

113TH CONGRESS
1ST SESSION

S. 174

To appropriately restrict sales of ammunition.

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 2013

Mr. BLUMENTHAL (for himself, Mr. MURPHY, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To appropriately restrict sales of ammunition.

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 “Ammunition Back-
5 ground Check Act of 2013”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Under current Federal law, it is illegal to
9 sell firearms or ammunition to certain individuals,
10 including felons, fugitives, drug addicts, and those

1 deemed “mentally defective” or committed to a men-
2 tal institution.

3 (2) There is no requirement under Federal law
4 that sellers of ammunition conduct a background
5 check to determine whether potential purchasers are
6 in fact prohibited by law from buying ammunition.

7 (3) By contrast, under current Federal law, li-
8 censed sellers of firearms are required by law to con-
9 duct an instant background check using the Na-
10 tional Instant Criminal Background Check System
11 of the Justice Department.

12 (4) Over the last decade, there have been over
13 100,000,000 background checks conducted under
14 the National Instant Criminal Background Check
15 System with respect to firearms sales, resulting in
16 the blocking of more than 1,500,000 sales of fire-
17 arms to felons, fugitives, drug addicts, and the men-
18 tally ill, among others.

19 (5) The vast majority of instant background
20 checks on firearms purchases occur in an average of
21 30 seconds, at minimal inconvenience to firearms
22 sellers and law-abiding purchasers.

23 (6) The requirement of background checks for
24 ammunition purchases would pose a minimal incon-

1 venience to ammunition sellers and law-abiding pur-
2 chasers, and would help reduce gun-related violence.

3 (7) Current Federal law includes a variety of
4 other provisions regulating the sale of firearms, in-
5 cluding limits on interstate gun sales and record-
6 keeping requirements designed to assist in criminal
7 investigations, that do not apply to sales of ammuni-
8 tion.

9 (8) Sales of ammunition should be held to simi-
10 lar requirements as sales of firearms.

11 **SEC. 3. BACKGROUND CHECKS.**

12 (a) **REQUIRING BACKGROUND CHECKS FOR PUR-**
13 **CHASES OF AMMUNITION.—**

14 (1) **IN GENERAL.—**Section 922 of title 18,
15 United States Code, is amended by inserting after
16 subsection (u) the following:

17 “(v)(1) On and after the date that is 180 days after
18 the date of enactment of the Ammunition Background
19 Check Act of 2013, no person who is licensed under this
20 chapter shall transfer ammunition to any other person
21 who is not licensed under this chapter, unless—

22 “(A) before the completion of the transfer, the
23 licensee contacts the national instant criminal back-
24 ground check system established under section 103
25 of the Brady Handgun Violence Prevention Act;

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

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

9 “(C) the transferor has verified the identity of
10 the transferee by examining a valid identification
11 document (as defined in section 1028(d) of this title)
12 of the transferee containing a photograph of the
13 transferee.

14 “(2) If receipt of ammunition would not violate sub-
15 section (g) or (n) or State law, the system shall—

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

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

19 “(C) destroy all records of the system with re-
20 spect to the call (other than the identifying number
21 and the date the number was assigned) and all
22 records of the system relating to the person or the
23 transfer.

24 “(3) Paragraph (1) shall not apply to an ammunition
25 transfer between a licensee and another person if—

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

3 “(I) allows such other person to possess or
4 acquire ammunition; and

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

8 “(ii) the law of the State provides that such a
9 permit is to be issued only after an authorized gov-
10 ernment official has verified that the information
11 available to such official does not indicate that pos-
12 session of a firearm or ammunition by such other
13 person would be in violation of law;

14 “(B) the Attorney General has approved the
15 transfer under section 5812 of the Internal Revenue
16 Code of 1986; or

17 “(C) on application of the transferor, the Attor-
18 ney General has certified that compliance with para-
19 graph (1)(A) is impracticable because—

20 “(i) the ratio of the number of law enforce-
21 ment officers of the State in which the transfer
22 is to occur to the number of square miles of
23 land area of the State does not exceed 0.0025;

24 “(ii) the business premises of the licensee
25 at which the transfer is to occur are extremely

1 remote in relation to the chief law enforcement
2 officer (as defined in subsection (s)(8)); and

3 “(iii) there is an absence of telecommuni-
4 cations facilities in the geographical area in
5 which the business premises are located.

