

118TH CONGRESS
1ST SESSION

S. 494

To require a background check for every firearm sale.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2023

Mr. MURPHY (for himself, Ms. BALDWIN, Mr. BENNET, Mr. BLUMENTHAL, Mr. BOOKER, Mr. BROWN, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. COONS, Ms. CORTEZ MASTO, Ms. DUCKWORTH, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FETTERMAN, Mrs. GILLIBRAND, Ms. HASSAN, Mr. HEINRICH, Mr. HICKENLOOPER, Ms. HIRONO, Mr. KAINE, Mr. KELLY, Mr. KING, Ms. KLOBUCHAR, Mr. LUJÁN, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mrs. MURRAY, Mr. OSSOFF, Mr. PADILLA, Mr. PETERS, Mr. REED, Ms. ROSEN, Mr. SANDERS, Mr. SCHATZ, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SMITH, Ms. STABENOW, Mr. VAN HOLLEN, Mr. WARNER, Mr. WARNOCK, Ms. WARREN, Mr. WELCH, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require a background check for every firearm sale.

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 “Background Check Ex-
5 pansion Act”.

1 **SEC. 2. FIREARMS TRANSFERS.**

2 (a) IN GENERAL.—Section 922 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 “(aa)(1)(A) It shall be unlawful for any person who
6 is not a licensed importer, licensed manufacturer, or li-
7 censed dealer to transfer a firearm to any other person
8 who is not so licensed, unless a licensed importer, licensed
9 manufacturer, or licensed dealer has first taken possession
10 of the firearm for the purpose of complying with sub-
11 section (t).

12 “(B) Upon taking possession of a firearm under sub-
13 paragraph (A), a licensee shall comply with all require-
14 ments of this chapter as if the licensee were transferring
15 the firearm from the inventory of the licensee to the unli-
16 censed transferee.

17 “(C) If a transfer of a firearm described in subpara-
18 graph (A) will not be completed for any reason after a
19 licensee takes possession of the firearm (including because
20 the transfer of the firearm to, or receipt of the firearm
21 by, the transferee would violate this chapter), the return
22 of the firearm to the transferor by the licensee shall not
23 constitute the transfer of a firearm for purposes of this
24 chapter.

25 “(2) Paragraph (1) shall not apply to—

1 “(A) a law enforcement agency or any law en-
2 forcement officer, armed private security profes-
3 sional, or member of the Armed Forces, to the ex-
4 tent the officer, professional, or member is acting
5 within the course and scope of employment and offi-
6 cial duties;

7 “(B) a transfer that is a loan or bona fide gift
8 between spouses, between domestic partners, be-
9 tween parents and their children, including step-par-
10 ents and their step-children, between siblings, be-
11 tween aunts or uncles and their nieces or nephews,
12 or between grandparents and their grandchildren;

13 “(C) a transfer to an executor, administrator,
14 trustee, or personal representative of an estate or a
15 trust that occurs by operation of law upon the death
16 of another person;

17 “(D) a temporary transfer that is necessary to
18 prevent imminent death or great bodily harm, in-
19 cluding harm to self, family, household members, or
20 others, if the possession by the transferee lasts only
21 as long as immediately necessary to prevent the im-
22 minent death or great bodily harm, including the
23 harm of domestic violence, dating partner violence,
24 sexual assault, stalking, and domestic abuse;

1 “(E) a transfer that is approved by the Attor-
2 ney General under section 5812 of the Internal Rev-
3 enue Code of 1986; or

4 “(F) a temporary transfer if the transferor has
5 no reason to believe that the transferee will use or
6 intends to use the firearm in a crime or is prohibited
7 from possessing firearms under State or Federal
8 law, and the transfer takes place and the trans-
9 feree’s possession of the firearm is exclusively—

10 “(i) at a shooting range or in a shooting
11 gallery or other area designated for the purpose
12 of target shooting;

13 “(ii) while reasonably necessary for the
14 purposes of hunting, trapping, or fishing, if the
15 transferor—

16 “(I) has no reason to believe that the
17 transferee intends to use the firearm in a
18 place where it is illegal; and

19 “(II) has reason to believe that the
20 transferee will comply with all licensing
21 and permit requirements for such hunting,
22 trapping, or fishing; or

23 “(iii) while in the presence of the trans-
24 feror.

1 “(3) It shall be unlawful for a licensed importer, li-
2 censed manufacturer, or licensed dealer to transfer posses-
3 sion of, or title to, a firearm to another person who is
4 not so licensed unless the importer, manufacturer, or deal-
5 er has provided such other person with a notice of the
6 prohibition under paragraph (1), and such other person
7 has certified that such other person has been provided
8 with this notice on a form prescribed by the Attorney Gen-
9 eral.”.

10 (b) AMENDMENT TO SECTION 924(a).—Section
11 924(a)(5) of title 18, United States Code, is amended by
12 striking “(s) or (t)” and inserting “(s), (t), or (aa)”.

13 (c) RULES OF INTERPRETATION.—Nothing in this
14 Act, or any amendment made by this Act, shall be con-
15 strued to—

16 (1) authorize the establishment, directly or indi-
17 rectly, of a national firearms registry; or

18 (2) interfere with the authority of a State,
19 under section 927 of title 18, United States Code,
20 to enact a law on the same subject matter as this
21 Act.

22 (d) EFFECTIVE DATE.—The amendments made by
23 subsections (a) and (b) shall take effect 180 days after
24 the date of enactment of this Act.

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