

Public Law 103-159
103d Congress

An Act

Nov. 30, 1993
[H.R. 1025]

To provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Brady Handgun
Violence
Prevention
Act.
Inter-
governmental
relations.
Law
enforcement
and crime.
18 USC 921 note.

TITLE I—BRADY HANDGUN CONTROL

SEC. 101. SHORT TITLE.

This title may be cited as the "Brady Handgun Violence Prevention Act".

SEC. 102. FEDERAL FIREARMS LICENSEE REQUIRED TO CONDUCT CRIMINAL BACKGROUND CHECK BEFORE TRANSFER OF FIREARM TO NON-LICENSEE.

(a) INTERIM PROVISION.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun to an individual who is not licensed under section 923, unless—

"(A) after the most recent proposal of such transfer by the transferee—

"(i) the transferor has—

"(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

"(II) verified the identity of the transferee by examining the identification document presented;

"(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

"(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement

Effective date.
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date.

to the chief law enforcement officer of the place of residence of the transferee; and

“(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

“(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

“(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

“(C)(i) the transferee has presented to the transferor a permit that—

“(I) allows the transferee to possess or acquire a handgun; and

“(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

“(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

“(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

“(E) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

“(F) on application of the transferor, the Secretary has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

“(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

“(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

“(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

“(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether

receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

“(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

“(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

“(B) a statement that the transferee—

“(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year;

“(ii) is not a fugitive from justice;

“(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

“(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

“(v) is not an alien who is illegally or unlawfully in the United States;

“(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

“(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

“(C) the date the statement is made; and

“(D) notice that the transferee intends to obtain a handgun from the transferor.

“(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—

“(A) the chief law enforcement officer of the place of business of the transferor; and

“(B) the chief law enforcement officer of the place of residence of the transferee.

“(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

“(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

“(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

“(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record

containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

“(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

“(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

“(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

“(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

“(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

“(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

“(8) For purposes of this subsection, the term ‘chief law enforcement officer’ means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

“(9) The Secretary shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.”.

Publication.
Public
information.

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

“(29) The term ‘handgun’ means—

“(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

“(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.”.

(b) **PERMANENT PROVISION.**—Section 922 of title 18, United States Code, as amended by subsection (a)(1), is amended by adding at the end the following:

“(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

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“(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

“(B)(i) the system provides the licensee with a unique identification number; or

“(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

“(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in

section 1028(d)(1) of this title) of the transferee containing a photograph of the transferee.

“(2) If receipt of a firearm would not violate section 922 (g) or (n) or State law, the system shall—

“(A) assign a unique identification number to the transfer;

“(B) provide the licensee with the number; and

“(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

“(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

“(A)(i) such other person has presented to the licensee a permit that—

“(I) allows such other person to possess or acquire a firearm; and

“(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

“(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

“(B) the Secretary has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

“(C) on application of the transferor, the Secretary has certified that compliance with paragraph (1)(A) is impracticable because—

“(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

“(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

“(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

“(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

“(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Secretary may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than \$5,000.

Records.

"(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

"(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

"(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm."

(c) PENALTY.—Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "paragraph (2) or (3) of"; and

(2) by adding at the end the following:

"(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined not more than \$1,000, imprisoned for not more than 1 year, or both."

SEC. 103. NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.

(a) DETERMINATION OF TIMETABLES.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall—

(1) determine the type of computer hardware and software that will be used to operate the national instant criminal background check system and the means by which State criminal records systems and the telephone or electronic device of licensees will communicate with the national system;

(2) investigate the criminal records system of each State and determine for each State a timetable by which the State should be able to provide criminal records on an on-line capacity basis to the national system; and

(3) notify each State of the determinations made pursuant to paragraphs (1) and (2).

(b) ESTABLISHMENT OF SYSTEM.—Not later than 60 months after the date of the enactment of this Act, the Attorney General shall establish a national instant criminal background check system that any licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law.

