately enable the States to control this traffic with-
14 in their own borders through the exercise of their
15 police power;

16 (4) recent incidents, such as the murder of San
17 Francisco Police Officer James Guelff by an assail-
18 ant wearing 2 layers of body armor and a 1997
19 bank shoot out in north Hollywood, California, be-
20 tween police and 2 heavily armed suspects outfitted
21 in body armor, demonstrate the serious threat to
22 community safety posed by criminals who wear body
23 armor during the commission of a violent crime;

24 (5) of the approximately 1,200 officers killed in
25 the line of duty since 1980, more than 30 percent
26 could have been saved by body armor, and the risk

1 of dying from gunfire is 14 times higher for an offi-
2 cer without a bulletproof vest;

3 (6) the Department of Justice has estimated
4 that 25 percent of State and local police are not
5 issued body armor;

6 (7) the Federal Government is well-equipped to
7 grant local police departments access to body armor
8 that is no longer needed by Federal agencies; and

9 (8) Congress has the power, under the inter-
10 state commerce clause and other provisions of the
11 Constitution of the United States, to enact legisla-
12 tion to regulate interstate commerce that affects the
13 integrity and safety of our communities.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) **BODY ARMOR.**—The term “body armor”
17 means any product sold or offered for sale, in inter-
18 state or foreign commerce, as personal protective
19 body covering intended to protect against gunfire,
20 regardless of whether the product is to be worn
21 alone or is sold as a complement to another product
22 or garment.

23 (2) **LAW ENFORCEMENT AGENCY.**—The term
24 “law enforcement agency” means an agency of the
25 United States, a State, or a political subdivision of

1 a State, authorized by law or by a government agen-
 2 cy to engage in or supervise the prevention, detec-
 3 tion, investigation, or prosecution of any violation of
 4 criminal law.

5 (3) LAW ENFORCEMENT OFFICER.—The term
 6 “law enforcement officer” means any officer, agent,
 7 or employee of the United States, a State, or a polit-
 8 ical subdivision of a State, authorized by law or by
 9 a government agency to engage in or supervise the
 10 prevention, detection, investigation, or prosecution of
 11 any violation of criminal law.

12 **SEC. 4. AMENDMENT OF SENTENCING GUIDELINES WITH**
 13 **RESPECT TO BODY ARMOR.**

14 (a) SENTENCING ENHANCEMENT.—The United
 15 States Sentencing Commission shall amend the Federal
 16 sentencing guidelines to provide an appropriate sentencing
 17 enhancement, increasing the offense level not less than 2
 18 levels, for any offense in which the defendant used body
 19 armor.

20 (b) APPLICABILITY.—No amendment made to the
 21 Federal Sentencing Guidelines pursuant to this section
 22 shall apply if the Federal offense in which the body armor
 23 is used constitutes a violation of, attempted violation of,
 24 or conspiracy to violate the civil rights of any person by

1 a law enforcement officer acting under color of the author-
 2 ity of such law enforcement officer.

3 **SEC. 5. PROHIBITION OF PURCHASE, USE, OR POSSESSION**
 4 **OF BODY ARMOR BY VIOLENT FELONS.**

5 (a) DEFINITION OF BODY ARMOR.—Section 921(a)
 6 of title 18, United States Code, is amended by adding at
 7 the end the following:

8 “(35) The term ‘body armor’ means any product
 9 sold or offered for sale, in interstate or foreign com-
 10 merce, as personal protective body covering intended
 11 to protect against gunfire, regardless of whether the
 12 product is to be worn alone or is sold as a com-
 13 plement to another product or garment.”.

14 (b) PROHIBITION.—

15 (1) IN GENERAL.—Chapter 44 of title 18,
 16 United States Code, is amended by adding at the
 17 end the following:

18 **“§ 931. Prohibition on purchase, ownership, or pos-**
 19 **session of body armor by violent felons**

20 “(a) IN GENERAL.—Except as provided in subsection
 21 (b), it shall be unlawful for a person to purchase, own,
 22 or possess body armor, if that person has been convicted
 23 of a felony that is—

24 “(1) a crime of violence (as defined in section
 25 16); or

1 “(2) an offense under State law that would con-
 2 stitute a crime of violence under paragraph (1) if it
 3 occurred within the special maritime and territorial
 4 jurisdiction of the United States.

