

107TH CONGRESS  
1ST SESSION

# H. R. 2778

To protect ability of law enforcement to effectively investigate and prosecute  
illegal gun sales and protect the privacy of the American people.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2001

Mrs. MCCARTHY of New York (for herself, Ms. SCHAKOWSKY, Mr. PASCRELL, Mr. WEINER, Mr. CAPUANO, Mrs. MALONEY of New York, Mr. CROWLEY, Mr. MCGOVERN, Ms. SOLIS, Mr. NADLER, Ms. NORTON, Mr. MORAN of Virginia, Mrs. TAUSCHER, and Mrs. LOWEY) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To protect ability of law enforcement to effectively investigate  
and prosecute illegal gun sales and protect the privacy  
of the American people.

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 Sale Anti-Fraud  
5       and Privacy Protection Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

1           (1) illegal gun sales and illegal gun purchases  
2           contribute substantially to crime in the United  
3           States;

4           (2) many persons who sell and buy guns cross  
5           State lines to do so and transport guns across State  
6           lines for the purpose of reselling guns and for use  
7           in criminal activity;

8           (3) those intent on selling and purchasing guns  
9           illegally are adept at making sales and purchases ap-  
10          pear to be legal and maintenance of records of sales  
11          facilitates law enforcement's ability to investigate il-  
12          legal sales;

13          (4) these illegal sales and the uses to which the  
14          illegally sold guns are put have an effect on inter-  
15          state commerce;

16          (5) law enforcement's access to records col-  
17          lected over a reasonable length of time is essential  
18          to law enforcement's ability to investigate and limit  
19          illegal gun sales;

20          (6) the National Instant Criminal Background  
21          Check System (NICS) is the primary law enforce-  
22          ment tool for preventing illegal gun sales and pur-  
23          chases by federally licensed firearms dealers to fel-  
24          ons, fugitives, the mentally ill, and other prohibited  
25          purchasers;

1           (7) NICS was designed to include an audit log  
2           which acts not as a gun registry, but as a device es-  
3           sential to effectively investigating and identifying in-  
4           stances in which NICS is being defrauded or abused;

5           (8) these instances of fraud and abuse that the  
6           NICS audit log protects against include the use of  
7           false or stolen identification purchase guns, straw  
8           purchases, and circumstances where dealers are vio-  
9           lating individuals' privacy rights by running back-  
10          ground checks on people other than actual gun  
11          transferees;

12          (9) without the ability to employ the audit log  
13          in legitimate law enforcement investigations, there is  
14          no way to adequately ensure the integrity of NICS,  
15          including guaranteeing that Federal firearm licens-  
16          ees or other unauthorized users are not accessing a  
17          system that contains a substantial amount of crimi-  
18          nal history, mental health, and other personal infor-  
19          mation that should not be accessed except in connec-  
20          tion with appropriate background checks; and

21          (10) Congress has the power pursuant to the  
22          Interstate Commerce Clause, and other provisions of  
23          the Constitution to ensure, by enactment of this Act,  
24          that gun dealers and buyers do not fraudulently sell  
25          and purchase firearms and to guarantee that indi-

viduals' privacy rights are not violated by misuse of  
NICS.

**SEC. 3. GUN SALE ANTI-FRAUD AND PRIVACY PROTECTION.**

(a) PREVENTION OF FRAUD AND ABUSE.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting “, not less than 90 days after the date on which the licensee first contacts the system with respect to the transfer” before the period.

(b) INTERAGENCY COOPERATION.—Section 922(t)(2) of such title is amended by adding after and below the end the following:

“The Attorney General shall make available to the Secretary of the Treasury the records maintained in accordance with subparagraph (C), to enable the Secretary to conduct audits to detect fraud and misuse of the system and to protect the privacy and security of the information in the system. The Secretary of the Treasury shall maintain and destroy the records in accordance with all laws applicable to the records.”.

**SEC. 4. EFFECTIVE DATE.**

The amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

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