

(Mr. LIEBERMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Texas (Mrs. HUTCHISON), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mrs. LINCOLN), and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of Senate Joint Resolution 21, a joint resolution to designate September 29, 1999, as "Veterans of Foreign Wars of the United States Day."

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. CAMPBELL, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of Senate Concurrent Resolution 19, a concurrent resolution concerning anti-Semitic statements made by members of the Duma of the Russian Federation.

SENATE CONCURRENT RESOLUTION 26

At the request of Mr. ASHCROFT, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of Senate Concurrent Resolution 26, a concurrent resolution expressing the sense of the Congress that the current Federal income tax deduction for interest paid on debt secured by a first or second home should not be further restricted.

SENATE RESOLUTION 34

At the request of Mr. TORRICELLI, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of Senate Resolution 34, a resolution designating the week beginning April 30, 1999, as "National Youth Fitness Week."

SENATE RESOLUTION 92

At the request of Mrs. BOXER, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of Senate Resolution 92, a resolution expressing the sense of the Senate that funding for prostate cancer research should be increased substantially.

SENATE RESOLUTION 96

At the request of Mr. LEAHY, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 96, a resolution expressing the sense of the Senate regarding a peaceful process of self-determination in East Timor, and for other purposes.

AMENDMENT NO. 319

At the request of Mrs. BOXER the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 319 intended to be proposed to S. 254, a bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

SENATE RESOLUTION 100—RE-AFFIRMING THE PRINCIPLES OF THE PROGRAMME OF ACTION OF THE INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT WITH RESPECT TO THE SOVEREIGN RIGHTS OF COUNTRIES AND THE RIGHT OF VOLUNTARY AND INFORMED CONSENT IN FAMILY PLANNING PROGRAMS

Mr. BROWNBACK (for himself, Mr. HELMS, Mr. INHOFE, Mr. SANTORUM, Mr. ASHCROFT, Mr. ENZI, Mr. McCRAIN, Mr. SMITH of New Hampshire, and Mr. NICKLES) submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 100

Whereas the United Nations General Assembly has decided to convene a special session from June 30 to July 2, 1999, in order to review and appraise the implementation of the Programme of Action of the International Conference on Population and Development;

Whereas chapter II of the Programme of Action, which sets forth the principles of that document, begins: "The implementation of the recommendations contained in the Programme of Action is the sovereign right of each country, consistent with national laws and development priorities, with full respect for the various religious and ethical values and cultural backgrounds of its people, and in conformity with universally recognized international human rights.;"

Whereas section 7.12 of the Programme of Action states: "The principle of informed [consent] is essential to the long-term success of family-planning programmes. Any form of coercion has no part to play.;"

Whereas section 7.12 of the Programme of Action further states: "Government goals for family planning should be defined in terms of unmet needs for information and services. Demographic goals . . . should not be imposed on family-planning providers in the form of targets or quotas for the recruitment of clients.;" and

Whereas section 7.17 of the Programme of Action states: "[g]overnments should secure conformity to human rights and to ethical and professional standards in the delivery of family planning and related reproductive health services aimed at ensuring responsible, voluntary and informed consent and also regarding service provision"; Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) no bilateral or multilateral assistance or benefit to any country should be conditioned upon or linked to that country's adoption or failure to adopt population programs, or to the relinquishment of that country's sovereign right to implement the Programme of Action of the International Conference on Population and Development consistent with its own national laws and development priorities, with full respect for the various religious and ethical values and cultural backgrounds of its people, and in conformity with universally recognized international human rights;

(2)(A) family planning service providers or referral agents should not implement or be subject to quotas, or other numerical targets, of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning;

(B) subparagraph (A) should not be construed to preclude the use of quantitative estimates or indicators for budgeting and planning purposes;

(3) no family planning project should include payment of incentives, bribes, gratuities, or financial reward to any person in exchange for becoming a family planning acceptor or to program personnel for achieving a numerical target or quota of total number of births, number of family planning acceptors, or acceptors of a particular method of family planning;

(4) no project should deny any right or benefit, including the right of access to participate in any program of general welfare or the right of access to health care, as a consequence of any person's decision not to accept family planning services;

(5) every family planning project should provide family planning acceptors with comprehensible information on the health benefits and risks of the method chosen, including those conditions that might render the use of the method inadvisable and those adverse side effects known to be consequent to the use of the method;

(6) every family planning project should ensure that experimental contraceptive drugs and devices and medical procedures are provided only in the context of a scientific study in which participants are advised of potential risks and benefits;

(7) the United States should reaffirm the principles described in paragraphs (1) through (6) in the special session of the United Nations General Assembly to be held between June 30 and July 2, 1999, and in all preparatory meetings for the special session; and

(8) the United States should support vigorously with its voice and vote the principle that meetings under the auspices of the United Nations Economic and Social Council, including all meetings relating to the Operational Review and Appraisal of the Implementation of the Programme of Action of the International Conference on Population and Development, be open to the public and should oppose vigorously with its voice and vote attempts by the United Nations or any member country to exclude from meetings legitimate nongovernment organizations and private citizens.

AMENDMENTS SUBMITTED

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

BROWNBACK (AND OTHERS) AMENDMENT NO. 329

Mr. BROWNBACK (for himself, Mr. HATCH, Mr. LIEBERMAN, Mr. ABRAHAM, Mr. McCRAIN, Mr. KOHL, and Mr. DEWINE) proposed an amendment to the bill (S. 254) to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; as follows:

On page 151, between lines 13 and 14, insert the following:

"SEC. 248. STUDY OF VIOLENT ENTERTAINMENT.

"(a) REQUIREMENT.—The National Institutes of Health shall conduct a study of the effects of violent video games, and music on child development and youth violence.

"(b) ELEMENTS.—The study under subsection (a) shall address—

"(1) whether, and to what extent, violence in video games, and music adversely affects the emotional and psychological development of juveniles; and

“(2) whether violence in video games, and music contributes to juvenile delinquency and youth violence.

On page 176, beginning on line 8, strike “this title,” and all that follows through line 11 and insert “this title—

“(A) of which \$20,000,000 shall be for evaluation research of primary, secondary, and tertiary juvenile delinquency programs; and

“(B) \$2,000,000 shall be for the study required by section 248;

TITLE V—VOLUNTARY MEDIA AGREEMENTS FOR CHILDREN'S PROTECTION

SEC. 501. SHORT TITLE.

This title may be cited as the “Children's Protection Act of 1999”.

SEC. 502. FINDINGS.

Congress makes the following findings:

(1) Television is seen and heard in nearly every United States home and is a uniquely pervasive presence in the daily lives of Americans. The average American home has 2.5 televisions, and a television is turned on in the average American home 7 hours every day.

(2) Television plays a particularly significant role in the lives of children. Figures provided by Nielsen Research show that children between the ages of 2 years and 11 years spend an average of 21 hours in front of a television each week.

(3) Television has an enormous capability to influence perceptions, especially those of children, of the values and behaviors that are common and acceptable in society.

(4) The influence of television is so great that its images and messages often can be harmful to the development of children. Social science research amply documents a strong correlation between the exposure of children to televised violence and a number of behavioral and psychological problems.

