

Calendar No. 40

113TH CONGRESS
1ST SESSION**S. 730**

To prevent criminals from obtaining firearms through straw purchasing and trafficking.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 2013

Mr. CRUZ (for himself and Mr. HELLER) introduced the following bill; which was read the first time

APRIL 16, 2013

Read the second time and placed on the calendar

A BILL

To prevent criminals from obtaining firearms through straw purchasing and trafficking.

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 “Firearm Straw Pur-
5 chasing and Trafficking Prevention Act”.

1 **SEC. 2. STRAW PURCHASING OF FIREARMS.**

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

5 **“§ 932. Straw purchasing of firearms**

6 “(a) DEFINITIONS.—For purposes of this section—

7 “(1) the term ‘crime of violence’ has the mean-
8 ing given that term in section 924(c)(3);

9 “(2) the term ‘drug trafficking crime’ has the
10 meaning given that term in section 924(c)(2); and

11 “(3) the term ‘Federal crime of terrorism’ has
12 the meaning given that term in section 2332b(g).

13 “(b) OFFENSE.—It shall be unlawful for any person
14 to—

15 “(1) purchase or otherwise obtain a firearm,
16 which has been shipped, transported, or received in
17 interstate or foreign commerce, for or on behalf of
18 any other person who the person purchasing or oth-
19 erwise obtaining the firearm knows—

20 “(A) is prohibited from possessing or re-
21 ceiving a firearm under subsection (g) or (n) of
22 section 922;

23 “(B) intends to use, carry, possess, or sell
24 or otherwise dispose of the firearm in further-
25 ance of a crime of violence, a drug trafficking
26 crime, or a Federal crime of terrorism;

1 “(C) intends to engage in conduct that
2 would constitute a crime of violence, a drug
3 trafficking crime, or a Federal crime of ter-
4 rorism if the conduct had occurred within the
5 United States; or

6 “(D) is not a resident of any State and is
7 not a citizen or lawful permanent resident of
8 the United States; or

9 “(2) willfully procure another to engage in con-
10 duct described in paragraph (1).

11 “(c) PENALTY.—Any person who violates subsection
12 (b) shall be fined under this title, imprisoned not more
13 than 15 years, or both.

14 **“§ 933. Trafficking in firearms**

15 “(a) DEFINITIONS.—For purposes of this section—

16 “(1) the term ‘crime of violence’ has the mean-
17 ing given that term in section 924(c)(3);

18 “(2) the term ‘drug trafficking crime’ has the
19 meaning given that term in section 924(c)(2); and

20 “(3) the term ‘Federal crime of terrorism’ has
21 the meaning given that term in section 2332b(g).

22 “(b) OFFENSE.—It shall be unlawful for any person
23 to—

24 “(1) ship, transport, transfer, or otherwise dis-
25 pose of 2 or more firearms to another person in or

1 otherwise affecting interstate or foreign commerce, if
2 the person shipping, transporting, transferring, or
3 otherwise disposing of the firearms knows that the
4 use, carrying, or possession of a firearm by the
5 transferee would violate subsection (g) or (n) of sec-
6 tion 922, or constitute a crime of violence, a drug
7 trafficking crime, or a Federal crime of terrorism;

8 “(2) receive from another person 2 or more
9 firearms in or otherwise affecting interstate or for-
10 eign commerce, if the recipient—

11 “(A) knows that such receipt would violate
12 subsection (g) or (n) of section 922; or

13 “(B) intends to use the firearm in further-
14 ance of a crime of violence, a drug trafficking
15 crime, or a Federal crime of terrorism; or

16 “(3) attempt or conspire to commit the conduct
17 described in paragraph (1) or (2).

18 “(c) PENALTIES.—

19 “(1) IN GENERAL.—Any person who violates
20 subsection (b) shall be fined under this title, impris-
21 oned not more than 15 years, or both.

22 “(2) ORGANIZER.—If a violation of subsection
23 (b) is committed by a person acting in concert with
24 other persons as an organizer, leader, supervisor, or

1 manager, the person shall be fined under this title,
2 imprisoned not more than 20 years, or both.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—

4 The table of sections for chapter 44 of title 18, United
5 States Code, is amended by inserting after the item relat-
6 ing to section 931 the following:

“932. Straw purchasing of firearms.

“933. Trafficking in firearms.”.

