

110TH CONGRESS
1ST SESSION

H. R. 4818

To combat illegal gun trafficking, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 2007

Mr. KING of New York (for himself and Mr. RANGEL) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To combat illegal gun trafficking, 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 “Detectives Nemorin
5 and Andrews Anti-Gun Trafficking Act of 2008”.

6 **SEC. 2. ILLEGAL GUN TRAFFICKING.**

7 Section 924 of title 18, United States Code, is
8 amended by adding at the end the following:

9 “(q) Whoever, in or affecting interstate or foreign
10 commerce in violation of subsection (a)(1)(A), (a)(3),
11 (a)(6), (b)(2), (b)(3), (b)(5), (d), (g), (i), (j), (k), (m), or
12 (n) of section 922 or subsection (c) or (h) of this section—

1 “(1) offers for sale, transfer, or barter 2 or
2 more firearms, at least 2 of which are handguns,
3 semiautomatic assault weapons, short-barreled shot-
4 guns, short-barreled rifles, or machineguns; and

5 “(2) at least 1 of the firearms—

6 “(A) is transported, received, or possessed
7 by the person, and—

8 “(i) is stolen; or

9 “(ii) has had the importer’s or manu-
10 facturer’s serial number removed, obliterated,
11 ated, or altered; or

12 “(B) is offered by the person for sale,
13 transfer, or barter to another person who—

14 “(i) is prohibited from possessing a
15 firearm under subsection (g) or (n) of sec-
16 tion 922;

17 “(ii) is prohibited by State law from
18 possessing a firearm;

19 “(iii) has not attained 18 years of
20 age, except as otherwise allowed under
21 Federal or State law;

22 “(iv) is in a school zone; or

23 “(v) has travelled from any State into
24 any other State, and acquires or attempts

1 to acquire the firearm otherwise in viola-
2 tion of Federal or State law,
3 shall be fined under this title, imprisoned not more than
4 20 years, or both.”.

5 **SEC. 3. EXPANSION OF PROJECT SAFE NEIGHBORHOODS.**

6 Section 104 of the 21st Century Department of Jus-
7 tice Appropriations Authorization Act (Public Law 107-
8 273) is amended—

9 (1) in subsection (a), by inserting “, illegal gun
10 trafficking,” after “violence” ; and

11 (2) in subsection (b), by striking “2002” and
12 inserting “2008”.

13 **SEC. 4. REPORT TO THE CONGRESS.**

14 Beginning in calendar year 2008, the Attorney Gen-
15 eral shall submit biennially to the Congress a written re-
16 port, covering the preceding 2 years, which specifies—

17 (1) the State of origin for each firearm, used in
18 a crime, that was traced by the Bureau of Alcohol,
19 Tobacco, Firearms, and Explosives, and the State in
20 which the firearm was recovered;

21 (2) the total number of firearms so traced, by
22 manufacturer, model, and type of firearm;

23 (3) the name of Federal firearms licensees who
24 have had more than 5 firearms, used in a crime,
25 traced back to them in a single year; and

1 (4) the number of prosecutions for each indi-
2 vidual offense under sections 922, 923, and 924 of
3 title 18, United States Code.

4 **SEC. 5. ADDITIONAL PENALTY FOR POSSESSION OF A STO-**
5 **LEN FIREARM DURING THE COMMISSION OF**
6 **A FELONY.**

7 Section 924 of title 18, United States Code, as
8 amended by section 2 of this Act, is amended by adding
9 at the end the following:

10 “(r) Whoever, during and in relation to the commis-
11 sion of a crime punishable by imprisonment for a term
12 exceeding 1 year, receives, possesses, conceals, barter-
13 sells, or disposes of any stolen firearm or stolen ammuni-
14 tion, in or affecting interstate or foreign commerce, wheth-
15 er or not the person is aware that the firearm or ammuni-
16 tion is stolen, shall, in addition to the punishment pro-
17 vided for the crime so punishable, be sentenced to a term
18 of imprisonment of not more than 5 years.”.

19 **SEC. 6. NATIONAL CRIME INFORMATION CENTER STOLEN**
20 **GUN FILE.**

21 (a) AVAILABILITY.—The Federal Bureau of Inves-
22 tigation shall make available to the Bureau of Alcohol, To-
23 bacco, Firearms, and Explosives the National Crime Infor-
24 mation Center Gun File for the purpose of enabling the

1 Bureau of Alcohol, Tobacco, Firearms, and Explosives to
2 access the file while completing a crime gun trace.

3 (b) USE.—The Bureau of Alcohol, Tobacco, Fire-
4 arms, and Explosives shall conduct a search of the Na-
5 tional Crime Information Center Stolen Gun File with re-
6 spect to each firearm submitted to the Bureau of Alcohol,
7 Tobacco, Firearms, and Explosives for tracing.