(5) Hundreds of studies have proven conclusively that children who are consistently exposed to violence on television have a higher tendency to exhibit violent and aggressive behavior, both as children and later in life.

(6) Such studies also show that repeated exposure to violent programming causes children to become desensitized to and more accepting of real-life violence and to grow more fearful and less trusting of their surroundings.

(7) A growing body of social science research indicates that sexual content on television can also have a significant influence on the attitudes and behaviors of young viewers. This research suggests that heavy exposure to programming with strong sexual content contributes to the early commencement of sexual activity among teenagers.

(8) Members of the National Association of Broadcasters (NAB) adhered for many years to a comprehensive code of conduct that was based on an understanding of the influence exerted by television and on a widely held sense of responsibility for using that influence carefully.

(9) This code of conduct, the Television Code of the National Association of Broadcasters, articulated this sense of responsibility as follows:

(A) “In selecting program subjects and themes, great care must be exercised to be sure that the treatment and presentation are made in good faith and not for the purpose of sensationalism or to shock or exploit the audience or appeal to prurient interests or morbid curiosity.”.

(B) “Broadcasters have a special responsibility toward children. Programs designed primarily for children should take into account the range of interests and needs of children, from instructional and cultural material to a wide variety of entertainment material. In their totality, programs should contribute to the sound, balanced develop-

ment of children to help them achieve a sense of the world at large and informed adjustments to their society.”.

(C) “Violence, physical, or psychological, may only be projected in responsibly handled contexts, not used exploitatively. Programs involving violence present the consequences of it to its victims and perpetrators. Presentation of the details of violence should avoid the excessive, the gratuitous and the instructional.”.

(D) “The presentation of marriage, family, and similarly important human relationships, and material with sexual connotations, shall not be treated exploitatively or irresponsibly, but with sensitivity.”.

(E) “Above and beyond the requirements of the law, broadcasters must consider the family atmosphere in which many of their programs are viewed. There shall be no graphic portrayal of sexual acts by sight or sound. The portrayal of implied sexual acts must be essential to the plot and presented in a responsible and tasteful manner.”.

(10) The National Association of Broadcasters abandoned the code of conduct in 1983 after three provisions of the code restricting the sale of advertising were challenged by the Department of Justice on antitrust grounds and a Federal district court issued a summary judgment against the National Association of Broadcasters regarding one of the provisions on those grounds. However, none of the programming standards of the code were challenged.

(11) While the code of conduct was in effect, its programming standards were never found to have violated any antitrust law.

(12) Since the National Association of Broadcasters abandoned the code of conduct, programming standards on broadcast and cable television have deteriorated dramatically.

(13) In the absence of effective programming standards, public concern about the impact of television on children, and on society as a whole, has risen substantially. Polls routinely show that more than 80 percent of Americans are worried by the increasingly graphic nature of sex, violence, and vulgarity on television and by the amount of programming that openly sanctions or glorifies criminal, antisocial, and degrading behavior.

(14) At the urging of Congress, the television industry has taken some steps to respond to public concerns about programming standards and content. The broadcast television industry agreed in 1992 to adopt a set of voluntary guidelines designed to “proscribe gratuitous or excessive portrayals of violence”. Shortly thereafter, both the broadcast and cable television industries agreed to conduct independent studies of the violent content in their programming and make those reports public.

(15) In 1996, the television industry as a whole made a commitment to develop a comprehensive rating system to label programming that may be harmful or inappropriate for children. That system was implemented at the beginning of 1999.

(16) Despite these efforts to respond to public concern about the impact of television on children, millions of Americans, especially parents with young children, remain angry and frustrated at the sinking standards of television programming, the reluctance of the industry to police itself, and the harmful influence of television on the well-being of the children and the values of the United States.

(17) The Department of Justice issued a ruling in 1993 indicating that additional efforts by the television industry to develop and implement voluntary programming guidelines would not violate the antitrust laws. The ruling states that “such activities

may be likened to traditional standard setting efforts that do not necessarily restrain competition and may have significant pro-competitive benefits... Such guidelines could serve to disseminate valuable information on program content to both advertisers and television viewers. Accurate information can enhance the demand for, and increase the output of, an industry's products or services.”.

(18) The Children's Television Act of 1990 (Public Law 101-437) states that television broadcasters in the United States have a clear obligation to meet the educational and informational needs of children.

(19) Several independent analyses have demonstrated that the television broadcasters in the United States have not fulfilled their obligations under the Children's Television Act of 1990 and have not noticeably expanded the amount of educational and informational programming directed at young viewers since the enactment of that Act.

(20) The popularity of video and personal computer (PC) games is growing steadily among children. Although most popular video and personal computer games are educational or harmless in nature, many of the most popular are extremely violent. One recent study by Strategic Record Research found that 64 percent of teenagers played video or personal computer games on a regular basis. Other surveys of children as young as elementary school age found that almost half of them list violent computer games among their favorites.

(21) Violent video games often present violence in a glamorized light. Game players are often cast in the role of shooter, with points scored for each “kill”. Similarly, advertising for such games often touts violent content as a selling point—the more graphic and extreme, the better.

(22) As the popularity and graphic nature of such video games grows, so do their potential to negatively influence impressionable children.

(23) Music is another extremely pervasive and popular form of entertainment. American children and teenagers listen to music more than any other demographic group. The Journal of American Medicine reported that between the 7th and 12th grades the average teenager listens to 10,500 hours of rock or rap music, just slightly less than the entire number of hours spent in the classroom from kindergarten through high school.

(24) Teens are among the heaviest purchasers of music, and are most likely to favor music genres that depict, and often appear to glamorize violence.

(25) Music has a powerful ability to influence perceptions, attitudes, and emotional state. The use of music as therapy indicates its potential to increase emotional, psychological, and physical health. That influence can be used for ill as well.

SEC. 503. PURPOSES; CONSTRUCTION.

(a) PURPOSES.—The purposes of this title are to permit the entertainment industry—

(1) to work collaboratively to respond to growing public concern about television programming, movies, video games, Internet content, and music lyrics, and the harmful influence of such programming, movies, games, content, and lyrics on children;

(2) to develop a set of voluntary programming guidelines similar to those contained in the Television Code of the National Association of Broadcasters; and

(3) to implement the guidelines in a manner that alleviates the negative impact of television programming, movies, video games, Internet content, and music lyrics on the development of children in the United States and stimulates the development and

broadcast of educational and informational programming for such children.

(b) CONSTRUCTION.—This title may not be construed as—

(1) providing the Federal Government with any authority to restrict television programming, movies, video games, Internet content, or music lyrics that is in addition to the authority to restrict such programming, movies, games, content, or lyrics under law as of the date of the enactment of this Act; or

(2) approving any action of the Federal Government to restrict such programming, movies, games, content, or lyrics that is in addition to any actions undertaken for that purpose by the Federal Government under law as of such date.

SEC. 504. EXEMPTION OF VOLUNTARY AGREEMENTS ON GUIDELINES FOR CERTAIN ENTERTAINMENT MATERIAL FROM APPLICABILITY OF ANTITRUST LAWS.

