

115TH CONGRESS
1ST SESSION

S. 1185

To increase public safety by punishing and deterring firearms trafficking.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2017

Mr. LEAHY (for himself, Ms. COLLINS, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To increase public safety by punishing and deterring firearms 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 “Stop Illegal Trafficking
5 in Firearms Act of 2017”.

6 **SEC. 2. ANTI-STRAW PURCHASING AND FIREARMS TRAF-**
7 **FICKING AMENDMENTS.**

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

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

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

3 “(1) the term ‘crime of violence’—

4 “(A) has the meaning given that term in
5 section 924(c)(3); and

6 “(B) includes a felony offense under the
7 laws of a State that meets the criteria described
8 in subparagraph (A) or (B) of such section
9 924(c)(3);

10 “(2) the term ‘drug trafficking crime’—

11 “(A) has the meaning given that term in
12 section 924(c)(2); and

13 “(B) includes a felony punishable under
14 the law of a State for which the conduct consti-
15 tuting the offense would constitute a felony
16 punishable under the Controlled Substances Act
17 (21 U.S.C. 801 et seq.), the Controlled Sub-
18 stances Import and Export Act (21 U.S.C. 951
19 et seq.), or chapter 705 of title 46;

20 “(3) the term ‘Federal crime of terrorism’ has
21 the meaning given that term in section 2332b(g)(5);
22 and

23 “(4) the term ‘purchase’ includes the receipt of
24 any firearm by a person who does not own the fire-
25 arm—

1 “(A) by way of pledge or pawn as security
2 for the payment or repayment of money; or

3 “(B) on consignment.

4 “(b) VIOLATION.—It shall be unlawful for any person
5 (other than a licensed importer, licensed manufacturer, li-
6 censed collector, or licensed dealer) to knowingly purchase,
7 or attempt or conspire to purchase, any firearm in or oth-
8 erwise affecting interstate or foreign commerce—

9 “(1) from a licensed importer, licensed manu-
10 facturer, licensed collector, or licensed dealer for, on
11 behalf of, or at the request or demand of any other
12 person, known or unknown; or

13 “(2) from any person who is not a licensed im-
14 porter, licensed manufacturer, licensed collector, or
15 licensed dealer for, on behalf of, or at the request or
16 demand of any other person, known or unknown,
17 knowing or having reasonable cause to believe that
18 such other person—

19 “(A) is under indictment for, or has been
20 convicted in any court of, a crime punishable by
21 imprisonment for a term exceeding 1 year;

22 “(B) is a fugitive from justice;

23 “(C) is an unlawful user of or addicted to
24 any controlled substance (as defined in section

1 102 of the Controlled Substances Act (21
2 U.S.C. 802));

3 “(D) has been adjudicated as a mental de-
4 fective or has been committed to any mental in-
5 stitution;

6 “(E) is an alien who—

7 “(i) is illegally or unlawfully in the
8 United States; or

9 “(ii) except as provided in section
10 922(y)(2), has been admitted to the United
11 States under a nonimmigrant visa (as that
12 term is defined in section 101(a)(26) of
13 the Immigration and Nationality Act (8
14 U.S.C. 1101(a)(26)));

15 “(F) has been discharged from the Armed
16 Forces under dishonorable conditions;

17 “(G) having been a citizen of the United
18 States, has renounced his or her citizenship;

19 “(H) is subject to a court order that re-
20 strains such person from harassing, stalking, or
21 threatening an intimate partner of such person
22 or child of such intimate partner or person, or
23 engaging in other conduct that would place an
24 intimate partner in reasonable fear of bodily in-
25 jury to the partner or child, except that this

1 subparagraph shall only apply to a court order
2 that—

3 “(i) was issued after a hearing of
4 which such person received actual notice,
5 and at which such person had the oppor-
6 tunity to participate; and

7 “(ii)(I) includes a finding that such
8 person represents a credible threat to the
9 physical safety of such intimate partner or
10 child; or

