

118TH CONGRESS
1ST SESSION

H. R. 5435

To prevent a person who has been convicted of a misdemeanor hate crime, or received an enhanced sentence for a misdemeanor because of hate or bias in its commission, from obtaining a firearm.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2023

Ms. ESCOBAR (for herself, Mr. FROST, Ms. LEE of Pennsylvania, Mr. HIGGINS of New York, Mr. BLUMENAUER, Ms. WILLIAMS of Georgia, Mr. CLYBURN, Mr. GARAMENDI, and Ms. PORTER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prevent a person who has been convicted of a misdemeanor hate crime, or received an enhanced sentence for a misdemeanor because of hate or bias in its commission, from obtaining a firearm.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Disarm Hate Act”.

1 **SEC. 2. PREVENTION OF PERSON WHO HAS BEEN CON-**
2 **VICTED OF A MISDEMEANOR HATE CRIME,**
3 **OR RECEIVED AN ENHANCED SENTENCE FOR**
4 **A MISDEMEANOR BECAUSE OF HATE OR BIAS**
5 **IN ITS COMMISSION, FROM OBTAINING A**
6 **FIREARM.**

7 (a) DEFINITIONS.—Section 921(a) of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 “(36) The term ‘convicted in any court of a mis-
11 demeanor hate crime’—

12 “(A) means being convicted by a court of an of-
13 fense that—

14 “(i) is a misdemeanor under Federal,
15 State, or tribal law;

16 “(ii) has, as an element, that the conduct
17 of the offender was motivated by hate or bias
18 because of the actual or perceived race, color,
19 religion, national origin, gender, sexual orienta-
20 tion, gender identity (as defined in section
21 249), or disability of any person; and

22 “(iii) involves the use or attempted use of
23 physical force, the threatened use of a deadly
24 weapon, or other credible threat to the physical
25 safety of any person; and

26 “(B) does not include—

1 “(i) a conviction of an offense described in
2 subparagraph (A), unless—

3 “(I) the person—

4 “(aa) was represented by counsel
5 in the case; or

6 “(bb) knowingly and intelligently
7 waived the right to counsel in the
8 case; and

9 “(II) in the case of a prosecution for
10 an offense described in subparagraph (A)
11 for which a person was entitled to a jury
12 trial in the jurisdiction in which the case
13 was tried—

14 “(aa) the case was tried by a
15 jury; or

16 “(bb) the person knowingly and
17 intelligently waived the right to have
18 the case tried by a jury, by guilty plea
19 or otherwise; or

20 “(ii) a conviction of an offense described in
21 subparagraph (A) if—

22 “(I) the conviction—

23 “(aa) has been expunged or set
24 aside; or

1 “(bb) is an offense for which the
2 person has been pardoned or has had
3 civil rights restored (if the law of the
4 applicable jurisdiction provides for the
5 loss of civil rights under such an of-
6 fense); and

7 “(II) the pardon, expungement, or
8 restoration of civil rights does not ex-
9 pressly provide that the person may not
10 ship, transport, possess, or receive fire-
11 arms.

12 “(37) The term ‘received from any court an enhanced
13 hate crime misdemeanor sentence’—

14 “(A) means a court has imposed a sentence for
15 a misdemeanor under Federal, State, or tribal law—

16 “(i) that involves the use or attempted use
17 of physical force, the threatened use of a deadly
18 weapon, or other credible threat to the physical
19 safety of any person; and

20 “(ii) based, in whole or in part, on a judi-
21 cial finding that the conduct of the offender
22 was motivated, in whole or in part, by hate or
23 bias for any reason referred to in paragraph
24 (36)(A)(ii); and

25 “(B) does not include—

1 “(i) the imposition of a sentence described
2 in subparagraph (A), unless—

3 “(I) the person—

4 “(aa) was represented by counsel
5 in the case; or

6 “(bb) knowingly and intelligently
7 waived the right to counsel in the
8 case; and

9 “(II) if the sentence described in sub-
10 paragraph (A) was imposed in a prosecu-
11 tion for an offense for which a person was
12 entitled to a jury trial in the jurisdiction in
13 which the case was tried—

14 “(aa) the case was tried by a
15 jury; or

16 “(bb) the person knowingly and
17 intelligently waived the right to have
18 the case tried by a jury, by guilty plea
19 or otherwise; or

20 “(ii) the imposition of a sentence described
21 in subparagraph (A) if—

22 “(I)(aa) the conviction of the offense
23 for which the sentence was imposed has
24 been expunged or set aside; or

1 “(bb) the offense for which the sen-
2 tence was imposed is an offense for which
3 the person has been pardoned or has had
4 civil rights restored (if the law of the appli-
5 cable jurisdiction provides for the loss of
6 civil rights under such an offense); and

7 “(II) the pardon, expungement, or
8 restoration of civil rights does not ex-
9 pressly provide that the person may not
10 ship, transport, possess, or receive fire-
11 arms.”.

12 (b) PROHIBITION ON SALE OR OTHER DISPOSITION
13 OF FIREARM.—Section 922(d) of such title is amended in
14 the first sentence—

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

17 (2) in paragraph (11)—

18 (A) by redesignating such paragraph as
19 paragraph (12); and

20 (B) by striking “through (10)” and insert-
21 ing “through (11)”; and

22 (3) by inserting after paragraph (10) the fol-
23 lowing:

1 “(11) has been convicted in any court of a mis-
2 demeanor hate crime, or has received from any court
3 an enhanced hate crime misdemeanor sentence; or”.

4 (c) PROHIBITION ON POSSESSION, SHIPMENT, OR
5 TRANSPORT OF FIREARM.—Section 922(g) of such title
6 is amended—

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

9 (2) in paragraph (9), by striking the comma
10 and inserting “; or”; and

11 (3) by inserting after paragraph (9) the fol-
12 lowing:

13 “(10) who has been convicted in any court of
14 a misdemeanor hate crime, or has received from any
15 court an enhanced hate crime misdemeanor sen-
16 tence,”.

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