(a) EXEMPTION.—Subject to subsection (b), the antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the entertainment industry for the purpose of developing and disseminating voluntary guidelines designed—

(1) to alleviate the negative impact of telecast material, movies, video games, Internet content, and music lyrics containing violence, sexual content, criminal behavior, or other subjects that are not appropriate for children; or

(2) to promote telecast material that is educational, informational, or otherwise beneficial to the development of children.

(b) LIMITATION.—The exemption provided in subsection (a) shall not apply to any joint discussion, consideration, review, action, or agreement which—

(1) results in a boycott of any person; or

(2) concerns the purchase or sale of advertising, including (without limitation) restrictions on the number of products that may be advertised in a commercial, the number of times a program may be interrupted for commercials, and the number of consecutive commercials permitted within each interruption.

SEC. 505. EXEMPTION OF ACTIVITIES TO ENSURE COMPLIANCE WITH RATINGS AND LABELING SYSTEMS FROM APPLICABILITY OF ANTITRUST LAWS.

(a) EXEMPTION FROM ANTITRUST LAWS.—

(1) IN GENERAL.—The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement between or among persons in the motion picture, recording, or video game industry for the purpose of and limited to the development or enforcement of voluntary guidelines, procedures, and mechanisms designed to ensure compliance by persons and entities described in paragraph (2) with ratings and labeling systems to identify and limit dissemination of sexual, violent, or other indecent material to children.

(2) PERSONS AND ENTITIES DESCRIBED.—A person or entity described in this paragraph is a person or entity that is—

(A) engaged in the retail sales of motion pictures, recordings, or video games; or

(B) a theater owner or operator, video game arcade owner or operator, or other person or entity that makes available the viewing, listening, or use of a motion picture, recording, or video game to a member of the general public for compensation.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Antitrust Division of the Department of Justice, in conjunction with the Federal Trade Commission, shall submit to Congress a report on—

(1) the extent to which the motion picture, recording, and video game industry have de-

veloped or enforced guidelines, procedures, or mechanisms to ensure compliance by persons and entities described in subsection (b)(2) with ratings or labeling systems which identify and limit dissemination of sexual, violent, or other indecent material to children; and

(2) the extent to which Federal or State antitrust laws preclude those industries from developing and enforcing the guidelines described in subsection (b)(1).

SEC. 506. DEFINITIONS.

In this subtitle:

(1) ANTITRUST LAWS.—The term “antitrust laws” has the meaning given such term in the first section of the Clayton Act (15 U.S.C. 12) and includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(2) INTERNET.—The term “Internet” means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol or any successor protocol to transmit information.

(3) MOVIES.—The term “movies” means motion pictures.

(4) PERSON IN THE ENTERTAINMENT INDUSTRY.—The term “person in the entertainment industry” means a television network, any entity which produces or distributes television programming (including motion pictures), the National Cable Television Association, the Association of Independent Television Stations, Incorporated, the National Association of Broadcasters, the Motion Picture Association of America, each of the affiliate organizations of the television networks, the Interactive Digital Software Association, any entity which produces or distributes video games, the Recording Industry Association of America, and any entity which produces or distributes music, and includes any individual acting on behalf of such person.

(5) TELECAST.—The term “telecast” means any program broadcast by a television broadcast station or transmitted by a cable television system.

Subtitle B—Other Matters

SEC. 511. STUDY OF MARKETING PRACTICES OF MOTION PICTURE, RECORDING, AND VIDEO/PERSONAL COMPUTER GAME INDUSTRIES.

(a) STUDY.—

(1) IN GENERAL.—The Federal Trade Commission and the Attorney General shall jointly conduct a study of the marketing practices of the motion picture, recording, and video/personal computer game industries.

(2) ISSUES EXAMINED.—In conducting the study under paragraph (1), the Commission and the Attorney General shall examine—

(A) the extent to which the motion picture, recording, and video/personal computer industries target the marketing of violent, sexually explicit, or other unsuitable material to minors, including whether such content is advertised or promoted in media outlets in which minors comprise a substantial percentage of the audience;

(B) the extent to which retail merchants, movie theaters, or others who engage in the sale or rental for a fee of products of the motion picture, recording, and video/personal computer industries—

(i) have policies to restrict the sale, rental, or viewing to minors of music, movies, or video/personal computer games that are deemed inappropriate for minors under the applicable voluntary industry rating or labeling systems; and

(ii) have procedures compliant with such policies;

(C) whether and to what extent the motion picture, recording, and video/personal computer industries require, monitor, or encourage the enforcement of their respective voluntary rating or labeling systems by industry members, retail merchants, movie theaters, or others who engage in the sale or rental for a fee of the products of such industries;

(D) whether any of the marketing practices examined may violate Federal law; and

(E) whether and to what extent the motion picture, recording, and video/personal computer industries engage in actions to educate the public on the existence, use, or efficacy of their voluntary rating or labeling systems.

(3) FACTORS FOR DETERMINATION.—In determining whether the products of the motion picture, recording, or video/personal computer industries are violent, sexually explicit, or otherwise unsuitable for minors for the purposes of paragraph (2)(A), the Commission and the Attorney General shall consider the voluntary industry rating or labeling systems of the industry concerned as in effect on the date of the enactment of this Act.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Commission and the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

(c) AUTHORITY.—For the purposes of the study conducted under subsection (a), the Commission may use its authority under section 6(b) of the Federal Trade Commission Act to require the filing of reports or answers in writing to specific questions, as well as to obtain information, oral testimony, documentary material, or tangible things.

**BOXER (AND OTHERS)
AMENDMENT NO. 330**

Mrs. BOXER (for herself, Mr. KENNEDY, Mr. DURBIN, and Mr. LAUTENBERG) proposed an amendment to the bill, S. 254, *supra*; as follows:

At the end, add the following:

SEC. . STUDY OF MARKETING PRACTICES OF THE FIREARMS INDUSTRY.

(a) IN GENERAL.—

The Federal Trade Commission and the Attorney General shall jointly conduct a study of the marketing practices of the firearms industry, with respect to children.

(b) ISSUES EXAMINED.—In conducting the study under subsection (a), the Commission and the Attorney General shall examine the extent to which the firearms industry advertises and promotes its products to juveniles, including in media outlets in which minors comprise a substantial percentage of the audience.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Commission and the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

**LAUTENBERG (AND OTHERS)
AMENDMENT NO. 331**

Mr. LAUTENBERG (for himself, Mr. SCHUMER, Mrs. BOXER, Mr. KOHL, Mrs. FEINSTEIN, and Mr. LEVIN) proposed an amendment to the bill, S. 254, *supra*; as follows:

At the appropriate place, insert the following:

SEC. . EXTENSION OF BRADY BACKGROUND CHECKS TO GUN SHOWS.