5 “(b) AFFIRMATIVE DEFENSE.—

6 “(1) IN GENERAL.—It shall be an affirmative
 7 defense under this section that—

8 “(A) the defendant obtained prior written
 9 certification from his or her employer that the
 10 defendant’s purchase, use, or possession of body
 11 armor was necessary for the safe performance
 12 of lawful business activity; and

13 “(B) the use and possession by the defend-
 14 ant were limited to the course of such perform-
 15 ance.

16 “(2) EMPLOYER.—In this subsection, the term
 17 ‘employer’ means any other individual employed by
 18 the defendant’s business that supervises defendant’s
 19 activity. If that defendant has no supervisor, prior
 20 written certification is acceptable from any other
 21 employee of the business.”.

22 (2) CLERICAL AMENDMENT.—The analysis for
 23 chapter 44 of title 18, United States Code, is
 24 amended by adding at the end the following:

“931. Prohibition on purchase, ownership, or possession of body armor by vio-
 lent felons.”.

1 (c) PENALTIES.—Section 924(a) of title 18, United
 2 States Code, is amended by adding at the end the fol-
 3 lowing:

4 “(7) Whoever knowingly violates section 931 shall be
 5 fined under this title, imprisoned not more than 3 years,
 6 or both.”.

7 **SEC. 6. DONATION OF FEDERAL SURPLUS BODY ARMOR TO**
 8 **STATE AND LOCAL LAW ENFORCEMENT**
 9 **AGENCIES.**

10 (a) DEFINITIONS.—In this section, the terms “Fed-
 11 eral agency” and “surplus property” have the meanings
 12 given such terms under section 3 of the Federal Property
 13 and Administrative Services Act of 1949 (40 U.S.C. 472).

14 (b) DONATION OF BODY ARMOR.—Notwithstanding
 15 section 203 of the Federal Property and Administrative
 16 Services Act of 1949 (40 U.S.C. 484), the head of a Fed-
 17 eral agency may donate body armor directly to any State
 18 or local law enforcement agency, if such body armor is—

19 (1) in serviceable condition; and

20 (2) surplus property.

21 (c) NOTICE TO ADMINISTRATOR.—The head of a
 22 Federal agency who donates body armor under this section
 23 shall submit to the Administrator of General Services a
 24 written notice identifying the amount of body armor do-

1 nated and each State or local law enforcement agency that
2 received the body armor.

3 (d) DONATION BY CERTAIN OFFICERS.—

4 (1) DEPARTMENT OF JUSTICE.—In the admin-
5 istration of this section with respect to the Depart-
6 ment of Justice, in addition to any other officer of
7 the Department of Justice designated by the Attor-
8 ney General, the following officers may act as the
9 head of a Federal agency:

10 (A) The Administrator of the Drug En-
11 forcement Administration.

12 (B) The Director of the Federal Bureau of
13 Investigation.

14 (C) The Commissioner of the Immigration
15 and Naturalization Service.

16 (D) The Director of the United States
17 Marshals Service.

18 (2) DEPARTMENT OF THE TREASURY.—In the
19 administration of this section with respect to the De-
20 partment of the Treasury, in addition to any other
21 officer of the Department of the Treasury des-
22 igned by the Secretary of the Treasury, the fol-
23 lowing officers may act as the head of a Federal
24 agency:

1 (A) The Director of the Bureau of Alcohol,
2 Tobacco, and Firearms.

3 (B) The Commissioner of Customs.

4 (C) The Director of the United States Se-
5 cret Service.

6 (e) NO LIABILITY.—Notwithstanding any other pro-
7 vision of law, the United States shall not be liable for any
8 harm occurring in connection with the use or misuse of
9 any body armor donated under this section.

Passed the Senate October 25 (legislative day, Sep-
tember 22), 2000.

Attest:

GARY SISCO,
Secretary.