

107TH CONGRESS
1ST SESSION

S. 330

To expand the powers of the Secretary of the Treasury to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Secretary to include firearm products and nonpowder firearms.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2001

Mr. TORRICELLI introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To expand the powers of the Secretary of the Treasury to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Secretary to include firearm products and nonpowder firearms.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Firearms Safety and Consumer Protection Act of 2001”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—REGULATION OF FIREARM PRODUCTS

Sec. 101. Regulatory authority.
Sec. 102. Orders; inspections.

TITLE II—PROHIBITIONS

Sec. 201. Prohibitions.
Sec. 202. Inapplicability to governmental authorities.

TITLE III—ENFORCEMENT

SUBTITLE A—CIVIL ENFORCEMENT

Sec. 301. Civil penalties.
Sec. 302. Injunctive enforcement and seizure.
Sec. 303. Imminently hazardous firearms.
Sec. 304. Private cause of action.
Sec. 305. Private enforcement of this Act.
Sec. 306. Effect on private remedies.

SUBTITLE B—CRIMINAL ENFORCEMENT

Sec. 351. Criminal penalties.

TITLE IV—ADMINISTRATIVE PROVISIONS

Sec. 401. Firearm injury information and research.
Sec. 402. Annual report to Congress.

TITLE V—RELATIONSHIP TO OTHER LAW

Sec. 501. Subordination to the Arms Export Control Act.
Sec. 502. Effect on State law.

1 SEC. 2. PURPOSES.

2 The purposes of this Act are—

- 3 (1) to protect the public against unreasonable
- 4 risk of injury and death associated with firearms
- 5 and related products;
- 6 (2) to develop safety standards for firearms and
- 7 related products;
- 8 (3) to assist consumers in evaluating the com-
- 9 parative safety of firearms and related products;

4 (5) to restrict the availability of weapons that
5 pose an unreasonable risk of death or injury.

6 SEC. 3. DEFINITIONS.

7 (a) SPECIFIC TERMS.—In this Act:

10 (A) any person engaged in the business (as
11 defined in section 921(a)(21)(C) of title 18,
12 United States Code) of dealing in firearms at
13 wholesale or retail;

14 (B) any person engaged in the business (as
15 defined in section 921(a)(21)(D) of title 18,
16 United States Code) of repairing firearms or of
17 making or fitting special barrels, stocks, or trig-
18 ger mechanisms to firearms; and

19 (C) any person who is a pawnbroker.

22 (A) any part or component of a firearm as
23 originally manufactured;

24 (B) any good manufactured or sold—

5 (C) any good that is not a part or compo-
6 nent of a firearm and is manufactured, sold, de-
7 livered, offered, or intended for use exclusively
8 to safeguard individuals from injury by a fire-
9 arm.

19 (6) NONPOWDER FIREARM.—The term “non-
20 powder firearm” means a device specifically designed
21 to discharge BBs, pellets, darts, or similar projec-
22 tiles by the release of stored energy.

1 (b) OTHER TERMS.—Each term used in this Act that
2 is not defined in subsection (a) shall have the meaning
3 (if any) given that term in section 921(a) of title 18,
4 United States Code.

5 **TITLE I—REGULATION OF**
6 **FIREARM PRODUCTS**

7 **SEC. 101. REGULATORY AUTHORITY.**

8 (a) IN GENERAL.—The Secretary shall prescribe
9 such regulations governing the design, manufacture, and
10 performance of, and commerce in, firearm products, con-
11 sistent with this Act, as are reasonably necessary to reduce
12 or prevent unreasonable risk of injury resulting from the
13 use of those products.

14 (b) MAXIMUM INTERVAL BETWEEN ISSUANCE OF
15 PROPOSED AND FINAL REGULATION.—Not later than 120
16 days after the date on which the Secretary issues a pro-
17 posed regulation under subsection (a) with respect to a
18 matter, the Secretary shall issue a regulation in final form
19 with respect to the matter.