11 “(II) by its terms explicitly prohibits
12 the use, attempted use, or threatened use
13 of physical force against such intimate
14 partner or child that would reasonably be
15 expected to cause bodily injury;

16 “(I) has been convicted in any court of a
17 misdemeanor crime of domestic violence;

18 “(J)(i) does not reside in any State; and

19 “(ii) is not a citizen or lawful permanent
20 resident of the United States;

21 “(K) intends to sell or otherwise dispose of
22 the firearm to a person described in any of sub-
23 paragraphs (A) through (J); or

24 “(L) intends to—

1 “(i) use, carry, possess, or sell or oth-
2 erwise dispose of the firearm in further-
3 ance of a Federal crime of terrorism, a
4 crime of violence, or a drug trafficking
5 crime; or

6 “(ii) export the firearm in violation of
7 law.

8 “(c) PENALTY.—

9 “(1) IN GENERAL.—Except as provided in para-
10 graph (2), any person who violates subsection (b)
11 shall be fined under this title, imprisoned for not
12 more than 15 years, or both.

13 “(2) USE IN CRIMES OF VIOLENCE.—If a viola-
14 tion of subsection (b) is committed knowing or with
15 reasonable cause to believe that any firearm involved
16 will be used to commit a crime of violence, the per-
17 son shall be sentenced to a term of imprisonment of
18 not more than 25 years.

19 “(d) EXCEPTIONS.—Subsection (b)(1) shall not apply
20 to any firearm that is lawfully purchased by a person—

21 “(1) to be given as a bona fide gift to a recipi-
22 ent who provided no service or tangible thing of
23 value to acquire the firearm;

24 “(2) to be given to a bona fide winner of an or-
25 ganized raffle, contest, or auction conducted in ac-

1 cordance with law and sponsored by a national,
2 State, or local organization or association;

3 “(3) to be given as a bona fide gratuity to a
4 hunting guide;

5 “(4) to be given as a bona fide bonus to an em-
6 ployee as the result of lawful services performed in
7 the course of an employment relationship; or

8 “(5) to be given as a bona fide commemorative
9 award or honorarium,

10 unless the purchaser knows or has reasonable cause to be-
11 lieve the recipient of the firearm is prohibited by Federal
12 law from possessing, receiving, selling, shipping, trans-
13 porting, transferring, or otherwise disposing of the fire-
14 arm.

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

16 “(a) IN GENERAL.—It shall be unlawful for any per-
17 son to—

18 “(1) ship, transport, transfer, cause to be
19 transported, or otherwise dispose of any firearm to
20 another person in or otherwise affecting interstate or
21 foreign commerce, if such person knows or has rea-
22 sonable cause to believe that the use, carrying, or
23 possession of a firearm by the recipient would be in
24 violation of any Federal or State law punishable by
25 a term of imprisonment exceeding 1 year;

1 “(2) receive from another person any firearm in
 2 or otherwise affecting interstate or foreign com-
 3 merce, if the recipient knows or has reasonable
 4 cause to believe that such receipt would be in viola-
 5 tion of any Federal or State law punishable by a
 6 term of imprisonment exceeding 1 year; or

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

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

12 **“§ 934. Forfeiture and fines**

13 “(a) FORFEITURE.—

14 “(1) IN GENERAL.—Any person convicted of a
 15 violation of section 932 or 933 shall forfeit to the
 16 United States, irrespective of any provision of State
 17 law—

18 “(A) any property constituting, or derived
 19 from, any proceeds the person obtained, directly
 20 or indirectly, as the result of such violation; and

21 “(B) any of the person’s property used, or
 22 intended to be used, in any manner or part, to
 23 commit, or to facilitate the commission of, such
 24 violation, except that for any forfeiture of any

1 firearm or ammunition pursuant to this section,
2 section 924(d) shall apply.