6 “(4) If the national instant criminal background
7 check system notifies any person licensed under this chap-
8 ter that the information available to the system does not
9 demonstrate that the receipt of ammunition by such other
10 person would violate subsection (g) or (n) or State law,
11 and the licensee transfers ammunition to such other per-
12 son, the seller shall include in the record of the transfer
13 the unique identification number provided by the system
14 with respect to the transfer.

15 “(5) If any person licensed under this chapter know-
16 ingly transfers ammunition to another person and know-
17 ingly fails to comply with paragraph (1) of this subsection
18 with respect to the transfer and, at the time such other
19 person most recently proposed the transfer, the national
20 instant criminal background check system was operating
21 and information was available to the system dem-
22 onstrating that receipt of ammunition by such other per-
23 son would violate subsection (g) or (n) of this section or
24 State law, the Attorney General may, after notice and op-
25 portunity for a hearing, suspend for not more than 6

1 months or revoke any license issued to the person under
2 section 923, and may impose on the person a civil fine
3 of not more than \$5,000 for a first violation, \$25,000 for
4 a second violation, and \$100,000 for any subsequent viola-
5 tion.

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

11 “(A) for failure to prevent the sale or transfer
12 of ammunition to a person whose receipt or posses-
13 sion of the ammunition is unlawful under this sec-
14 tion; or

15 “(B) for preventing such a sale or transfer to
16 a person who may lawfully receive or possess ammu-
17 nition.”.

18 (2) REGULATIONS RELATING TO RETENTION
19 AND DESTRUCTION OF RECORDS IN SYSTEM.—In
20 promulgating regulations to carry out subsection
21 (v)(2)(C) of section 922 of title 18, United States
22 Code, as added by this Act, the Attorney General
23 shall ensure that the records described in such sub-
24 section are destroyed not later than 3 business days
25 after the date on which a licensee is notified that a

1 transfer of ammunition may proceed under such sec-
2 tion.

3 (3) CONFORMING AMENDMENTS.—

4 (A) TITLE 18.—Section 922 of title 18,
5 United States Code, is amended—

6 (i) in subsection (c)—

7 (I) in the matter preceding para-
8 graph (1), by inserting “or ammuni-
9 tion” after “sell a firearm”;

10 (II) in paragraph (1)—

11 (aa) by inserting “or ammu-
12 nition” after “a firearm”;

13 (bb) by inserting “or ammu-
14 nition” after “this firearm”; and

15 (cc) by inserting “or ammu-
16 nition” after “the firearm”; and

17 (III) in paragraph (2), by insert-
18 ing “or ammunition” after “firearm”
19 each place it appears.

20 (ii) in subsection (d), in the matter
21 following paragraph (9), by adding at the
22 end, the following: “Any person who is li-
23 censed under this chapter and who sells
24 ammunition to any of the persons de-
25 scribed in paragraph (1) through (9) after

1 failing to comply with the requirements of
 2 section 922(v) of title 18, United States
 3 Code, shall be deemed to have acted know-
 4 ingly with respect to this subsection.”.

5 (B) PENALTY.—Section 924(a)(5) of title
 6 18, United States Code, is amended by striking
 7 “or (t)” and inserting “, (t), or (v)”.

8 (C) BRADY HANDGUN VIOLENCE PREVEN-
 9 TION ACT.—Section 103 of the Brady Handgun
 10 Violence Prevention Act (18 U.S.C. 922 note) is
 11 amended—

12 (i) by inserting “or ammunition” after
 13 “firearm” each place it appears;

14 (ii) in subsection (i), in the subsection
 15 heading, by inserting “OR AMMUNITION”
 16 after “FIREARMS”; and

17 (iii) in subsection (j)(2), inserting
 18 “‘ammunition’,” after “The terms”.

19 (b) AMMUNITION TRANSFERS.—

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

23 **“§ 932. Background checks for ammunition transfers**
 24 **by unlicensed persons**

25 “(a) DEFINITIONS.—In this section—

1 “(1) the term ‘unlicensed transferee’ means a
2 person who—

3 “(A) is not licensed under this chapter;
4 and

5 “(B) desires to received ammunition from
6 an unlicensed transferor; and

7 “(2) the term ‘unlicensed transferor’ means a
8 person who—

9 “(A) is not licensed under this chapter;
10 and

11 “(B) desires to transfer ammunition to an
12 unlicensed transferee.