20 (c) PETITIONS.—

21 (1) IN GENERAL.—Any person may petition the
22 Secretary to—

23 (A) issue, amend, or repeal a regulation
24 prescribed under subsection (a) of this section;
25 or

(B) require the recall, repair, or replacement of a firearm product, or the issuance of refunds with respect to a firearm product.

10 (B) provide the petitioner with the reasons
11 for granting or denying the petition.

12 SEC. 102. ORDERS; INSPECTIONS.

13 (a) AUTHORITY TO PROHIBIT MANUFACTURE, SALE,
14 OR TRANSFER OF FIREARM PRODUCTS MADE, IMPORTED,
15 TRANSFERRED, OR DISTRIBUTED IN VIOLATION OF REG-
16 ULATION.—The Secretary may issue an order prohibiting
17 the manufacture, sale, or transfer of a firearm product
18 which the Secretary finds has been manufactured, or has
19 been or is intended to be imported, transferred, or distrib-
20 uted in violation of a regulation prescribed under this Act.

21 (b) AUTHORITY TO REQUIRE THE RECALL, REPAIR,
22 OR REPLACEMENT OF, OR THE PROVISION OF REFUNDS
23 WITH RESPECT TO FIREARM PRODUCTS.—The Secretary
24 may issue an order requiring the manufacturer of, and
25 any dealer in, a firearm product which the Secretary de-

1 termines poses an unreasonable risk of injury to the pub-
2 lic, is not in compliance with a regulation prescribed under
3 this Act, or is defective, to—

4 (1) provide notice of the risks associated with
5 the product, and of how to avoid or reduce the risks,
6 to—

7 (A) the public;
8 (B) in the case of the manufacturer of the
9 product, each dealer in the product; and

10 (C) in the case of a dealer in the product,
11 the manufacturer of the product and the other
12 persons known to the dealer as dealers in the
13 product;

14 (2) bring the product into conformity with the
15 regulations prescribed under this Act;

16 (3) repair the product;

17 (4) replace the product with a like or equivalent
18 product which is in compliance with those regula-
19 tions;

20 (5) refund the purchase price of the product,
21 or, if the product is more than 1 year old, a lesser
22 amount based on the value of the product after rea-
23 sonable use;

24 (6) recall the product from the stream of com-
25 merce; or

4 (c) AUTHORITY TO PROHIBIT MANUFACTURE, IM-
5 PORTATION, TRANSFER, DISTRIBUTION, OR EXPORT OF
6 UNREASONABLY RISKY FIREARM PRODUCTS.—The Sec-
7 retary may issue an order prohibiting the manufacture,
8 importation, transfer, distribution, or export of a firearm
9 product if the Secretary determines that the exercise of
10 other authority under this Act would not be sufficient to
11 prevent the product from posing an unreasonable risk of
12 injury to the public.

13 (d) INSPECTIONS.—When the Secretary has reason
14 to believe that a violation of this Act or of a regulation
15 or order issued under this Act is being or has been com-
16 mitted, the Secretary may, at reasonable times—

21 (2) enter and inspect any conveyance being
22 used to transport a firearm product.

1 **TITLE II—PROHIBITIONS**

2 **SEC. 201. PROHIBITIONS.**

3 (a) FAILURE OF MANUFACTURER TO TEST AND
4 CERTIFY FIREARM PRODUCTS.—It shall be unlawful for
5 the manufacturer of a firearm product to transfer, dis-
6 tribute, or export a firearm product unless—

7 (1) the manufacturer has tested the product in
8 order to ascertain whether the product is in con-
9 formity with the regulations prescribed under section
10 101;

11 (2) the product is in conformity with those reg-
12 ulations; and

13 (3) the manufacturer has included in the pack-
14 aging of the product, and furnished to each person
15 to whom the product is distributed, a certificate
16 stating that the product is in conformity with those
17 regulations.

18 (b) FAILURE OF MANUFACTURER TO PROVIDE No-
19 TICE OF NEW TYPES OF FIREARM PRODUCTS.—It shall
20 be unlawful for the manufacturer of a new type of firearm
21 product to manufacture the product, unless the manufac-
22 turer has provided the Secretary with—

23 (1) notice of the intent of the manufacturer to
24 manufacture the product; and

25 (2) a description of the product.

