

115TH CONGRESS
2D SESSION

S. 2546

To provide grants to States to encourage the implementation and maintenance of firearms licensing requirements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 14, 2018

Mr. MARKEY (for himself and Ms. WARREN) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To provide grants to States to encourage the implementation and maintenance of firearms licensing requirements, 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 “Making America Safe
5 and Secure Act of 2018” or the “MASS Act”.

6 **SEC. 2. PURPOSE AND FINDINGS.**

7 (a) PURPOSE.—The purpose of this Act is to provide
8 grants to States to encourage the implementation and
9 maintenance of firearms licensing requirements.

10 (b) FINDINGS.—Congress finds the following:

1 (1) There is an epidemic of gun violence in the
 2 United States. In 2016, more than 38,000 lives were
 3 lost to gun violence in the United States. Gun homi-
 4 cide rates in the United States are 25.2 times higher
 5 than those in other high-income countries.

6 (2) Firearms account for over 50 percent of
 7 suicides and 66 percent of homicides.

8 (3) Since 1994, Massachusetts has lowered its
 9 gun death rate by 40 percent by enacting strong gun
 10 safety measures, including firearms licensing re-
 11 quirements.

12 (4) Researchers at Boston Children’s Hospital
 13 and the Harvard T.H. Chan School of Public Health
 14 found that States with more gun laws have fewer
 15 gun-related deaths. Massachusetts has the lowest
 16 gun death rate in the country.

17 **SEC. 3. FIREARMS LICENSING.**

18 (a) IN GENERAL.—Title I of the Omnibus Crime
 19 Control and Safe Streets Act of 1968 (34 U.S.C. 10101
 20 et seq.) is amended by adding at the end the following:

21 **“PART NN—FIREARMS LICENSING**

22 **“SEC. 3041. DEFINITIONS.**

23 “(a) IN GENERAL.—In this part—

1 “(1) the term ‘prohibited individual’ means an
 2 individual who is categorically ineligible to receive a
 3 firearms license or firearms dealer license;

4 “(2) the term ‘suitable’ means that an indi-
 5 vidual does not create a risk to public safety; and

6 “(3) the term ‘thorough background check’
 7 means conducting a Federal and State background
 8 check, which may include a fingerprint-based back-
 9 ground check.

10 “(b) PROHIBITED INDIVIDUALS.—For purposes of
 11 this part, a State—

12 “(1) shall establish standards for categorizing
 13 an individual as a prohibited individual for purposes
 14 of receiving a—

15 “(A) firearms license; or

16 “(B) firearms dealer license;

17 “(2) in establishing standards with respect to a
 18 firearms license under paragraph (1)(A), shall take
 19 into consideration—

20 “(A) criminal history, including youthful
 21 offender adjudications;

22 “(B) whether an individual has been—

23 “(i) deemed a danger to himself or
 24 herself or other individuals by a court or
 25 authorized administrative body; or

1 “(ii) committed to a hospital or insti-
2 tution as a danger to himself or herself or
3 other individuals;

4 “(C) current or chronic alcohol or sub-
5 stance abuse;

6 “(D) mental capacity that necessitates a
7 guardian or conservator;

8 “(E) age;

9 “(F) legal residency;

10 “(G) military dishonorable discharges;

11 “(H) permanent or temporary protection
12 orders;

13 “(I) outstanding arrest warrants;

14 “(J) status as a fugitive; and

15 “(K) renunciation of United States citizen-
16 ship; and

17 “(3) in establishing standards with respect to a
18 firearms dealer license under paragraph (1)(B), shall
19 take into consideration—

20 “(A) criminal history, including youthful
21 offender adjudications;

22 “(B) age; and

23 “(C) legal residency.

1 **“SEC. 3042. GRANTS AND CONDITIONS.**

2 “(a) GRANTS AUTHORIZED.—The Assistant Attorney
3 General may make grants to States to implement or main-
4 tain firearms licensing requirements.

5 “(b) TERMS AND CONDITIONS.—

6 “(1) DURATION OF GRANTS.—A grant under
7 subsection (a) shall be for a period of 3 fiscal years.