3 “(2) IMPOSITION.—The court, in imposing sen-
4 tence on a person convicted of a violation of section
5 932 or 933, shall order, in addition to any other
6 sentence imposed pursuant to section 932 or 933,
7 that the person forfeit to the United States all prop-
8 erty described in paragraph (1).

9 “(b) FINES.—A defendant who derives profits or
10 other proceeds from an offense under section 932 or 933
11 may be fined not more than the greater of—

12 “(1) the fine otherwise authorized by this part;
13 or

14 “(2) the amount equal to twice the gross profits
15 or other proceeds of the offense under section 932
16 or 933.”.

17 (b) TITLE III AUTHORIZATION.—Section 2516(1)(n)
18 of title 18, United States Code, is amended by striking
19 “sections 922 and 924” and inserting “section 922, 924,
20 932, or 933”.

21 (c) RACKETEERING AMENDMENT.—Section
22 1961(1)(B) of title 18, United States Code, is amended
23 by inserting “section 932 (relating to straw purchasing),
24 section 933 (relating to trafficking in firearms),” before
25 “section 1028”.

1 (d) MONEY LAUNDERING AMENDMENT.—Section
2 1956(c)(7)(D) of title 18, United States Code, is amended
3 by striking “section 924(n)” and inserting “section
4 924(n), 932, or 933”.

5 (e) DIRECTIVE TO SENTENCING COMMISSION.—Pur-
6 suant to its authority under section 994 of title 28, United
7 States Code, and in accordance with this section, the
8 United States Sentencing Commission shall review and
9 amend its guidelines and policy statements to ensure that
10 persons convicted of an offense under section 932 or 933
11 of title 18, United States Code, and other offenses applica-
12 ble to the straw purchases and firearms trafficking of fire-
13 arms are subject to increased penalties in comparison to
14 those currently provided by the guidelines and policy state-
15 ments for such straw purchasing and firearms trafficking
16 offenses. In its review, the Commission shall consider, in
17 particular, an appropriate amendment to reflect the intent
18 of Congress that straw purchasers without significant
19 criminal histories receive sentences that are sufficient to
20 deter participation in such activities. The Commission
21 shall also review and amend its guidelines and policy state-
22 ments to reflect the intent of Congress that a person con-
23 victed of an offense under section 932 or 933 of title 18,
24 United States Code, who is affiliated with a gang, cartel,
25 organized crime ring, or other such enterprise should be

1 subject to higher penalties than an otherwise unaffiliated
2 individual.

3 (f) TECHNICAL AND CONFORMING AMENDMENT.—
4 The table of sections for chapter 44 of title 18, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

“932. Straw purchasing of firearms.

“933. Trafficking in firearms.

“934. Forfeiture and fines.”.

7 **SEC. 3. AMENDMENTS TO SECTION 922(d).**

8 Section 922(d) of title 18, United States Code, is
9 amended—

10 (1) in paragraph (8), by striking “or” at the
11 end;

12 (2) in paragraph (9), by striking the period at
13 the end and inserting a semicolon; and

14 (3) by striking the matter following paragraph
15 (9) and inserting the following:

16 “(10) intends to sell or otherwise dispose of the
17 firearm or ammunition to a person described in any
18 of paragraphs (1) through (9); or

19 “(11) intends—

20 “(A) to sell or otherwise dispose of the
21 firearm or ammunition in furtherance of a Fed-
22 eral crime of terrorism, a crime of violence, or
23 a drug trafficking offense, as such terms are
24 defined in section 932(a); or

1 “(B) to export the firearm or ammunition
2 in violation of law.

3 This subsection shall not apply with respect to the sale
4 or disposition of a firearm or ammunition to a licensed
5 importer, licensed manufacturer, licensed dealer, or li-
6 censed collector who pursuant to subsection (b) of section
7 925 is not precluded from dealing in firearms or ammuni-
8 tion, or to a person who has been granted relief from dis-
9 abilities pursuant to subsection (c) of section 925.”.