13 “(b) PROHIBITION.—

14 “(1) IN GENERAL.—It shall be unlawful for an
15 unlicensed transferee to knowingly transfer ammuni-
16 tion to an unlicensed transferor and knowingly fail
17 to obtain a background check conducted by a li-
18 censed dealer in accordance with subsection (d) with
19 respect to the transfer.

20 “(2) CRIMINAL PENALTY.—An unlicensed
21 transferee who violates paragraph (1) shall be fined
22 under this title, imprisoned for not more than 1
23 year, or both.

24 “(c) CIVIL PENALTY.—If any unlicensed transferee
25 knowingly transfers ammunition to an unlicensed trans-

1 feror and knowingly fails to obtain a background check
2 conducted by a licensed dealer in accordance with sub-
3 section (d) with respect to the transfer and, at the time
4 such unlicensed transferor most recently proposed the
5 transfer, the national instant criminal background check
6 system was operating and information was available to the
7 system demonstrating that receipt of ammunition by such
8 unlicensed transferor would violate subsection (g) or (n)
9 of section 922 or State law, the Attorney General may,
10 after notice and opportunity for a hearing, impose on the
11 unlicensed transferee a civil fine of not more than \$5,000
12 for a first violation, \$25,000 for a second violation, and
13 \$100,000 for any subsequent violation.

14 “(d) BACKGROUND CHECKS THROUGH LICENSED
15 DEALERS.—A licensed dealer who agrees to assist in the
16 transfer of ammunition between an unlicensed transferor
17 and an unlicensed transferee shall—

18 “(1) enter such information about the ammuni-
19 tion as the Attorney General may require by regula-
20 tion into a separate bound record;

21 “(2) record the transfer on a form specified by
22 the Attorney General;

23 “(3) comply with section 922(v) as if transfer-
24 ring the ammunition from the inventory of the li-
25 censed dealer to the unlicensed transferee (except

1 that a licensed dealer assisting in the transfer of
2 ammunition under this subsection shall not be re-
3 quired to comply again with the requirements of sec-
4 tion 922(v) in delivering the ammunition to the unli-
5 censed transferee) and notify the unlicensed trans-
6 feror and unlicensed transferee—

7 “(A) of such compliance; and

8 “(B) if the transfer is subject to the re-
9 quirements of section 922(v)(1), of any receipt
10 by the licensed dealer of a notification from the
11 national instant criminal background check sys-
12 tem that the transfer would violate section 922
13 or State law;

14 “(4) not later than 31 days after the date on
15 which the transfer occurs, submit to the Attorney
16 General a report of the transfer, which—

17 “(A) shall be on a form specified by the
18 Attorney General by regulation; and

19 “(B) shall not include the name of or other
20 identifying information relating to the unli-
21 censed transferor or unlicensed transferee;

22 “(5) if the licensed dealer assists an unlicensed
23 transferor in transferring, at the same time or dur-
24 ing any 5 consecutive business days, 1,000 or more
25 rounds of ammunition, to the same unlicensed trans-

1 feree, in addition to the reports required under para-
 2 graph (4), prepare a report of the multiple transfers,
 3 which shall—

4 “(A) be prepared on a form specified by
 5 the Attorney General; and

6 “(B) not later than the close of business
 7 on the date on which the transfer requiring the
 8 report under this paragraph occurs, be sub-
 9 mitted to—

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

12 “(ii) the appropriate State law en-
 13 forcement agency of the jurisdiction in
 14 which the transfer occurs; and

15 “(6) retain a record of the transfer as part of
 16 the permanent business records of the licensed deal-
 17 er.”.

18 (2) CONFORMING AMENDMENT.—The table of
 19 sections for chapter 44 of title 18, United States
 20 Code, is amended by adding at the end the fol-
 21 lowing:

“932. Background checks for ammunition transfers by unlicensed persons.”.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 23 are authorized to be appropriated to the Attorney General
 24 such sums as are necessary—

1 (1) to ensure that the national instant criminal
2 background check system operates as quickly and ef-
3 fectively as it did before the enactment of this Act;
4 and

5 (2) for the cost of implementing and enforcing
6 the amendments made by this Act, including audits
7 and other regulatory or enforcement efforts.

8 **SEC. 4. REGULATORY REQUIREMENTS.**

9 (a) **REQUIRING RECORDKEEPING FOR AMMUNITION**
10 **SALES.**—Section 922(b)(5) of title 18, United States
11 Code, is amended by striking “or armor-piercing ammuni-
12 tion” and inserting “or ammunition”.