8 “(2) MAXIMUMS.—The Assistant Attorney Gen-
9 eral may not award more than \$20,000,000 in
10 grants (determined based on the amount provided
11 over the period of such grants) under subsection (a)
12 during each fiscal year.

13 “(c) USE OF FUNDS FOR FIREARMS LICENSING.—

14 “(1) ACTIVITIES.—Amounts received under a
15 grant under subsection (a) shall be used for the de-
16 velopment or maintenance of firearms licensing re-
17 quirements, which shall incorporate and implement
18 the elements described in paragraph (2).

19 “(2) ELEMENTS.—The elements described in
20 this paragraph are those requiring that—

21 “(A) all firearms owners have a firearms
22 license—

23 “(i) at the time of the purchase, rent-
24 al, or lease of firearms or ammunitions;
25 and

1 “(ii) during the entire period of fire-
2 arm ownership;

3 “(B) any person who sells ammunition or
4 sells, rents, or leases a minimum number of
5 firearms in a calendar year, as determined by
6 the State, shall obtain a firearms dealer license;

7 “(C) the chief of police or the board or of-
8 ficer having control of the police department of
9 a local government, or a designee, functions as
10 the licensing authority;

11 “(D) for a firearms license, the licensing
12 authority shall—

13 “(i) conduct a thorough background
14 check, which may include—

15 “(I) conducting an interview with
16 the applicant; and

17 “(II) requiring the submission of
18 letters of reference stating that the
19 applicant is of sound mind and char-
20 acter; and

21 “(ii) make a determination of suit-
22 ability;

23 “(E) a first-time firearms license applicant
24 shall complete safety training;

1 “(F) the licensing authority, not later than
2 40 days after the date on which the application
3 is submitted, shall—

4 “(i) deny the application and notify
5 the applicant of the reason for such denial
6 in writing; or

7 “(ii) approve the application and issue
8 the license if the possession of a firearm by
9 the applicant would not be in violation of
10 Federal, State, or local law;

11 “(G) the licensing authority may revoke,
12 suspend, or deny the issuance or renewal of a
13 firearms license if—

14 “(i) in a reasonable exercise of discre-
15 tion, the licensing authority determines
16 that the applicant or licensee is unsuitable
17 to be issued or to continue to hold a li-
18 cense; and

19 “(ii) the determination of suitability
20 described in clause (i) is based on evidence
21 that there exists—

22 “(I) reliable and credible infor-
23 mation that the applicant has exhib-
24 ited or engaged in behavior to suggest

1 that the individual could potentially
2 create a risk to public safety; or

3 “(II) factors that suggest that, if
4 issued a license, the individual could
5 potentially create a risk to public safe-
6 ty;

7 “(H) upon denial of an application or re-
8 newal of a firearms license, or upon revoking or
9 suspending a firearms license, based on a deter-
10 mination of unsuitability described in subpara-
11 graph (G), the applicant or licensee shall be no-
12 tified in writing, setting forth the specific rea-
13 sons for the determination;

14 “(I) any applicant or holder of a firearms
15 license aggrieved by a denial, suspension, or
16 revocation of a license may, within a reasonable
17 time period, file a petition to obtain judicial re-
18 view in the relevant court having jurisdiction in
19 the unit of local government in which—

20 “(i) the applicant filed the application;

21 or

22 “(ii) the license was issued;

23 “(J) in the case of judicial review of a de-
24 nial, revocation, or suspension under subpara-
25 graph (I), the court may order a license to be

1 issued or reinstated to the petitioner if the
2 court finds—

3 “(i) no reasonable ground for denying,
4 revoking, or suspending the license; and

5 “(ii) that the petitioner is not prohib-
6 ited by law from possessing a license;

7 “(K) upon revocation, suspension, or de-
8 nial of a firearms license, the individual whose
9 license was so revoked, suspended, or denied
10 shall surrender all firearms and ammunition in
11 the possession of the individual to the licensing
12 authority, unless an appeal of the revocation or
13 suspension is pending;

14 “(L) for a firearms dealer license, the li-
15 censing authority shall conduct an investigation
16 into the criminal history of the applicant, which
17 may include—