1 (c) FAILURE OF MANUFACTURER OR DEALER TO
2 LABEL FIREARM PRODUCTS.—It shall be unlawful for a
3 manufacturer of or dealer in firearms to transfer, dis-
4 tribute, or export a firearm product unless the product
5 is accompanied by a label that—

6 (1) contains—

7 (A) the name and address of the manufac-
8 turer of the product;

9 (B) the name and address of any importer
10 of the product;

11 (C) the model number of the product and
12 the date the product was manufactured;

13 (D) a specification of the regulations pre-
14 scribed under this Act that apply to the prod-
15 uct; and

16 (E) the certificate required by subsection
17 (a)(3) with respect to the product; and

18 (2) is located prominently in conspicuous and
19 legible type in contrast by typography, layout, or
20 color with other printed matter on the label.

21 (d) FAILURE TO MAINTAIN OR PERMIT INSPECTION
22 OF RECORDS.—It shall be unlawful for an importer of,
23 manufacturer of, or dealer in a firearm product to fail
24 to—

1 (1) maintain such records, and supply such in-
2 formation, as the Secretary may require in order to
3 ascertain compliance with this Act and the regula-
4 tions and orders issued under this Act; and

7 (e) IMPORTATION AND EXPORTATION OF
8 UNCERTIFIED FIREARM PRODUCTS.—It shall be unlawful
9 for any person to import into the United States or export
10 a firearm product that is not accompanied by the certifi-
11 cate required by subsection (a)(3).

12 (f) COMMERCE IN FIREARM PRODUCTS IN VIOLA-
13 TION OF ORDER ISSUED OR REGULATION PRESCRIBED
14 UNDER THIS ACT.—It shall be unlawful for any person
15 to manufacture, offer for sale, distribute in commerce, im-
16 port into the United States, or export a firearm product—
17 (1) that is not in conformity with the regula-
18 tions prescribed under this Act; or
19 (2) in violation of an order issued under this
20 Act.

21 (g) STOCKPILING.—It shall be unlawful for any per-
22 son to manufacture, purchase, or import a firearm prod-
23 uct, after the date a regulation is prescribed under this
24 Act with respect to the product and before the date the
25 regulation takes effect, at a rate that is significantly great-

1 er than the rate at which the person manufactured, pur-
2 chased, or imported the product during a base period (pre-
3 scribed by the Secretary in regulations) ending before the
4 date the regulation is so prescribed.

5 **SEC. 202. INAPPLICABILITY TO GOVERNMENTAL AUTHORI-
6 TIES.**

7 Section 201 does not apply to any department or
8 agency of the United States, of a State, or of a political
9 subdivision of a State, or to any official conduct of any
10 officer or employee of such a department or agency.

11 **TITLE III—ENFORCEMENT**
12 **Subtitle A—Civil Enforcement**

13 **SEC. 301. CIVIL PENALTIES.**

14 (a) **AUTHORITY TO IMPOSE FINES.—**

15 (1) **IN GENERAL.**—The Secretary shall impose
16 upon any person who violates section 201 a civil fine
17 in an amount that does not exceed the applicable
18 amount described in subsection (b).

19 (2) **SCOPE OF OFFENSE.**—Each violation of sec-
20 tion 201 (other than of subsection (a)(3) or (d) of
21 that section) shall constitute a separate offense with
22 respect to each firearm product involved.

23 (b) **APPLICABLE AMOUNT.—**

24 (1) **FIRST 5-YEAR PERIOD.**—The applicable
25 amount for the 5-year period immediately following

1 the date of enactment of this Act is \$5,000, or
2 \$10,000 if the violation is willful.

3 (2) THEREAFTER.—The applicable amount dur-
4 ing any time after the 5-year period described in
5 paragraph (1) is \$10,000, or \$20,000 if the violation
6 is willful.