10 **SEC. 4. AMENDMENTS TO SECTION 924(a).**

11 Section 924(a) of title 18, United States Code, is
12 amended—

13 (1) in paragraph (2), by striking “(d), (g),”;
14 and

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

16 “(8) Whoever knowingly violates subsection (d) or (g)
17 of section 922 shall be fined under this title, imprisoned
18 for not more than 15 years, or both.”.

19 **SEC. 5. AMENDMENTS TO SECTION 924(d).**

20 Section 924(d) of title 18, United States Code, is
21 amended—

22 (1) in paragraph (1), by inserting “932, or
23 933,” after “section 924,”; and

24 (2) in paragraph (3)—

1 (A) in subparagraph (E), by striking
2 “and” at the end;

3 (B) in subparagraph (F), by striking the
4 period at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(G) any offense under section 932 or 933.”.

7 **SEC. 6. AMENDMENTS TO SECTION 924(h).**

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

11 “(h)(1) Whoever knowingly receives or transfers a
12 firearm or ammunition, or attempts or conspires to do so,
13 knowing or having reasonable cause to believe that such
14 firearm or ammunition will be used to commit a Federal
15 crime of terrorism, a crime of violence, or a drug traf-
16 ficking crime (as such terms are defined in section
17 932(a)), or a crime under the Arms Export Control Act
18 (22 U.S.C. 2751 et seq.), the International Emergency
19 Economic Powers Act (50 U.S.C. 1701 et seq.), or the
20 Foreign Narcotics Kingpin Designation Act (21 U.S.C.
21 1901 et seq.), shall be fined under this title, imprisoned
22 for not more than 15 years, or both.

23 “(2) No term of imprisonment imposed on a person
24 under this subsection shall run concurrently with any term

1 of imprisonment imposed on the person under section
2 932.”.

3 **SEC. 7. AMENDMENTS TO SECTION 924(k).**

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

7 “(k)(1) A person who smuggles or knowingly brings
8 into the United States a firearm or ammunition, or at-
9 tempts or conspires to do so, with intent to engage in or
10 to promote conduct that—

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

14 “(B) constitutes a Federal crime of terrorism,
15 a crime of violence, or a drug trafficking crime (as
16 such terms are defined in section 932(a)),
17 shall be fined under this title, imprisoned for not more
18 than 15 years, or both.

19 “(2) A person who smuggles or knowingly takes out
20 of the United States a firearm or ammunition, or attempts
21 or conspires to do so, with intent to engage in or to pro-
22 mote conduct that—

23 “(A) would be punishable under the Controlled
24 Substances Import and Export Act (21 U.S.C. 951

1 et seq.), or chapter 705 of title 46, if the conduct
2 had occurred within the United States; or

3 “(B) would constitute a Federal crime of ter-
4 rorism or a crime of violence (as such terms are de-
5 fined in section 932(a)) for which the person may be
6 prosecuted in a court of the United States, if the
7 conduct had occurred within the United States,
8 shall be fined under this title, imprisoned for not more
9 than 15 years, or both.”.

10 **SEC. 8. PROHIBITION ON FIREARMS TRANSFERS TO**
11 **AGENTS OF DRUG CARTELS.**

12 The Department of Justice, and any of its law en-
13 forcement coordinate agencies, shall not conduct or other-
14 wise facilitate the transfer of an operable firearm to an
15 individual if any law enforcement officer employed by the
16 Department of Justice involved with the transfer knows
17 or has reasonable cause to believe that the recipient of
18 the firearm is an agent of a drug cartel, unless law en-
19 forcement personnel of the United States continuously
20 monitor or control the firearm at all times.

21 **SEC. 9. RULE OF CONSTRUCTION.**

22 Nothing in this Act, or an amendment made by this
23 Act, shall be construed to allow the establishment of a

- 1 Federal system of registration of firearms, firearms own-
- 2 ership, or firearms transactions or dispositions.