(a) FINDINGS.—Congress finds that—

(1) more than 4,400 traditional gun shows are held annually across the United States,

attracting thousands of attendees per show and hundreds of Federal firearms licensees and nonlicensed firearms sellers;

(2) traditional gun shows, as well as flea markets and other organized events, at which a large number of firearms are offered for sale by Federal firearms licensees and nonlicensed firearms sellers, form a significant part of the national firearms market;

(3) firearms and ammunition that are exhibited or offered for sale or exchange at gun shows, flea markets, and other organized events move easily in and substantially affect interstate commerce;

(4) in fact, even before a firearm is exhibited or offered for sale or exchange at a gun show, flea market, or other organized event, the gun, its component parts, ammunition, and the raw materials from which it is manufactured have moved in interstate commerce;

(5) gun shows, flea markets, and other organized events at which firearms are exhibited or offered for sale or exchange, provide a convenient and centralized commercial location at which firearms may be bought and sold anonymously, often without background checks and without records that enable gun tracing;

(6) at gun shows, flea markets, and other organized events at which guns are exhibited or offered for sale or exchange, criminals and other prohibited persons obtain guns without background checks and frequently use guns that cannot be traced to later commit crimes;

(7) many persons who buy and sell firearms at gun shows, flea markets, and other organized events cross State lines to attend these events and engage in the interstate transportation of firearms obtained at these events;

(8) gun violence is a pervasive, national problem that is exacerbated by the availability of guns at gun shows, flea markets, and other organized events;

(9) firearms associated with gun shows have been transferred illegally to residents of another State by Federal firearms licensees and nonlicensed firearms sellers, and have been involved in subsequent crimes including drug offenses, crimes of violence, property crimes, and illegal possession of firearms by felons and other prohibited persons; and

(10) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to ensure, by enactment of this Act, that criminals and other prohibited persons do not obtain firearms at gun shows, flea markets, and other organized events.

(b) **DEFINITIONS.**—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(35) **GUN SHOW.**—The term ‘gun show’ means any event—

“(A) at which 50 or more firearms are offered or exhibited for sale, transfer, or exchange, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce; and

“(B) at which 2 or more persons are offering or exhibiting 1 or more firearms for sale, transfer, or exchange.

“(36) **GUN SHOW PROMOTER.**—The term ‘gun show promoter’ means any person who organizes, plans, promotes, or operates a gun show.

“(37) **GUN SHOW VENDOR.**—The term ‘gun show vendor’ means any person who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a gun show, regardless of whether or not the person arranges with the gun show promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms.”

(c) **REGULATION OF FIREARMS TRANSFERS AT GUN SHOWS.**—

(1) **IN GENERAL.**—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

§ 931. Regulation of firearms transfers at gun shows

“(a) **REGISTRATION OF GUN SHOW PROMOTERS.**—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

“(1) registers with the Secretary in accordance with regulations promulgated by the Secretary; and

“(2) pays a registration fee, in an amount determined by the Secretary.

“(b) **RESPONSIBILITIES OF GUN SHOW PROMOTERS.**—It shall be unlawful for any person to organize, plan, promote, or operate a gun show unless that person—

“(1) not later than 30 days before commencement of the gun show, notifies the Secretary of the date, time, duration, and location of the gun show and any other information concerning the gun show as the Secretary may require by regulation;

“(2) not later than 72 hours before commencement of the gun show, submits to the Secretary an updated list of all gun show vendors planning to participate in the gun show and any other information concerning such vendors as the Secretary may require by regulation;

“(3) before commencement of the gun show, verifies the identity of each gun show vendor participating in the gun show by examining a valid identification document (as defined in section 1028(d)(1)) of the vendor containing a photograph of the vendor;

“(4) before commencement of the gun show, requires each gun show vendor to sign—

“(A) a ledger with identifying information concerning the vendor; and

“(B) a notice advising the vendor of the obligations of the vendor under this chapter; and

“(5) notifies each person who attends the gun show of the requirements of this chapter, in accordance with such regulations as the Secretary shall prescribe;

“(6) not later than 5 days after the last day of the gun show, submits to the Secretary a copy of the ledger and notice described in paragraph (4); and

“(7) maintains a copy of the records described in paragraphs (2) through (4) at the permanent place of business of the gun show promoter for such period of time and in such form as the Secretary shall require by regulation.

“(c) RESPONSIBILITIES OF TRANSFERORS OTHER THAN LICENSEES.—

“(1) **IN GENERAL.**—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

“(2) **CRIMINAL BACKGROUND CHECKS.**—A person who is subject to the requirement of paragraph (1)—

“(A) shall not transfer the firearm to the transferee until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

“(B) notwithstanding subparagraph (A), shall not transfer the firearm to the transferee if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

“(d) RESPONSIBILITIES OF TRANSFEREES OTHER THAN LICENSEES.—

“(1) **IN GENERAL.**—If any part of a firearm transaction takes place at a gun show, it shall be unlawful for any person who is not licensed under this chapter to receive a firearm from another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, or licensed dealer in accordance with subsection (e).

“(2) **CRIMINAL BACKGROUND CHECKS.**—A person who is subject to the requirement of paragraph (1)—

“(A) shall not receive the firearm from the transferor until the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(A); and

“(B) notwithstanding subparagraph (A), shall not receive the firearm from the transferor if the licensed importer, licensed manufacturer, or licensed dealer through which the transfer is made under subsection (e) makes the notification described in subsection (e)(3)(B).

“(e) **RESPONSIBILITIES OF LICENSEES.**—A licensed importer, licensed manufacturer, or licensed dealer who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) or (d) with respect to the transfer of a firearm shall—

“(1) enter such information about the firearm as the Secretary may require by regulation into a separate bound record;

“(2) record the transfer on a form specified by the Secretary;

“(3) comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the non-licensed transferor), and notify the non-licensed transferor and the nonlicensed transferee—

“(A) of such compliance; and

“(B) if the transfer is subject to the requirements of section 922(t)(1), of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or would violate State law;

“(4) not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

“(A) shall be on a form specified by the Secretary by regulation; and

“(B) shall not include the name of or other identifying information relating to any person involved in the transfer who is not licensed under this chapter;

“(5) if the licensed importer, licensed manufacturer, or licensed dealer assists a person other than a licensee in transferring, at 1 time or during any 5 consecutive business days, 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the reports required under paragraph (4), prepare a report of the multiple transfers, which report shall be—

“(A) prepared on a form specified by the Secretary; and

“(B) not later than the close of business on the date on which the transfer occurs, forwarded to—

“(i) the office specified on the form described in subparagraph (A); and

“(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

“(6) retain a record of the transfer as part of the permanent business records of the licensed importer, licensed manufacturer, or licensed dealer.

“(f) RECORDS OF LICENSEE TRANSFERS.—If any part of a firearm transaction takes place at a gun show, each licensed importer, licensed manufacturer, and licensed dealer who transfers 1 or more firearms to a person who is not licensed under this chapter shall, not later than 10 days after the date on which the transfer occurs, submit to the Secretary a report of the transfer, which report—

“(1) shall be in a form specified by the Secretary by regulation;

“(2) shall not include the name of or other identifying information relating to the transferee; and

“(3) shall not duplicate information provided in any report required under subsection (e)(4).

“(g) FIREARM TRANSACTION DEFINED.—In this section, the term ‘firearm transaction’ includes the exhibition, sale, offer for sale, transfer, or exchange of a firearm.”.

(2) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

“(7)(A) Whoever knowingly violates section 931(a) shall be fined under this title, imprisoned not more than 5 years, or both.