8 (c) NOTIFICATION REGARDING STOLEN FIRE-
9 ARMS.—If a law enforcement agency requests the Bureau
10 of Alcohol, Tobacco, Firearms, and Explosives to trace a
11 firearm, and the National Crime Information Center Sto-
12 len Gun File indicates that the firearm is stolen, then the
13 Bureau of Alcohol, Tobacco, Firearms, and Explosives
14 shall notify the law enforcement agency of that informa-
15 tion and provide the law enforcement agency with any
16 available information regarding the owner of the firearm.

17 (d) RETURN OF STOLEN FIREARMS POSSESSED BY
18 BATFE.—If the Bureau of Alcohol, Tobacco, Firearms,
19 and Explosives possesses a firearm which the National
20 Crime Information Center Stolen Gun File indicates is
21 stolen, the Bureau shall return the firearm to the person
22 who reported the firearm stolen, when the Bureau deter-
23 mines that—

1 (1) the firearm is no longer needed for Federal,
2 State, or local criminal investigation or evidentiary
3 purposes; and

4 (2) the person is entitled to possess the firearm.

5 (e) NATIONAL INSTANT STOLEN GUN CHECK SYS-
6 TEM.—

7 (1) ESTABLISHMENT.—Within 2 years after the
8 date of the enactment of this Act, the Attorney Gen-
9 eral shall establish a national instant stolen gun
10 check system that any licensee may contact, by tele-
11 phone or other electronic means, for information to
12 be supplied immediately on whether a firearm to be
13 received by the licensee is stolen.

14 (2) INSTANT CHECK OF STATUS OF FIREARMS
15 TO BE TRANSFERRED TO CERTAIN FEDERAL FIRE-
16 ARMS LICENSEES BY NON-LICENSEES.—If the na-
17 tional instant stolen gun check system is contacted
18 by a licensee for information on whether a firearm
19 to be received by the licensee is stolen, the system
20 shall, as soon as is practicable—

21 (A) conduct a search of the National
22 Crime Information Center Stolen Gun File for
23 information about the firearm; and

1 (B) inform the licensee whether the infor-
2 mation available to the system indicates that
3 the firearm is stolen.

4 (3) NOTIFICATION OF LICENSEES.—On estab-
5 lishment of the national instant stolen gun check
6 system under this subsection, the Attorney General
7 shall notify each licensee and the chief law
8 enforcement officer of each State of the existence and
9 purpose of the system and the means to be used to
10 contact the system.

11 (4) PERMANENT RETENTION OF RECORDS.—
12 The national instant stolen gun check system shall
13 create and maintain permanently a record of each
14 contact of the system, and all information provided
15 to or by the system during the contact.

16 (5) DEFINITIONS.—In this section:

17 (A) LICENSEE.—The term “licensee”
18 means a licensed dealer (as defined in section
19 921(a)(11) of title 18, United States Code), li-
20 censed importer (as defined in section 921(a)(9)
21 of such title), or licensed manufacturer (as de-
22 fined in section 921(a)(10) of such title).

23 (B) FIREARM.—The term “firearm” has
24 the meaning given in section 921(a)(3) of title
25 18, United States Code.

1 (f) FEDERAL FIREARMS LICENSEE REQUIRED TO
2 CONTACT NATIONAL INSTANT STOLEN GUN CHECK SYS-
3 TEM BEFORE RECEIVING FIREARM FROM NON-LI-
4 CENSEE.—

5 (1) IN GENERAL.—Section 922(s) of title 18,
6 United States Code, is amended to read as follows:

7 “(s)(1) Beginning on the date that is 30 days after
8 the Attorney General notifies licensees under section
9 6(e)(3) of the Detectives Nemorin and Andrews Anti-Gun
10 Trafficking Act of 2008 that the national instant stolen
11 gun check system is established, a licensed importer, li-
12 censed manufacturer, or licensed dealer shall not receive
13 a firearm from any person who is not licensed under this
14 chapter, unless—

15 “(A) the licensee has verified the identity of the
16 person by examining a valid identification document
17 (as defined in section 1028(d) of this title) of the
18 person that satisfies the requirements of section 202
19 of the REAL ID Act of 2005;

20 “(B) the licensee has contacted the national in-
21 stant stolen gun check system established under sub-
22 section (e) of such section 6, and provided the sys-
23 tem with—

24 “(i) the name and address of the person;

1 “(ii) a description of the identification doc-
2 ument referred to in subparagraph (A) of this
3 paragraph, including the number appearing on
4 the document; and

5 “(iii) the name of the manufacturer, and
6 the caliber and serial number, of the firearm;
7 and

8 “(C)(i) the system has provided the licensee
9 with a unique identification number; or

10 “(ii) 3 business days (meaning a day on which
11 State offices are open) have elapsed since the li-
12 censee contacted the system, and the system has not
13 notified the licensee that the firearm is stolen.