18 “(i) an interview with the applicant;
19 and

20 “(ii) a fingerprint-based background
21 check;

22 “(M) a firearms dealers licensee shall—

23 “(i) maintain a permanent place of
24 business and ensure that the permanent
25 place of business is—

1 “(I) not a residence or dwelling;

2 “(II) the same location identified
3 on the licensee’s license;

4 “(III) the only location wherein
5 all transactions are conducted; and

6 “(IV) the location wherein all
7 records required to be kept shall be so
8 kept;

9 “(ii) submit to 1 mandatory record
10 and inventory inspection by a licensing au-
11 thority per year;

12 “(iii) maintain a sales record book
13 that shall remain open to inspection by the
14 appropriate law enforcement agency at all
15 times, and shall include, with respect to
16 each transfer of a firearm—

17 “(I) a complete description of the
18 firearm, including the make, serial
19 number, and type;

20 “(II) the transferor’s license in-
21 formation;

22 “(III) the transferees’s license in-
23 formation;

24 “(IV) the date of transfer;

1 “(V) the sex, address of resi-
2 dence, and occupation of the trans-
3 feree; and

4 “(VI) the signature of the trans-
5 feree;

6 “(iv) conduct a pre-employment back-
7 ground check on each potential employee
8 to determine the suitability of any poten-
9 tial employee who may have direct and
10 unmonitored contact with firearms; and

11 “(v) comply with all applicable Fed-
12 eral, State, and local laws;

13 “(N) any individual denied a firearms deal-
14 er license may, within a reasonable time period,
15 apply to State officials who may direct a licens-
16 ing authority to grant a license if, after a hear-
17 ing, State officials are satisfied that—

18 “(i) there were no reasonable grounds
19 for the refusal to grant such a license; and

20 “(ii) the applicant was not barred by
21 the provisions of law from holding such a
22 license;

23 “(O)(i) the licensing authority may sus-
24 pend or revoke a firearms dealer license if—

1 “(I) licensing authority officials pro-
2 vide due notice to the licensee and reason-
3 able opportunity for the licensee to be
4 heard; and

5 “(II) there exists satisfactory proof
6 that the licensee has violated a condition of
7 holding a firearms dealers license, per-
8 mitted a violation of holding a firearms li-
9 cense, or has been convicted of a felony;
10 and

11 “(ii) the pendency of proceedings before a
12 court shall not suspend or interfere with the au-
13 thority described in clause (i);

14 “(P) a firearms dealer licensee that has a
15 license revoked under subparagraph (O) may
16 not receive a firearms dealer license during the
17 1-year period beginning on the date on which
18 the revoked license would have expired;

19 “(Q) the State shall promulgate rules and
20 regulations to ensure the prompt collection, ex-
21 change, dissemination, and distribution of infor-
22 mation pertaining to the issuance, renewal, ex-
23 piration, suspension, and revocation of licenses;

1 “(R) the State shall establish standards
2 that are consistent with Federal and State
3 law—

4 “(i) governing firearm transfers; and

5 “(ii) for identifying prohibited individ-
6 uals, in accordance with section 3041(b);

7 “(S) firearms dealers and private sellers
8 shall verify the validity of a license before the
9 sale, rental, or lease of any firearm or ammuni-
10 tion;

11 “(T) firearms dealers and private sellers
12 shall report all firearm sales, rentals, and leases
13 to State authorities;

14 “(U) firearms dealers shall notify the li-
15 censing authority when presented with an in-
16 valid or expired license;

17 “(V) any licensee from whom a firearm is
18 lost or stolen shall report such loss or theft to
19 the licensing authority and State authority;

20 “(W) all firearms licensees and firearms
21 dealer licensees shall renew their licenses on a
22 timeframe established by the State;

23 “(X) an individual may not use the fire-
24 arms license of the individual to purchase a
25 firearm for—

1 “(i) the unlawful use of the firearm
2 by another; or

3 “(ii) the resale or other transfer of
4 the firearm to an unlicensed individual;
5 and

6 “(Y)(i) it shall be unlawful to store or keep
7 any firearm in any place unless such weapon is
8 secured in a locked container or equipped with
9 a tamper-resistant mechanical lock or other
10 safety device, properly engaged so as to render
11 such weapon inoperable by any person other
12 than the owner or other lawfully authorized
13 user; and

14 “(ii) for purposes of clause (i), a firearm
15 shall not be considered to be stored or kept if
16 carried by or under the control of the owner or
17 other lawfully authorized user.