“(B) Whoever knowingly violates subsection (b) or (c) of section 931, shall be—

“(i) fined under this title, imprisoned not more than 2 years, or both; and

“(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

“(C) Whoever willfully violates section 931(d), shall be—

“(i) fined under this title, imprisoned not more than 2 years, or both; and

“(ii) in the case of a second or subsequent conviction, such person shall be fined under this title, imprisoned not more than 5 years, or both.

“(D) Whoever knowingly violates subsection (e) or (f) of section 931 shall be fined under this title, imprisoned not more than 5 years, or both.

“(E) In addition to any other penalties imposed under this paragraph, the Secretary may, with respect to any person who knowingly violates any provision of section 931—

“(i) if the person is registered pursuant to section 931(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 931(a); and

“(ii) impose a civil fine in an amount equal to not more than \$10,000.”.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 44 of title 18, United States Code, is amended—

(A) in the chapter analysis, by adding at the end the following:

“931. Regulation of firearms transfers at gun shows.”; and

(B) in the first sentence of section 923(j), by striking ‘a gun show or event’ and inserting ‘an event’; and

(d) INSPECTION AUTHORITY.—Section 923(g)(1) is amended by adding at the end the following:

“(E) Notwithstanding subparagraph (B), the Secretary may enter during business hours the place of business of any gun show promoter and any place where a gun show is held for the purposes of examining the records required by sections 923 and 931 and the inventory of licensees conducting business at the gun show. Such entry and examination shall be conducted for the purposes of determining compliance with this chapter by gun show promoters and licensees con-

ducting business at the gun show and shall not require a showing of reasonable cause or a warrant.”.

(e) INCREASED PENALTIES FOR SERIOUS RECORDKEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

“(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

“(B) If the violation described in subparagraph (A) is in relation to an offense—

“(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

“(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.”.

(f) INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

(1) PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in paragraph (5), by striking ‘subsection (s) or (t) of section 922’ and inserting ‘section 922(s)’; and

(B) by adding at the end the following:

“(8) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.”.

(2) ELIMINATION OF CERTAIN ELEMENTS OF OFFENSE.—Section 922(t)(5) of title 18, United States Code, is amended by striking ‘and, at the time’ and all that follows through ‘State law’.

(g) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

CRAIG AMENDMENT NO. 332

Mr. CRAIG proposed an amendment to the bill, S. 254, *supra*; as follows:

On page 265, after line 20, add the following: At the end, add the following:

TITLE —GENERAL FIREARM PROVISIONS

SEC. 01. SPECIAL LICENSEES; SPECIAL REGISTRATIONS.

(a) DEFINITIONS.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(35) GUN SHOW.—The term ‘gun show’ means a gun show or event described in section 923(j).

“(36) SPECIAL LICENSE.—The term ‘special license’ means a license issued under section 923(m).

“(37) SPECIAL LICENSEE.—The term ‘special licensee’ means a person to whom a special license has been issued.

“(38) SPECIAL REGISTRANT.—The term ‘special registrant’ means a person to whom a special registration has been issued.

“(39) SPECIAL REGISTRATION.—The term ‘special registration’ means a registration issued under section 923(m).”.

(b) SPECIAL LICENSES; SPECIAL REGISTRATION.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

“(m) SPECIAL LICENSES; SPECIAL REGISTRATIONS.—

“(1) SPECIAL LICENSES.—

“(A) APPLICATION.—A person who—

“(i) is engaged in the business of dealing in firearms by—

“(I) buying or selling firearms solely or primarily at gun shows; or

“(II) buying or selling firearms as part of a gunsmith or firearm repair business or the conduct of other activity that, absent this subsection, would require a license under this chapter; and

“(ii) desires to have access to the National Instant Check System; may submit to the Secretary an application for a special license.

“(B) EFFECT OF PARAGRAPH.—Nothing in this paragraph—

“(i) requires a license for conduct that did not require a license before the date of enactment of this subsection; or

“(ii) diminishes in any manner any right to display, sell, or otherwise dispose of firearms or ammunition, make repairs, or engage in any other conduct or activity, that was otherwise lawful to engage in without a license before the date of enactment of this subsection.

“(C) CONTENTS.—An application under subparagraph (A) shall—

“(i) contain a certification by the applicant that—

“(I) the applicant meets the requirements of subparagraphs (A) through (D) of subsection (d)(1);

“(II)(aa) the applicant conducts the firearm business primarily or solely at gun shows, and the applicant has premises (or a designated portion of premises) that may be inspected under this chapter from which the applicant conducts business (or intends to establish such premises) within a reasonable period of time; or

“(bb) the applicant conducts the firearm business from a premises (or a designated portion of premises) of a gunsmith or firearms repair business (or intends to establish such premises within a reasonable period of time); and

“(III) the firearm business to be conducted under the license—

“(aa) is not engaged in business for regularly buying and selling firearms from the applicant’s premises;

“(bb) will be engaged in the buying or selling of firearms only—

“(AA) primarily or solely for a firearm business at gun shows; or

“(BB) as part of a gunsmith or firearm repair business;

“(cc) shall be conducted in accordance with all dealer recordkeeping required under this chapter for a dealer; and

“(dd) shall be subject to inspection under this chapter, including the special licensee’s (or a designated portion of the premises), pursuant to the provisions in this chapter applicable to dealers;

“(ii) include a photograph and fingerprints of the applicant; and

“(iii) be in such form as the Secretary shall by regulation promulgate.

“(D) COMPLIANCE WITH STATE OR LOCAL LAW.—

“(i) IN GENERAL.—An applicant under subparagraph (A) shall not be required to certify or demonstrate that any firearm business to be conducted from the premises or elsewhere, to the extent permitted under this subsection, is or will be done in accordance with State or local law regarding the carrying on of a general business or commercial activity, including compliance with zoning restrictions.

“(ii) DUTY TO COMPLY.—The issuance of a special license does not relieve an applicant or licensee, as a matter of State or local law, from complying with State or local law described in clause (i).

“(E) APPROVAL.—

“(i) IN GENERAL.—The Secretary shall approve an application under subparagraph (A)

if the application meets the requirements of subparagraph (D).

“(ii) ISSUANCE OF LICENSE.—On approval of the application and payment by the applicant of a fee prescribed for dealers under this section, the Secretary shall issue to the applicant a license which, subject to the provisions of this chapter and other applicable provisions of law, entitles the licensee to conduct business during the 3-year period that begins on the date on which the license is issued.

“(iii) TIMING.—

“(I) IN GENERAL.—The Secretary shall approve or disapprove an application under subparagraph (A) not later than 60 days after the Secretary receives the application.

“(II) FAILURE TO ACT.—If the Secretary fails to approve or disapprove an application within the time specified by subclause (I), the applicant may bring an action under section 1361 of title 28 to compel the Secretary to act.

“(2) SPECIAL REGISTRANTS.—

“(A) IN GENERAL.—A person who is not licensed under this chapter (other than a licensed collector) and who wishes to perform instant background checks for the purposes of meeting the requirements of section 922(t) at a gun show may submit to the Secretary an application for a special registration.

“(B) CONTENTS.—An application under subparagraph (A) shall—

“(i) contain a certification by the applicant that—

“(I) the applicant meets the requirements of subparagraphs (A) through (D) of subsection (d)(1); and

“(II)(aa) any gun show at which the applicant will conduct instant checks under the special registration will be a show that is not prohibited by State or local law; and

“(bb) instant checks will be conducted only at gun shows that are conducted in accordance with Federal, State, and local law;

“(ii) include a photograph and fingerprints of the applicant; and

“(iii) be in such form as the Secretary shall by regulation promulgate.