(c) EXPEDITED ACTION BY THE ATTORNEY GENERAL.—The Attorney General shall expedite—

(1) the upgrading and indexing of State criminal history records in the Federal criminal records system maintained by the Federal Bureau of Investigation;

(2) the development of hardware and software systems to link State criminal history check systems into the national instant criminal background check system established by the Attorney General pursuant to this section; and

(3) the current revitalization initiatives by the Federal Bureau of Investigation for technologically advanced fingerprint and criminal records identification.

(d) NOTIFICATION OF LICENSEES.—On establishment of the system under this section, the Attorney General shall notify each licensee and the chief law enforcement officer of each State of

Computers.
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Tele-
communications.
18 USC 922 note.

the existence and purpose of the system and the means to be used to contact the system.

(e) ADMINISTRATIVE PROVISIONS.—

(1) AUTHORITY TO OBTAIN OFFICIAL INFORMATION.—Notwithstanding any other law, the Attorney General may secure directly from any department or agency of the United States such information on persons for whom receipt of a firearm would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, as is necessary to enable the system to operate in accordance with this section. On request of the Attorney General, the head of such department or agency shall furnish such information to the system.

(2) OTHER AUTHORITY.—The Attorney General shall develop such computer software, design and obtain such telecommunications and computer hardware, and employ such personnel, as are necessary to establish and operate the system in accordance with this section.

(f) WRITTEN REASONS PROVIDED ON REQUEST.—If the national instant criminal background check system determines that an individual is ineligible to receive a firearm and the individual requests the system to provide the reasons for the determination, the system shall provide such reasons to the individual, in writing, within 5 business days after the date of the request.

(g) CORRECTION OF ERRONEOUS SYSTEM INFORMATION.—If the system established under this section informs an individual contacting the system that receipt of a firearm by a prospective transferee would violate subsection (g) or (n) of section 922 of title 18, United States Code or State law, the prospective transferee may request the Attorney General to provide the prospective transferee with the reasons therefor. Upon receipt of such a request, the Attorney General shall immediately comply with the request. The prospective transferee may submit to the Attorney General information to correct, clarify, or supplement records of the system with respect to the prospective transferee. After receipt of such information, the Attorney General shall immediately consider the information, investigate the matter further, and correct all erroneous Federal records relating to the prospective transferee and give notice of the error to any Federal department or agency or any State that was the source of such erroneous records.

(h) REGULATIONS.—After 90 days' notice to the public and an opportunity for hearing by interested parties, the Attorney General shall prescribe regulations to ensure the privacy and security of the information of the system established under this section.

(i) PROHIBITION RELATING TO ESTABLISHMENT OF REGISTRATION SYSTEMS WITH RESPECT TO FIREARMS.—No department, agency, officer, or employee of the United States may—

(1) require that any record or portion thereof generated by the system established under this section be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or political subdivision thereof; or

(2) use the system established under this section to establish any system for the registration of firearms, firearm owners, or firearm transactions or dispositions, except with respect to persons, prohibited by section 922 (g) or (n) of title 18, United States Code or State law, from receiving a firearm.

(j) DEFINITIONS.—As used in this section:

(1) LICENSEE.—The term “licensee” means a licensed importer (as defined in section 921(a)(9) of title 18, United States Code), a licensed manufacturer (as defined in section 921(a)(10) of that title), or a licensed dealer (as defined in section 921(a)(11) of that title).

(2) OTHER TERMS.—The terms “firearm”, “handgun”, “licensed importer”, “licensed manufacturer”, and “licensed dealer” have the meanings stated in section 921(a) of title 18, United States Code, as amended by subsection (a)(2).

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, which may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, such sums as are necessary to enable the Attorney General to carry out this section.

SEC. 104. REMEDY FOR ERRONEOUS DENIAL OF FIREARM.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 925 the following new section:

“§ 925A. Remedy for erroneous denial of firearm

“Any person denied a firearm pursuant to subsection (s) or (t) of section 922—

“(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act; or

“(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney’s fee as part of the costs.”