18 “(d) GRANT PREFERENCES.—

19 “(1) PRIORITIES.—In awarding grants under
20 this section, the Attorney General shall give priority
21 to any State that has incorporated and implemented
22 the elements described in paragraph (2).

23 “(2) ELEMENTS.—The elements described in
24 this paragraph are those requiring that—

25 “(A) all firearms dealers licensees shall—

1 “(i) provide training for employees
2 upon hiring, and not less frequently than
3 once a year thereafter, according to stand-
4 ards established by the State;

5 “(ii) develop a security plan for the
6 place of business that includes—

7 “(I) adequate locking and storage
8 of firearms and firearm purchase
9 records;

10 “(II) exterior lighting;

11 “(III) surveillance cameras;

12 “(IV) an alarm system; and

13 “(V) other appropriate anti-theft
14 measures and practices for during and
15 after business hours;

16 “(iii) submit to the licensing authority
17 an annual report of the safety and compli-
18 ance record of the place of business, which
19 shall include—

20 “(I) the total number of guns
21 traced to the place of business during
22 the 12-month period preceding the re-
23 port, broken down by month;

24 “(II) the number of known straw
25 purchases either attempted or com-

1 pleted during the 12-month period
2 preceding the report, broken down by
3 month; and

4 “(III) the number of violations
5 cited by the Bureau of Alcohol, To-
6 bacco, Firearms, and Explosives dur-
7 ing the 12-month period preceding the
8 report;

9 “(iv) videotape (including audio) or
10 electronically record (including audio) the
11 point-of-sale of all firearms transactions
12 and maintain the videos or electronic re-
13 cordings for not less than 5 years;

14 “(v) annually review and update com-
15 pliance policies, procedures, and training
16 materials; and

17 “(vi) perform background checks for
18 private sellers for a reasonable fee;

19 “(B) the State established standards for
20 how to properly respond to straw purchasers
21 and firearms traffickers; and

22 “(C) the State established standards for
23 storing ammunition in a locked container sepa-
24 rate from any firearms.

1 “(e) ANNUAL REPORT.—Each State receiving a
2 grant under this section shall submit to the Assistant At-
3 torney General, for each fiscal year during which the State
4 expends amounts received under the grant, a report, at
5 such time and in such manner as the Assistant Attorney
6 General may reasonably require, that contains—

7 “(1) a summary of the activities carried out
8 using amounts made available under the grant;

9 “(2) an assessment of whether the activities are
10 achieving the elements described in subsection
11 (c)(2); and

12 “(3) such other information as the Assistant
13 Attorney General may require.

14 “(f) LIMITATIONS ON THE ALLOCATION OF
15 FUNDS.—Of the amount made available to carry out this
16 section in any fiscal year—

17 “(1) not more than 2 percent may be used by
18 the Assistant Attorney General for salaries and ad-
19 ministrative expenses; and

20 “(2) not more than 25 percent may be used for
21 technical assistance, training, and evaluation.

22 “(g) GAO REPORT.—Not later than 2 years after the
23 date of enactment of this part, the Comptroller General
24 of the United States shall submit to Congress a report

1 evaluating whether States have been able to effectively
2 adopt firearm licensing requirements.

3 “(h) REALLOCATION OF APPROPRIATIONS.—A recipi-
4 ent of a grant under subsection (a) shall return to the
5 Assistant Attorney General any amounts received under
6 a grant under subsection (a) that are not expended for
7 a purpose described in this section.”.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
9 1001(a) of title I of the Omnibus Crime Control and Safe
10 Streets Act of 1968 (34 U.S.C. 10261(a)) is amended by
11 adding at the end the following:

12 “(28) There are authorized to be appropriated to
13 carry out part NN \$20,000,000 for each of fiscal years
14 2019 through 2023.”.

○