“(C) APPROVAL.—

“(i) IN GENERAL.—The Secretary shall approve an application under subparagraph (A) if the application meets the requirements of subparagraph (B).

“(ii) ISSUANCE OF REGISTRATION.—On approval of the application and payment by the applicant of a fee of \$100 for 3 years, and upon renewal of valid registration a fee of \$50 for 3 years, the Secretary shall issue to the applicant a special registration, and notify the Attorney General of the United States of the issuance of the special registration.

“(iii) PERMITTED ACTIVITY.—Under a special registration, a special registrant may conduct instant check screening during the 3-year period that begins with the date on which the registration is issued.

“(D) TIMING.—

“(i) IN GENERAL.—The Secretary shall approve or deny an application under subparagraph (A) not later than 60 days after the Secretary receives the application.

“(ii) FAILURE TO ACT.—If the Secretary fails to approve or disapprove an application under subparagraph (A) within the time specified by clause (i), the applicant may bring an action under section 1361 of title 28 to compel the Secretary to act.

“(E) USE OF SPECIAL REGISTRANTS.—

“(i) IN GENERAL.—A person not licensed under this chapter who desires to transfer a firearm at a gun show in the person's State of residence to another person who is a resident of the same State, may use (but shall not be required to use) the services of a special registrant to determine the eligibility of the prospective transferee to possess a firearm by having the transferee provide the

special registrant at the gun show, on a special and limited-purpose form that the Secretary shall prescribe for use by a special registrant—

“(I) the name, age, address, and other identifying information of the prospective transferee (or, in the case of a prospective transferee that is a corporation or other business entity, the identity and principal and local places of business of the prospective transferee); and

“(II) proof of verification of the identity of the prospective transferee as required by section 922(t)(1)(C).

“(ii) ACTION BY THE SPECIAL REGISTRANT.—The special registrant shall—

“(I) make inquiry of the national instant background check system (or as the Attorney General shall arrange, with the appropriate State point of contact agency for each jurisdiction in which the special registrant intends to offer services) concerning the prospective transferee in accordance with the established procedures for making such inquiries;

“(II) receive the response from the system;

“(III) indicate the response on both a portion of the inquiry form for the records of the special registrant and on a separate form to be provided to the prospective transferee;

“(IV) provide the response to the transferor; and

“(V) follow the procedures established by the Secretary and the Attorney General for advising a person undergoing an instant background check on the meaning of a response, and any appeal rights, if applicable.

“(iii) RECORDKEEPING.—A special registrant shall—

“(I) keep all records or documents that the special registrant collected pursuant to clause (ii) during the gun show; and

“(II) transmit the records to the Secretary when the special registration is no longer valid, expires, or is revoked.

“(iv) NO OTHER REQUIREMENTS.—Except for the requirements stated in this section, a special registrant is not subject to any of the requirements imposed on licensees by this chapter, including those in section 922(t) and paragraphs (1)(A) and (3)(A) of subsection (g) with respect to the proposed transfer of a firearm.

“(3) NO CAUSE OF ACTION OR STANDARD OF CONDUCT.—

“(A) IN GENERAL.—Nothing in this subsection—

“(i) creates a cause of action against any special registrant or any other person, including the transferor, for any civil liability; or

“(ii) establishes any standard of care.

“(B) EVIDENCE.—Notwithstanding any other provision of law, except to give effect to the provisions of paragraph (3)(vi), evidence regarding the use or nonuse by a transferor of the services of a special registrant under this paragraph shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity for the purposes of establishing liability based on a civil action brought on any theory for harm caused by a product or by negligence.

“(4) IMMUNITY.—

“(A) DEFINITION.—In this paragraph:

“(i) IN GENERAL.—The term 'qualified civil liability action' means a civil action brought by any person against a person described in subparagraph (B) for damages resulting from the criminal or unlawful misuse of the firearm by the transferee or a third party.

“(ii) EXCLUSIONS.—The term 'qualified civil liability action' shall not include an action—

“(B) IMMUNITY.—Notwithstanding any other provision of law, a person who is—

“(i) a special registrant who performs a background check in the manner prescribed in this subsection at a gun show;

“(ii) a licensee or special licensee who acquires a firearm at a gun show from a nonlicensee, for transfer to another nonlicensee in attendance at the gun show, for the purpose of effectuating a sale, trade, or transfer between the 2 nonlicensees, all in the manner prescribed for the acquisition and disposition of a firearm under this chapter; or

“(iii) a nonlicensee person disposing of a firearm who uses the services of a person described in clause (i) or (ii); shall be entitled to immunity from civil liability action as described in subparagraph (B).

“(C) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court—

“(i) brought against a transferor convicted under section 922(h), or a comparable State felony law, by a person directly harmed by the transferee's criminal conduct, as defined in section 922(h); or

“(ii) brought against a transferor for negligent entrustment or negligence per se.

“(D) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of enactment of this subsection shall be dismissed immediately by the court.

“(5) REVOCATION.—A special license or special registration shall be subject to revocation under procedures provided for revocation of licensees in this chapter.”

(b) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

“(7) SPECIAL LICENSEES; SPECIAL REGISTRANTS.—Whoever knowingly violates section 923(m)(1) shall be fined under this title, imprisoned not more than 5 years, or both.”

SEC. 3. CLARIFICATION OF AUTHORITY TO CONDUCT FIREARM TRANSACTIONS AT GUN SHOWS.

Section 923 of title 18, United States Code, is amended by striking subsection (j) and inserting the following:

“(j) GUN SHOWS.—

“(1) IN GENERAL.—A licensed importer, licensed manufacturer, or licensed dealer may, under regulations promulgated by the Secretary, conduct business at a temporary location, other than the location specified on the license, described in paragraph (2).

“(2) TEMPORARY LOCATION.—

“(A) IN GENERAL.—A temporary location referred to in paragraph (1) is a location for a gun show, or for an event in the State specified on the license, at which firearms, firearms accessories and related items may be bought, sold, traded, and displayed, in accordance with Federal, State, and local laws.

“(B) LOCATIONS OUT OF STATE.—If the location is not in the State specified on the license, a licensee may display any firearm, and take orders for a firearm or effectuate the transfer of a firearm, in accordance with this chapter, including paragraph (3) of this subsection.

“(C) QUALIFIED GUN SHOWS OR EVENTS.—A gun show or an event shall qualify as a temporary location if—

“(i) the gun show or event is one which is sponsored, for profit or not, by an individual, national, State, or local organization, association, or other entity to foster the collecting, competitive use, sporting use, or any other legal use of firearms; and

“(ii) the gun show or event has 20 percent or more firearm exhibitors out of all exhibitors.

“(D) FIREARM EXHIBITOR.—The term 'firearm exhibitor' means an exhibitor who displays 1 or more firearms (as defined by section 921(a)(3)) and offers such firearms for sale or trade at the gun show or event.