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by inserting after the item relating to section 925 the following new item:

“925A. Remedy for erroneous denial of firearm.”

SEC. 105. RULE OF CONSTRUCTION.

18 USC 921 note.

This Act and the amendments made by this Act shall not be construed to alter or impair any right or remedy under section 552a of title 5, United States Code.

SEC. 106. FUNDING FOR IMPROVEMENT OF CRIMINAL RECORDS.

(a) USE OF FORMULA GRANTS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

(1) in paragraph (2) by striking “and” after the semicolon;

(2) in paragraph (3) by striking the period and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(4) the improvement of State record systems and the sharing with the Attorney General of all of the records described in paragraphs (1), (2), and (3) of this subsection and the records

required by the Attorney General under section 103 of the Brady Handgun Violence Prevention Act, for the purpose of implementing that Act.”

18 USC 922 note.

(b) **ADDITIONAL FUNDING.—**

(1) **GRANTS FOR THE IMPROVEMENT OF CRIMINAL RECORDS.—** The Attorney General, through the Bureau of Justice Statistics, shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the creation of a computerized criminal history record system or improvement of an existing system;

(B) to improve accessibility to the national instant criminal background system; and

(C) upon establishment of the national system, to assist the State in the transmittal of criminal records to the national system.

(2) **AUTHORIZATION OF APPROPRIATIONS.—**There are authorized to be appropriated for grants under paragraph (1), which may be appropriated from the Violent Crime Reduction Trust Fund established by section 1115 of title 31, United States Code, a total of \$200,000,000 for fiscal year 1994 and all fiscal years thereafter.

TITLE II—MULTIPLE FIREARM PURCHASES TO STATE AND LOCAL POLICE

SEC. 201. REPORTING REQUIREMENT.

Section 923(g)(3) of title 18, United States Code, is amended—

(1) in the second sentence by inserting after “thereon,” the following: “and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place.”;

(2) by inserting “(A)” after “(3)”; and

(3) by adding at the end thereof the following:

“(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph.”.

Records.

Certification.

TITLE III—FEDERAL FIREARMS LICENSE REFORM

Federal
Firearms
License Reform
Act of 1993.

SEC. 301. SHORT TITLE.

18 USC 921 note.

This title may be cited as the "Federal Firearms License Reform Act of 1993".

SEC. 302. PREVENTION OF THEFT OF FIREARMS.

(a) COMMON CARRIERS.—Section 922(e) of title 18, United States Code, is amended by adding at the end the following: "No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm."

(b) RECEIPT REQUIREMENT.—Section 922(f) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(f)"; and

(2) by adding at the end the following new paragraph:

"(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm."

(c) UNLAWFUL ACTS.—Section 922 of title 18, United States Code, as amended by section 102, is amended by adding at the end the following new subsection:

"(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce."

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

"(i)(1) A person who knowingly violates section 922(u) shall be fined not more than \$10,000, imprisoned not more than 10 years, or both.

"(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection."

SEC. 303. LICENSE APPLICATION FEES FOR DEALERS IN FIREARMS.

Section 923(a)(3) of title 18, United States Code, is amended—

(1) in subparagraph (A), by adding "or" at the end;

(2) in subparagraph (B) by striking "a pawnbroker dealing in firearms other than" and inserting "not a dealer in";

(3) in subparagraph (B) by striking “\$25 per year; or” and inserting “\$200 for 3 years, except that the fee for renewal of a valid license shall be \$90 for 3 years.”; and
(4) by striking subparagraph (C).

Approved November 30, 1993.

LEGISLATIVE HISTORY—H.R. 1025 (S. 414):

HOUSE REPORTS: Nos. 103-344 (Comm. on the Judiciary) and 103-412 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 139 (1993):

Nov. 10, considered and passed House.

Nov. 19, 20, considered and passed Senate, amended, in lieu of S. 414.

Nov. 23, House agreed to conference report.

Nov. 24, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 29 (1993):

Nov. 30, Presidential remarks.