

107TH CONGRESS
1ST SESSION

S. 906

To provide for protection of gun owner privacy and ownership rights, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2001

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

A BILL

To provide for protection of gun owner privacy and ownership rights, and for other purposes.

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 “Instant Check Gun
5 Tax Repeal and Gun Owner Privacy Act of 2001”.

6 SEC. 2. PROHIBITION ON GUN TAX.

7 (a) IN GENERAL.—Chapter 33 of title 28, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 **“§ 540C. Ban against fee for background check in**
2 **connection with firearm transfer**

3 “No officer, employee, or agent of the United States,
4 including a State or local officer or employee acting on
5 behalf of the United States, may charge or collect any fee
6 in connection with any background check required in con-
7 nection with the transfer of a firearm (as defined in sec-
8 tion 921(a)(3) of title 18).”.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
10 The section analysis for chapter 33 of title 28, United
11 States Code, is amended by inserting after the item relat-
12 ing to section 540B the following:

“540C. Ban against fee for background check in connection with firearm trans-
fer.”.

13 **SEC. 3. PROTECTION OF GUN OWNER PRIVACY AND OWN-
14 ERSHIP RIGHTS.**

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

18 **“§ 932. Gun owner privacy and ownership rights**

19 “(a) IN GENERAL.—Notwithstanding any other pro-
20 vision of law, a department, agency, or instrumentality of
21 the United States or officer, employee, or agent of the
22 United States, including a State or local officer or em-
23 ployee acting on behalf of the United States may not—

1 “(1) except as provided in subsection (b), per-
2 form any national instant criminal background check
3 on any person through the system established pursu-
4 ant to section 103 of the Brady Handgun Violence
5 Prevention Act (18 U.S.C. 922 note) (referred to in
6 this section as the ‘system’) if that system does not
7 require and result in the immediate destruction of
8 all information, in any form whatsoever or through
9 any medium, about such person who is determined,
10 through the use of the system, not to be prohibited
11 by subsection (g) or (h) of section 922 of title 18,
12 United States Code, or by State law, from receiving
13 a firearm; or

14 “(2) continue to operate the system (including
15 requiring a background check before the transfer of
16 a firearm) unless—

17 “(A) the ‘NICS Index’ complies with the
18 requirements of section 552a(e)(5) of title 5,
19 United States Code; and

20 “(B) the agency responsible for the system
21 and the system’s compliance with Federal law
22 does not invoke the exceptions under sub-
23 sections (j)(2), (k)(2), and (k)(3) of section
24 552a of title 5, United States Code, except if
25 specifically identifiable information is compiled

1 for a particular law enforcement investigation
2 or specific criminal enforcement matter.

3 “(b) EXCEPTION.—Subsection (a)(1) shall not apply
4 to the retention or transfer of information relating to—

5 “(1) any unique identification number provided
6 by the national instant criminal background check
7 system pursuant to section 922(t)(1)(B)(i) of title
8 18, United States Code; or

9 “(2) the date on which that number is pro-
10 vided.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
12 The section analysis for chapter 44 of title 18, United
13 States Code, is further amended by adding at the end the
14 following:

“932. Gun owner privacy and ownership rights.”.

15 **SEC. 4. CIVIL REMEDIES.**

16 Any person aggrieved by a violation of section 540(b)
17 of title 28, or 932 of title 18, United States Code, as
18 added by this section, may bring an action in the district
19 court of the United States for the district in which the
20 person resides. Any person who is successful with respect
21 to any such action shall receive actual damages, punitive
22 damages, and such other remedies as the court may deter-
23 mine to be appropriate, including a reasonable attorney’s
24 fee.

1 SEC. 5. EFFECTIVE DATE.

2 The amendments made by this Act shall take effect
3 on the date of enactment of this Act, except that the
4 amendments made by section 2 shall take effect as of Oc-
5 tober 1, 2001.

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