7 **SEC. 302. INJUNCTIVE ENFORCEMENT AND SEIZURE.**

8 (a) INJUNCTIVE ENFORCEMENT.—Upon request of
9 the Secretary, the Attorney General of the United States
10 may bring an action to restrain any violation of section
11 201 in the United States district court for any district
12 in which the violation has occurred, or in which the de-
13 fendant is found or transacts business.

14 (b) CONDEMNATION.—

15 (1) IN GENERAL.—Upon request of the Sec-
16 retary, the Attorney General of the United States
17 may bring an action in rem for condemnation of a
18 qualified firearm product in the United States dis-
19 trict court for any district in which the Secretary
20 has found and seized for confiscation the product.

21 (2) QUALIFIED FIREARM PRODUCT DEFINED.—
22 In paragraph (1), the term “qualified firearm prod-
23 uct” means a firearm product—

24 (A) that is being transported or having
25 been transported remains unsold, is sold or of-

2 and

3 (B)(i) that is not in compliance with a reg-

4 ulation prescribed or an order issued under this

5 Act; on

6 (ii) with respect to which relief has been

7 granted under section 303.

8 SEC. 303. IMMINENTLY HAZARDOUS FIREARMS.

9 (a) In GENERAL.—Notwithstanding the pendency of

10 any other proceeding in a court of the United States, the

11 Secretary may bring an action in a United States district

12 court to restrain any person who is a manufacturer of,

13 or dealer in, an imminently hazardous firearm product

14 from manufacturing, distributing, transferring, importing,

15 or exporting the product.

16 (b) IMMINENTLY HAZARDOUS FIREARM PRODUCT.—

17 In subsection (a), the term “imminently hazardous fire-

18 "arm product" means any firearm product with respect to

19 which the Secretary determines that—

20 (1) the product poses an unreasonable risk of

22 (2) time is of the essence in protecting the pub-

23 lic from the risks posed by the product.

24 (c) RELIEF.—In an action brought under subsection

25 (a), the court may grant such temporary or permanent

1 relief as may be necessary to protect the public from the
2 risks posed by the firearm product, including—

3 (1) seizure of the product; and

4 (2) an order requiring—

5 (A) the purchasers of the product to be no-
6 tified of the risks posed by the product;

7 (B) the public to be notified of the risks
8 posed by the product; or

9 (C) the defendant to recall, repair, or re-
10 place the product, or refund the purchase price
11 of the product (or, if the product is more than
12 1 year old, a lesser amount based on the value
13 of the product after reasonable use).

14 (d) VENUE.—An action under subsection (a)(2) may
15 be brought in the United States district court for the Dis-
16 trict of Columbia or for any district in which any defend-
17 ant is found or transacts business.

18 **SEC. 304. PRIVATE CAUSE OF ACTION.**

19 (a) IN GENERAL.—Any person aggrieved by any vio-
20 lation of this Act or of any regulation prescribed or order
21 issued under this Act by another person may bring an ac-
22 tion against such other person in any United States dis-
23 trict court for damages, including consequential damages.

24 In any action under this section, the court, in its discre-

1 tion, may award to a prevailing plaintiff a reasonable at-
2 torney's fee as part of the costs.

3 (b) RULE OF INTERPRETATION.—The remedy pro-
4 vided for in subsection (a) shall be in addition to any other
5 remedy provided by common law or under Federal or State
6 law.

7 **SEC. 305. PRIVATE ENFORCEMENT OF THIS ACT.**

8 Any interested person may bring an action in any
9 United States district court to enforce this Act, or restrain
10 any violation of this Act or of any regulation prescribed
11 or order issued under this Act. In any action under this
12 section, the court, in its discretion, may award to a pre-
13 vailing plaintiff a reasonable attorney's fee as part of the
14 costs.

15 **SEC. 306. EFFECT ON PRIVATE REMEDIES.**

16 (a) IRRELEVANCY OF COMPLIANCE WITH THIS
17 ACT.—Compliance with this Act or any order issued or
18 regulation prescribed under this Act shall not relieve any
19 person from liability to any person under common law or
20 State statutory law.

21 (b) IRRELEVANCY OF FAILURE TO TAKE ACTION
22 UNDER THIS ACT.—The failure of the Secretary to take
23 any action authorized under this Act shall not be admis-
24 sible in litigation relating to the product under common
25 law or State statutory law.