14 “(2) If the system determines that the information
15 available to the system does not indicate that the firearm
16 is stolen, the system shall—

17 “(A) assign a unique identification number to
18 the transaction; and

19 “(B) provide the licensee with the number.

20 “(3) If the system notifies the licensee that the infor-
21 mation available to the system indicates that the firearm
22 is stolen, the licensee shall contact the Bureau of Alcohol,
23 Tobacco, Firearms, and Explosives or another law enforce-
24 ment agency having jurisdiction over possession of stolen
25 firearms in the dealer’s location and shall comply with the

1 instructions of any such agency concerning the disposition
2 of the firearm, the gathering of information relating to
3 the offeror of the firearm, and other assistance in the re-
4 moval of the firearm from the stream of commerce.

5 “(4) If the licensee knowingly receives the firearm
6 from the person and knowingly fails to comply with para-
7 graph (1) with respect to the receipt and, at the time of
8 the receipt, the system was operating and information was
9 available to the system indicating that the firearm was sto-
10 len, the Attorney General may, after notice and oppor-
11 tunity for a hearing, suspend for not more than 6 months
12 or revoke any license issued to the licensee under section
13 923, and may impose on the licensee a civil fine of not
14 more than \$5,000.

15 “(5)(A) This subsection shall not be interpreted to
16 limit any exercise of authority under subsection (d)(1)(C)
17 or (e) of section 923.

18 “(B) In the event of a conflict between the provisions
19 of this subsection and a rule or regulation issued under
20 section 923(j), the provisions of this subsection shall con-
21 trol.”.

22 (2) RECORDKEEPING REQUIREMENT.—Section
23 923(g)(1)(A) of such title is amended by inserting
24 after the 1st sentence the following: “In the case of
25 the receipt of a firearm pursuant to section 922(s),

1 in addition to the requirements of such regulations,
2 the importer, manufacturer, or dealer shall retain a
3 record of the information described in section
4 922(s)(1)(B), a copy of the identification document
5 referred to in section 922(s)(1)(A), and a record of
6 the unique identification number provided to the li-
7 censee pursuant to section 922(s)(1)(C), with re-
8 spect to the transaction.”.

9 **SEC. 7. ADDITIONAL PENALTY FOR POSSESSION OF A FIRE-**
10 **ARM WITH AN OBLITERATED SERIAL NUM-**
11 **BER DURING THE COMMISSION OF A FELONY.**

12 Section 924 of title 18, United States Code, as
13 amended by sections 2 and 5 of this Act, is amended by
14 adding at the end the following:

15 “(s) Whoever, during and in relation to the commis-
16 sion of a crime punishable by imprisonment for a term
17 exceeding 1 year, transports, possesses, or receives, in or
18 affecting interstate or foreign commerce, a firearm which
19 has had the importer’s or manufacturer’s serial number
20 removed, obliterated, or altered, regardless of whether or
21 not the person is aware of the removal, obliteration, or
22 alteration, shall, in addition to the punishment provided
23 for the crime so punishable, be sentenced to a term of
24 imprisonment of not more than 5 years.”.

1 **SEC. 8. ENHANCED PENALTIES FOR THE USE OF A STOLEN**
2 **FIREARM OR A FIREARM WITH AN OBLITER-**
3 **ATED SERIAL NUMBER DURING THE COMMIS-**
4 **SION OF A CRIME OF VIOLENCE OR DRUG**
5 **TRAFFICKING CRIME.**

6 Section 924(c)(1)(A) of title 18, United States Code,
7 is amended—

8 (1) in clause (i), by inserting “, or if the fire-
9 arm was stolen or had the manufacturer’s serial
10 number removed, obliterated, or altered, not less
11 than 7 years” after “years”;

12 (2) in clause (ii), by inserting “, or if the fire-
13 arm was stolen or had the manufacturer’s serial
14 number removed, obliterated, or altered, not less
15 than 9 years” after “years”; and

16 (3) in clause (iii), by inserting “, or if the fire-
17 arm was stolen or had the manufacturer’s serial
18 number removed, obliterated, or altered, not less
19 than 12 years” after “years”.

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