13 (b) **NO AMMUNITION SALES CONTRARY TO STATE**
14 **LAW.**—Section 922(b)(2) of title 18, United States Code,
15 is amended—

16 (1) by inserting “or ammunition” after “any
17 firearm”; and

18 (2) by inserting “or ammunition” after “such
19 firearm”.

20 (c) **NO INTERSTATE AMMUNITION SALES.**—

21 (1) **IN GENERAL.**—Section 922(b)(3) of title
22 18, United States Code, is amended—

23 (A) by inserting “or ammunition” after
24 “any firearm”; and

1 (B) by striking “rifle or shotgun” and in-
2 serting “ammunition, rifle, or shotgun”.

3 (2) OTHER PROVISIONS.—Section 922(a) is
4 amended—

5 (A) in paragraph (3) by inserting “or am-
6 munition” after “firearm” each place it ap-
7 pears; and

8 (B) in paragraph (5), by inserting “or am-
9 munition” after “firearm” each place it appears
10 except the last place it appears.

11 (d) REPORTING.—

12 (1) IN GENERAL.—Section 923(g) of title 18,
13 United States Code, is amended—

14 (A) in paragraph (1)(A)—

15 (i) in the first sentence, by inserting
16 “or ammunition” after “other disposition
17 of firearms”; and

18 (ii) in the third sentence, by striking
19 “, or any licensed importer or manufac-
20 turer of ammunition,” and inserting “, or
21 any licensed importer, manufacturer, or
22 dealer of ammunition,”;

23 (B) in paragraph (2)—

24 (i) by inserting “or ammunition” after
25 “disposition of firearms”; and

1 (ii) by inserting “or ammunition”
2 after “a firearm”;

3 (C) in paragraph (3), by adding at the end
4 the following:

5 “(C)(i) Each licensee shall prepare a report of mul-
6 tiple sales or other dispositions whenever the licensee sells
7 or otherwise disposes of, at one time or during any 5 con-
8 secutive business days, a large quantity of ammunition (as
9 determined in accordance with clause (ii)) to an unlicensed
10 person. The report shall be prepared on a form specified
11 by the Attorney General and forwarded to the office speci-
12 fied thereon and to the department of State police or State
13 law enforcement agency of the State and, where feasible,
14 the local law enforcement agency of the local jurisdiction
15 in which the sale or other disposition took place, not later
16 than the close of business on the day that the multiple
17 sale or other disposition occurs.

18 “(ii) The Attorney General shall determine the quan-
19 tity of ammunition that constitutes a large quantity for
20 the purpose of this subparagraph, the quantity of which—

21 “(I) shall be based on the Attorney General’s
22 determination of the quantity that indicates an in-
23 tent to engage in any type of criminal activity;

24 “(II) may be modified by the Attorney General
25 from time to time; and

1 “(III) may vary by geographic area if the At-
2 torney General determines that it is appropriate to
3 assist law enforcement efforts.”;

4 (D) in paragraph (6)—

5 (i) by inserting “or a significant quan-
6 tity of ammunition,” after “theft or loss of
7 a firearm”; and

8 (ii) by adding at the end the fol-
9 lowing: “Not later than 60 days after the
10 date of enactment of the Ammunition
11 Background Check Act of 2013, the Attor-
12 ney General shall promulgate rules defin-
13 ing ‘significant quantity’ for the purpose of
14 this paragraph.”; and

15 (E) in paragraph (7), by inserting “or any
16 quantity of ammunition” after “1 or more fire-
17 arms”; and

18 (2) CONFORMING AMENDMENT.—Section
19 4182(d) of the Internal Revenue Code of 1986 (re-
20 lating to exemptions relating to firearms) is amend-
21 ed by inserting “and except as provided in para-
22 graphs (1)(A) and (3)(C) of section 923(g) of title
23 18, United States Code,” before “no person holding
24 a Federal license”.

1 (e) MAKING IT A CRIME TO STEAL AMMUNITION.—
2 Section 922(u) of title 18, United States Code, is amend-
3 ed—

4 (1) by inserting “or ammunition” after “in fire-
5 arms”; and

6 (2) by inserting “or ammunition” after “any
7 firearm”.