1 Subtitle B—Criminal Enforcement

2 SEC. 351. CRIMINAL PENALTIES.

3 Any person who has received from the Secretary a
4 notice that the person has violated a provision of this Act
5 or of a regulation prescribed under this Act with respect
6 to a firearm product and knowingly violates that provision
7 with respect to the product shall be fined under title 18,
8 United States Code, imprisoned not more than 2 years,
9 or both.

10 **TITLE IV—ADMINISTRATIVE**

11 **PROVISIONS**

12 SEC. 401. FIREARM INJURY INFORMATION AND RESEARCH.

13 (a) IN GENERAL.—The Secretary shall—

14 (1) collect, investigate, analyze, and share with
15 other appropriate government agencies cir-
16 cumstances of death and injury associated with fire-
17 arms; and

18 (2) conduct continuing studies and investiga-
19 tions of economic costs and losses resulting from
20 firearm-related deaths and injuries.

21 (b) OTHER DATA.—The Secretary shall—

22 (1) collect and maintain current production and
23 sales figures for each licensed manufacturer, broken
24 down by the model, caliber, and type of firearms

1 produced and sold by the licensee, including a list of
2 the serial numbers of such firearms;

3 (2) conduct research on, studies of, and investi-
4 igation into the safety of firearm products and im-
5 proving the safety of firearm products; and

6 (3) develop firearm safety testing methods and
7 testing devices.

8 (c) AVAILABILITY OF INFORMATION.—On a regular
9 basis, but not less frequently than annually, the Secretary
10 shall make available to the public the results of the activi-
11 ties of the Secretary under subsections (a) and (b).

12 **SEC. 402. ANNUAL REPORT TO CONGRESS.**

13 (a) IN GENERAL.—The Secretary shall prepare and
14 submit to the President and Congress at the beginning
15 of each regular session of Congress, a comprehensive re-
16 port on the administration of this Act for the most re-
17 cently completed fiscal year.

18 (b) CONTENTS.—Each report submitted under sub-
19 section (a) shall include—

20 (1) a thorough description, developed in coordi-
21 nation with the Secretary of Health and Human
22 Services, of the incidence of injury and death and ef-
23 fects on the population resulting from firearm prod-
24 ucts, including statistical analyses and projections,
25 and a breakdown, as practicable, among the various

1 types of such products associated with the injuries
2 and deaths;

3 (2) a list of firearm safety regulations pre-
4 scribed that year;

5 (3) an evaluation of the degree of compliance
6 with firearm safety regulations, including a list of
7 enforcement actions, court decisions, and settlements
8 of alleged violations, by name and location of the vi-
9 olator or alleged violator, as the case may be;

10 (4) a summary of the outstanding problems
11 hindering enforcement of this Act, in the order of
12 priority; and

13 (5) a log and summary of meetings between the
14 Secretary or employees of the Secretary and rep-
15 resentatives of industry, interested groups, or other
16 interested parties.

TITLE V—RELATIONSHIP TO OTHER LAW

SEC. 501. SUBORDINATION TO ARMS EXPORT CONTROL ACT.

21 In the event of any conflict between any provision of
22 this Act and any provision of the Arms Export Control
23 Act, the provision of the Arms Export Control Act shall
24 control.

1 **SEC. 502. EFFECT ON STATE LAW.**

2 (a) IN GENERAL.—This Act shall not be construed
3 to preempt any provision of the law of any State or polit-
4 ical subdivision thereof, or prevent a State or political sub-
5 division thereof from enacting any provision of law regu-
6 lating or prohibiting conduct with respect to a firearm
7 product, except to the extent that such provision of law
8 is inconsistent with any provision of this Act, and then
9 only to the extent of the inconsistency.

10 (b) RULE OF CONSTRUCTION.—A provision of State
11 law is not inconsistent with this Act if the provision im-
12 poses a regulation or prohibition of greater scope or a pen-
13 alty of greater severity than any prohibition or penalty im-
14 posed by this Act.

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