7 (c) DIRECTIVE TO THE SENTENCING COMMISSION.—

8 Pursuant to its authority under section 994 of title 28,
9 United States Code, and in accordance with this section,
10 the United States Sentencing Commission shall review and
11 amend its guidelines and policy statements to ensure that
12 persons convicted of an offense under section 932 or 933
13 of title 18, United States Code, and other offenses applica-
14 ble to the straw purchases and firearms trafficking of fire-
15 arms are subject to increased penalties in comparison to
16 those currently provided by the guidelines and policy state-
17 ments for such straw purchasing and firearms trafficking
18 offenses. In its review, the Commission shall consider, in
19 particular, an appropriate amendment to reflect the intent
20 of Congress that straw purchasers without significant
21 criminal histories receive sentences that are sufficient to
22 deter participation in such activities. The Commission
23 shall also review and amend its guidelines and policy state-
24 ments to reflect the intent of Congress that a person con-

1 victed of an offense under section 932 or 933 of title 18,
2 United States Code, who is affiliated with a gang, cartel,
3 organized crime ring, or other such enterprise should be
4 subject to higher penalties than an otherwise unaffiliated
5 individual.

6 **SEC. 3. INCREASED PENALTIES FOR LYING AND BUYING.**

7 Section 924(a)(1) of title 18, United States Code, is
8 amended in the undesignated matter following subpara-
9 graph (D) by striking “five years” and inserting the fol-
10 lowing: “5 years (or, in the case of a violation under sub-
11 paragraph (A), not more than 10 years)”.

12 **SEC. 4. AMENDMENTS TO SECTION 924(h).**

13 Section 924 of title 18, United States Code, is
14 amended by striking subsection (h) and inserting the fol-
15 lowing:

16 “(h) Whoever knowingly receives or transfers a fire-
17 arm or ammunition, or attempts or conspires to do so,
18 knowing that such firearm or ammunition will be used to
19 commit a crime of violence (as defined in subsection
20 (c)(3)), a drug trafficking crime (as defined in subsection
21 (c)(2)), a Federal crime of terrorism (as defined in section
22 2332b(g)), or a crime under the Arms Export Control Act
23 (22 U.S.C. 2751 et seq.), the International Emergency
24 Economic Powers Act (50 U.S.C. 1701 et seq.), or the
25 Foreign Narcotics Kingpin Designation Act (21 U.S.C.

1 1901 et seq.), shall be imprisoned not more than 15 years,
2 fined in accordance with this title, or both.”.

3 **SEC. 5. AMENDMENTS TO SECTION 924(a).**

4 Section 924(a) of title 18, United States Code, is
5 amended—

6 (1) in paragraph (2), by striking “(d), (g),”;

7 and

8 (2) by adding at the end the following:

9 “(8) Whoever knowingly violates subsection (d), (g),
10 or (n) of section 922 shall be fined under this title, impris-
11 oned not more than 15 years, or both.”.

12 **SEC. 6. AMENDMENTS TO SECTION 924(k).**

13 Section 924 of title 18, United States Code, is
14 amended by striking subsection (k) and inserting the fol-
15 lowing:

16 “(k)(1) A person who, with intent to engage in or
17 promote conduct that—

18 “(A) is punishable under the Controlled Sub-
19 stances Act (21 U.S.C. 801 et seq.), the Controlled
20 Substances Import and Export Act (21 U.S.C. 951
21 et seq.), or chapter 705 of title 46;

22 “(B) violates any law of a State relating to any
23 controlled substance (as defined in section 102 of
24 the Controlled Substances Act, 21 U.S.C. 802);

1 “(C) constitutes a crime of violence (as defined
2 in subsection (c)(3)); or

3 “(D) constitutes a Federal crime of terrorism
4 (as defined in section 2332b(g)),

5 smuggles or knowingly brings into the United States, a
6 firearm or ammunition, or attempts or conspires to do so,
7 shall be imprisoned not more than 15 years, fined under
8 this title, or both.

9 “(2) A person who, with intent to engage in or to
10 promote conduct that—

11 “(A) would be punishable under the Controlled
12 Substances Act (21 U.S.C. 801 et seq.), the Con-
13 trolled Substances Import and Export Act (21
14 U.S.C. 951 et seq.), or chapter 705 of title 46, if the
15 conduct had occurred within the United States; or

16 “(B) would constitute a crime of violence (as
17 defined in subsection (c)(3)) or a Federal crime of
18 terrorism (as defined in section 2332b(g)) for which
19 the person may be prosecuted in a court of the
20 United States, if the conduct had occurred within
21 the United States,

22 smuggles or knowingly takes out of the United States, a
23 firearm or ammunition, or attempts or conspires to do so,
24 shall be imprisoned not more than 15 years, fined under
25 this title, or both.”.

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