8 (f) KEEPING AMMUNITION OUT OF THE HANDS OF
9 JUVENILES.—Section 922(x) of title 18, United States
10 Code, is amended—

11 (1) in paragraph (1)(B), by striking “only”;
12 and

13 (2) in paragraph (2)(B), by striking “only”.

14 (g) LICENSING OF AMMUNITION DEALERS.—

15 (1) IN GENERAL.—Section 923(a) of title 18,
16 United States Code, is amended in the matter pre-
17 ceding paragraph (1), by striking “, or importing or
18 manufacturing” and inserting “or”.

19 (2) DEFINITIONS.—Section 921(a) of title 18,
20 United States Code is amended—

21 (A) in paragraph (11)(A), by inserting “or
22 ammunition” after “firearms”;

23 (B) in paragraph (12), by inserting “or
24 ammunition” after “any firearm”; and

1 (C) in paragraph (13), by inserting “or
2 ammunition” after “firearms”.

3 **SEC. 5. ARMOR-PIERCING AND INCENDIARY AMMUNITION.**

4 (a) EXPANDING DEFINITION OF ARMOR-PIERCING
5 BULLETS.—Section 921(a)(17)(B) of title 18, United
6 States Code, is amended—

7 (1) in clause (i), by striking “or” at the end;

8 (2) in clause (ii), by striking the period at the
9 end and inserting “; or”; and

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

11 “(iii) a bullet or projectile which is coated with
12 Teflon or any chemical compound with properties
13 similar to Teflon.”.

14 (b) BANNING INCENDIARY AMMUNITION.—

15 (1) DEFINITION.—Section 921(a) of title 18,
16 United States Code, is amended by adding at the
17 end the following:

18 “(36) The term ‘incendiary ammunition’—

19 “(A) means a bullet that is designed for
20 the purpose of, held out by the manufacturer or
21 distributor as, or generally recognized as having
22 a specialized capability to ignite upon impact;
23 and

24 “(B) includes such bullets commonly des-
25 ignated as ‘M1 Incendiary’, ‘M23 Incendiary’,

1 ‘M8 Armor-Piercing Incendiary’, ‘API’, ‘M20
2 Armor-Piercing Incendiary Tracer’, or
3 ‘APIT’.”.

4 (2) PROHIBITION.—Chapter 44 of title 18,
5 United States Code, is amended—

6 (A) by inserting “or incendiary ammuni-
7 tion” after “armor piercing ammunition” each
8 place it appears, except—

9 (i) in section 921; and

10 (ii) in section 923(k);

11 (B) in section 922(b)(5), by inserting “or
12 incendiary ammunition” after “armor-piercing
13 ammunition”; and

14 (C) in section 923(k)—

15 (i) by inserting “, incendiary projec-
16 tiles, and” after “armor piercing projec-
17 tiles”; and

18 (ii) by inserting “or incendiary ammu-
19 nition as defined in section 921(a)(36)”
20 before the period at the end.

21 (c) PROHIBITION ON POSSESSION AND TRANSFER.—
22 Section 922(a)(7) of title 18, United States Code, is
23 amended—

1 (1) in the matter proceeding subparagraph (A),
2 by striking “or import” and inserting “import,
3 transfer, or possess”;

4 (2) in subparagraph (A)—

5 (A) by inserting “, transfer, or possession”
6 after “manufacture”; and

7 (B) by inserting “or the transfer or posses-
8 sion of such ammunition relates to use on be-
9 half of” after “for the use of”;

10 (3) in subparagraph (B), by inserting “, trans-
11 fer, or possession” after “manufacture”; and

12 (4) in subparagraph (C), by inserting “, trans-
13 fer, or possession” after “manufacture”.

14 (d) GRANDFATHERING OF CONTINUED POSSESSION
15 OF AMMUNITION.—

16 (1) IN GENERAL.—The amendments made by
17 this section shall not apply to the possession of any
18 armor piercing ammunition (as defined in section
19 921(a)(17)(B) of title 18, United States Code, as
20 amended by subsection (a)), or incendiary ammuni-
21 tion (as defined in section 921(a)(36) of title 18,
22 United States Code, as added by subsection (b)) oth-
23 erwise lawfully possessed under Federal law on the
24 date of enactment of this Act.

1 (2) NO TRANSFER, SALE, OR DELIVERY.—Noth-
2 ing in paragraph (1) shall be construed to authorize
3 the transfer, sale, or delivery of any armor piercing
4 ammunition or incendiary ammunition described in
5 paragraph (1).

○