“(3) RECORDS.—Records of receipt and disposition of firearms transactions conducted at a temporary location—

“(A) shall include the location of the sale or other disposition;

“(B) shall be entered in the permanent records of the licensee; and

“(C) shall be retained at the location premises specified on the license.

“(4) VEHICLES.—Nothing in this subsection authorizes a licensee to conduct business in or from any motorized or towed vehicle.

“(5) NO SEPARATE FEE.—Notwithstanding subsection (a), a separate fee shall not be required of a licensee with respect to business conducted under this subsection.

“(6) INSPECTIONS AND EXAMINATIONS.—

“(A) AT A TEMPORARY LOCATION.—Any inspection or examination of inventory or records under this chapter by the Secretary at a temporary location shall be limited to inventory consisting of, or records relating to, firearms held or disposed at the temporary location.

“(B) NO REQUIREMENT.—Nothing in this subsection authorizes the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license.

“(7) NO EFFECT ON OTHER RIGHTS.—Nothing in this subsection diminishes in any manner any right to display, sell, or otherwise dispose of firearms or ammunition that is in effect before the date of enactment of this subsection, including the right of a licensee to conduct firearms transfers and business away from their business premises with another licensee without regard to whether the location of the business is in the State specified on the license of either licensee.”.

SEC. 4. “INSTANT CHECK” GUN TAX AND GUN OWNER PRIVACY.

(a) PROHIBITION OF GUN TAX.—

(1) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following

§ 540B. Prohibition of background check fee

“(a) IN GENERAL.—No officer, employee, or agent of the United States, including a State or local officer or employee acting on behalf of the United States, may charge or collect any fee in connection with any background check required in connection with the transfer of a firearm (as defined in section 921(a)(3) of title 18).

“(b) CIVIL REMEDIES.—Any person aggrieved by a violation of this section may bring an action in United States district court for actual damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney’s fee.”.

(2) CONFORMING AMENDMENT.—The analysis for chapter 33 of title 28, United States Code, is amended by inserting after the item relating to section 540A the following:

“540B. Prohibition of background check fee.”.

(b) PROTECTION OF GUN OWNER PRIVACY AND OWNERSHIP RIGHTS.—

(1) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

§ 931. Gun owner privacy and ownership rights

“(a) IN GENERAL.—Notwithstanding any other provision of law, no department, agency, or instrumentality of the United States or officer, employee, or agent of the United States, including a State or local officer or employee acting on behalf of the United States shall—

“(1) perform any national instant criminal background check on any person through the system established under section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) (referred to in this section as the “system”) if the system does not require

and result in the immediate destruction of all information, in any form whatsoever or through any medium, concerning the person if the person is determined, through the use of the system, not to be prohibited by subsection (g) or (n) of section 922 or by State law from receiving a firearm; or

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

“(A) the National Instant Check System index complies with the requirements of section 552a(e)(5) of title 5, United States Code; and

“(B) does not invoke the exceptions under subsection (j)(2) or paragraph (2) or (3) of subsection (k) of section 552a of title 5, United States Code, except if specifically identifiable information is compiled for a particular law enforcement investigation or specific criminal enforcement matter.

“(b) APPLICABILITY.—Subsection (a)(1) does not apply to the retention or transfer of information relating to—

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

“(2) the date on which that number is provided.

“(c) CIVIL REMEDIES.—Any person aggrieved by a violation of this section may bring an action in United States district court for actual damages, punitive damages, and such other remedies as the court may determine to be appropriate, including a reasonable attorney’s fee.”.

(2) CONFORMING AMENDMENT.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

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

(c) PROVISION RELATING TO PAWN AND OTHER TRANSACTIONS.—

(1) REPEAL.—Section 655 of title VI of the Treasury and General Governmental Appropriations Act, 1999 (112 Stat. 2681–530) is repealed.

(2) RETURN OF FIREARM.—Section 922(t)(1) of title 18, United States Code, is amended by inserting “(other than the return of a firearm to the person from whom it was received)” before “to any other person”.

SEC. 5. EFFECTIVE DATE.

(a) SECTIONS 2 AND 3.—The amendments made by sections 2 and 3 shall take effect on the date that is 90 days after the date of enactment of this Act.

(b) SECTION 4.—The amendments made by section 4 take effect on the date of enactment of this Act, except that the amendment made by subsection (a) of that section takes effect on October 1, 1999.

McCAIN AMENDMENT NO. 333

Mr. MCCAIN proposed an amendment to the bill, S. 254, *supra*; as follows:

At the appropriate place, insert the following:

SEC. _____. FIREARMS PENALTIES.

(a) STRAW PURCHASE PENALTIES.—

(1) IN GENERAL.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

“(7)(A) Notwithstanding paragraph (2), whoever knowingly violates section 922(a)(6) for the purpose of selling, delivering, or otherwise transferring a firearm, knowing or having reasonable cause to know that another person will carry or otherwise possess or discharge or otherwise use the firearm in the commission of a violent felony, shall be—

“(i) fined under this title, imprisoned not more than 15 years, or both; or

“(ii) imprisoned not less than 10 and not more than 20 years and fined under this title, if the procurement is for a juvenile.

“(B) In this paragraph—

“(i) the term ‘juvenile’ has the meaning given the term in section 922(x); and

“(ii) the term ‘violent felony’ means conduct described in subsection (e)(2)(B).”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 180 days after the date of enactment of this Act.

(b) JUVENILE WEAPONS PENALTIES.—

(1) IN GENERAL.—Section 924(a) of title 18 United States Code, is amended—

(A) in paragraph (4), by striking “Whoever” and inserting “Except as provided in paragraph (6), whoever”; and

(B) in paragraph (6), by striking subparagraph (B) and inserting the following:

“(B) A person other than a juvenile who knowingly violates section 922(x)—

“(i) shall be fined under this title, imprisoned not more than 1 year, or both; or

“(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile, knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a violent felony, shall be imprisoned not less than 10 and not more than 20 years and fined under this title.

“(C) In this paragraph—

“(i) the term ‘juvenile’ has the meaning given the term in section 922(x); and

“(ii) the term ‘violent felony’ means conduct described in subsection (e)(2)(B).”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 180 days after the date of enactment of this Act.

FRIST AMENDMENT NO. 334

(Ordered to lie on the table.)

Mr. FRIST submitted an amendment intended to be proposed by him to the bill, S. 254, *supra*; as follows:

At the appropriate place, insert the following:

SEC. _____. AMENDMENT TO INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 615(k) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(k)) is amended—

(1) in paragraph (1)(A)(ii)(I), by inserting “(other than a firearm)” after “weapon”;

(2) by redesignating paragraph (10) as paragraph (11);

(3) by inserting after paragraph (9) the following:

“(10) AUTHORITY OF SCHOOL PERSONNEL REGARDING FIREARMS.—Notwithstanding any other provision of this Act, school personnel with the authority to discipline students may discipline a child with a disability who intentionally possesses a firearm at a school, on school premises, or at a school function, in the same manner that such personnel may discipline a child without a disability, including ceasing educational services. For purposes of this paragraph, a determination concerning whether possession of a firearm is intentional shall not be the subject of a review under paragraph (4).”; and

(4) in paragraph (11), as redesignated in paragraph (2), by adding at the end the following:

“(B) FIREARM.—The term ‘firearm’ has the meaning given the term in section 921 of title 18, United States Code.”.

HATCH (AND LEAHY AMENDMENT
NO. 335

Mr. HATCH (for himself and Mr. LEAHY) proposed an amendment to the bill, S. 254, *supra*; as follows:

On page 265, below line 20, add the following:

**SEC. 402. PROVISION OF INTERNET FILTERING
OR SCREENING SOFTWARE BY CERTAIN
INTERNET SERVICE PROVIDERS.**

(a) REQUIREMENT TO PROVIDE.—Each Internet service provider shall at the time of entering an agreement with a residential customer for the provision of Internet access services, provide to such customer, either at no fee or at a fee not in excess of the amount specified in subsection (c), computer software or another filtering or blocking system that allows the customer to prevent the access of minors to material on the Internet.

(b) SURVEYS OF PROVISION OF SOFTWARE OR SYSTEMS.—

(1) SURVEYS.—The Office of Juvenile Justice and Delinquency Prevention of the Department of Justice and the Federal Trade Commission shall jointly conduct surveys of the extent to which Internet service providers are providing computer software or systems described in subsection (a) to their subscribers.

(2) FREQUENCY.—The surveys required by paragraph (1) shall be completed as follows:

(A) One shall be completed not later than one year after the date of the enactment of this Act.

(B) One shall be completed not later than two years after that date.

(C) One shall be completed not later than three years after that date.

(c) FEES.—The fee, if any, charged and collected by an Internet service provider for providing computer software or a system described in subsection (a) to a residential customer shall not exceed the amount equal to the cost of the provider in providing the software or system to the subscriber, including the cost of the software or system and of any license required with respect to the software or system.

(d) APPLICABILITY.—The requirement described in subsection (a) shall become effective only if—

(1) 1 year after the date of the enactment of this Act, the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(A) that less than 75 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided computer software or systems described in subsection (a) by such providers;

(2) 2 years after the date of the enactment of this Act, the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(B) that less than 85 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided such software or systems by such providers; or

(3) 3 years after the date of the enactment of this Act, if the Office and the Commission determine as a result of the survey completed by the deadline in subsection (b)(2)(C) that less than 100 percent of the total number of residential subscribers of Internet service providers as of such deadline are provided such software or systems by such providers.

(e) INTERNET SERVICE PROVIDER DEFINED.—In this section, the term “Internet service provider” means a “service provider” as defined in section 512(k)(1)(A) of title 17, United States Code, which has more than 50,000 subscribers.

REED AMENDMENT NO. 336

(Ordered to lie on the table.)

Mr. REED submitted an amendment intended to be proposed by him to the bill, S. 254, *supra*; as follows:

At the appropriate place, insert the following:

SEC. _____. GUN DEALER RESPONSIBILITY.

(a) DEFINITIONS.—In this section:

(1) DEALER.—The term “dealer” has the meaning given such term in section 921(a)(11) of title 18, United States Code.

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

(3) LAW ENFORCEMENT OFFICER.—The term “law enforcement officer” means any officer, agent, or employee of the United States, or of a State or political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law.

(b) CAUSE OF ACTION; FEDERAL JURISDICTION.—Any person suffering bodily injury as a result of the discharge of a firearm (or, in the case of a person who is incapacitated or deceased, any person entitled to bring an action on behalf of that person or the estate of that person) may bring an action in any United States district court against any dealer who transferred the firearm to any person in violation of chapter 44 of title 18, United States Code, for damages and such other relief as the court deems appropriate. In any action under this subsection, the court shall allow a prevailing plaintiff a reasonable attorney’s fee as part of the costs.

(c) LIABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the defendant in an action brought under subsection (b) shall be held liable in tort, without regard to fault or proof of defect, for all direct and consequential damages that arise from bodily injury or death proximately resulting from the illegal sale of a firearm if it is established by a preponderance of the evidence that the defendant transferred the firearm to any person in violation of chapter 44 of title 18, United States Code.

(2) DEFENSES.—

(A) INJURY WHILE COMMITTING A FELONY.—There shall be no liability under paragraph (1) if it is established by a preponderance of the evidence that the plaintiff suffered the injury while committing a crime punishable by imprisonment for a term exceeding 1 year.

(B) INJURY BY LAW ENFORCEMENT OFFICER.—There shall be no liability under paragraph (1) if it is established by a preponderance of the evidence that the injury was suffered as a result of the discharge, by a law enforcement officer in the performance of official duties, of a firearm issued by the United States (or any department or agency thereof) or any State (or department, agency, or political subdivision thereof).

(e) NO EFFECT ON OTHER CAUSES OF ACTION.—This section may not be construed to limit the scope of any other cause of action available to a person injured as a result of the discharge of a firearm.

(f) APPLICABILITY.—This section applies to any—

(1) firearm transferred before, on, or after the date of enactment of this Act; and

(2) bodily injury or death occurring after such date of enactment.

NOXIOUS WEED COORDINATION
AND PLANT PROTECTION ACT**AKAKA AMENDMENT NO. 337**

(Ordered referred to the Committee on Agriculture, Nutrition, and Forestry.)

Mr. AKAKA submitted an amendment intended to be proposed by him to the bill (S. 910) to streamline, modernize, and enhance the authority of the Secretary of Agriculture relating to plant protection and quarantine, and for other purposes; as follows:

On page 55, between lines 17 and 18, insert the following:

**SEC. 405. FEDERAL AGENCY ACTION AFFECTING
INVASIVE SPECIES.**

(a) IN GENERAL.—Each Federal agency, an action of which may affect the status of invasive species, shall, to the maximum extent practicable—

(1) identify the action;

(2) use relevant programs and authorities to—

(A) prevent the introduction of invasive species;

(B) detect, respond rapidly to, and control populations of invasive species in a cost-effective and environmentally sound manner;

(C) monitor invasive species populations accurately and reliably;

(D) provide for restoration of native species and habitat conditions of ecosystems that have been invaded;

(E) conduct research on invasive species;

(F) develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and

(G) promote public education on invasive species; and

(3) not authorize, fund, or carry out an action that the agency determines is likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, under guidelines prescribed by the agency, the agency has determined and made public the determination that—

(A) the benefits of the action clearly outweigh the potential harm caused by the invasive species; and

(B) all feasible and prudent measures to minimize the risk of harm shall be taken in conjunction with the action.

(b) DUTIES.—Each Federal agency shall pursue the duties under this section—

(1) in consultation with the Invasive Species Council established under section 402;

(2) in accordance with the National Invasive Species Action Plan established under section 404;

(3) in cooperation with stakeholders, as appropriate; and

(4) with the approval of the Department of State, in cases in which the Federal agency is working with international organizations or foreign nations.

**VIOLENT AND REPEAT JUVENILE
OFFENDER ACCOUNTABILITY
AND REHABILITATION ACT OF
1999****BIDEN (AND OTHERS) AMENDMENT
NO. 338**

(Ordered to lie on the table.)

Mr. BIDEN (for himself, Mr. SCHUMER, Mr. KOHL, and Mrs. BOXER) submitted an amendment intended to be proposed by them to the bill, S. 254, *supra*; as follows: