

113TH CONGRESS
2D SESSION

S. 2904

To prevent the militarization of Federal, State, and local law enforcement by Federal excess property transfers and grant programs.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 18, 2014

Mr. COBURN introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To prevent the militarization of Federal, State, and local law enforcement by Federal excess property transfers and grant programs.

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 “Stop Militarizing Law
5 Enforcement Act”.

6 **SEC. 2. ADDITIONAL LIMITATIONS ON TRANSFER OF DE-**
7 **PARTMENT OF DEFENSE PERSONAL PROP-**
8 **ERTY TO FEDERAL AND STATE LAW EN-**
9 **FORCEMENT AGENCIES.**

10 (a) ADDITIONAL LIMITATIONS.—

1 (1) IN GENERAL.—Section 2576a of title 10,
2 United States Code, is amended—

3 (A) in subsection (a)—

4 (i) in paragraph (1)—

5 (I) in the matter preceding sub-
6 paragraph (A), by striking “sub-
7 section (b)” and inserting “the provi-
8 sions of this section”; and

9 (II) in subparagraph (A), by
10 striking “, including counter-drug and
11 counterterrorism activities”; and

12 (ii) in paragraph (2), by striking “and
13 the Director of National Drug Control Pol-
14 icy”;

15 (B) in subsection (b)—

16 (i) in paragraph (3), by striking
17 “and” at the end;

18 (ii) in paragraph (4), by striking the
19 period and inserting a semicolon; and

20 (iii) by adding at the end the fol-
21 lowing new paragraphs:

22 “(5) the recipient certifies to the Department of
23 Defense that it has the personnel and technical ca-
24 pacity, including training, to operate the property;
25 and

1 “(6) the recipient certifies to the Department of
2 Defense that if the recipient determines that the
3 property is surplus to the needs of the recipient, the
4 recipient will return the property to the Department
5 of Defense.”;

6 (C) by striking subsection (d); and

7 (D) by adding at the end the following new
8 subsections:

9 “(d) LIMITATIONS ON TRANSFERS.—The Secretary
10 of Defense may not transfer under this section any prop-
11 erty as follows:

12 “(1) Weapons, weapon parts, and weapon com-
13 ponents, including camouflage and deception equip-
14 ment, and optical sights.

15 “(2) Weapon system specific vehicular acces-
16 sories.

17 “(3) Demolition materials.

18 “(4) Explosive ordinance.

19 “(5) Night vision equipment.

20 “(6) Tactical clothing, including uniform cloth-
21 ing and footwear items, special purpose clothing
22 items, and specialized flight clothing and accessories.

23 “(7) Drones.

1 “(8) Combat, assault, and tactical vehicles, in-
2 cluding Mine-Resistant Ambush Protected (MRAP)
3 vehicles.

4 “(9) Training aids and devices.

5 “(e) APPROVAL BY LAW REQUIRED FOR TRANSFER
6 OF PROPERTY NOT PREVIOUSLY TRANSFERRABLE.—(1)
7 In the event the Secretary of Defense proposes to make
8 available for transfer under this section any property of
9 the Department of Defense not previously made available
10 for transfer under this section, the Secretary shall submit
11 to the appropriate committees of Congress a report setting
12 forth the following:

13 “(A) A description of the property proposed to
14 be made available for transfer.

15 “(B) A description of the conditions, if any, to
16 be imposed on use of the property after transfer.

17 “(C) A certification that transfer of the prop-
18 erty would not violate a provision of this section or
19 any other provision of law.

20 “(2) The Secretary may not transfer any property
21 covered by a report under this subsection unless author-
22 ized by a law enacted by Congress after the date of the
23 receipt of the report by Congress.

24 “(f) ANNUAL CERTIFICATION ACCOUNTING FOR
25 TRANSFERRED PROPERTY.—(1) The Secretary of Defense

1 shall submit to the appropriate committees of Congress
2 each year a certification in writing that each recipient to
3 which the Secretary has transferred property under this
4 section during the preceding fiscal year—

5 “(A) has provided to the Secretary documenta-
6 tion accounting for all property the Secretary has
7 previously transferred to such recipient under this
8 section; and

9 “(B) has complied with paragraphs (5) and (6)
10 of subsection (b) with respect to the property so
11 transferred during such fiscal year.

12 “(2) If the Secretary cannot provide a certification
13 under paragraph (1) for a recipient, the Secretary may
14 not transfer additional property to such recipient under
15 this section, effective as of the date on which the Secretary
16 would otherwise make the certification under this sub-
17 section, and such recipient shall be suspended or termi-
18 nated from further receipt of property under this section.

19 “(g) CONDITIONS FOR EXTENSION OF PROGRAM.—
20 Notwithstanding any other provision of law, amounts au-
21 thorized to be appropriated or otherwise made available
22 for any fiscal year may not be obligated or expended to
23 carry out this section unless the Secretary submits to the
24 appropriate committees of Congress a certification that for
25 the preceding fiscal year that—

1 “(1) each recipient agency that has received
2 property under this section has—

3 “(A) demonstrated 100 percent account-
4 ability for all such property, in accordance with
5 paragraph (2) or (3), as applicable; or

6 “(B) been suspended or terminated from
7 the program pursuant to paragraph (4);

8 “(2) with respect to each non-Federal agency
9 that has received property under this section, the
10 State Coordinator responsible for each such agency
11 has verified that the State Coordinator or an agent
12 of the State Coordinator has conducted an in-person
13 inventory of the property transferred to the agency
14 and that 100 percent of such property was ac-
15 counted for during the inventory or that the agency
16 has been suspended or terminated from the program
17 pursuant to paragraph (4);

18 “(3) with respect to each Federal agency that
19 has received property under this section, the Sec-
20 retary of Defense or an agent of the Secretary has
21 conducted an in-person inventory of the property
22 transferred to the agency and that 100 percent of
23 such property was accounted for during the inven-
24 tory or that the agency has been suspended or ter-

1 minated from the program pursuant to paragraph
2 (4);

3 “(4) the eligibility of any agency that has re-
4 ceived property under this section for which 100 per-
5 cent of the equipment was not accounted for during
6 an inventory described in paragraph (2) or (3), as
7 applicable, to receive property transferred under this
8 section has been suspended or terminated; and

9 “(5) each State Coordinator has certified, for
10 each non-Federal agency located in the State for
11 which the State Coordinator is responsible that—

12 “(A) the agency has complied with all re-
13 quirements under this section; or

14 “(B) the eligibility of the agency to receive
15 property transferred under this section has been
16 suspended or terminated; and

17 “(6) the Secretary of Defense has certified, for
18 each Federal agency that has received property
19 under this section that—

20 “(A) the agency has complied with all re-
21 quirements under this section; or

22 “(B) the eligibility of the agency to receive
23 property transferred under this section has been
24 suspended or terminated.

1 “(h) WEBSITE.—The Defense Logistics Agency shall
2 maintain, and update on a quarterly basis, an Internet
3 website on which the following information shall be made
4 publicly available in a searchable format:

5 “(1) A description of each transfer made under
6 this section, including transfers made before the
7 date of the enactment of the Stop Militarizing Law
8 Enforcement Act, set forth by State, county, and re-
9 cipient agency, and including item name, item type,
10 item model, and quantity.

11 “(2) A list of all property transferred under
12 this section that is not accounted for by the Defense
13 Logistics Agency, including—

14 “(A) the name of the State, county, and
15 recipient agency;

16 “(B) the item name, item type, and item
17 model;

18 “(C) the date on which such property be-
19 came unaccounted for by the Defense Logistics
20 Agency; and

21 “(D) the current status of such item.

22 “(3) A list of each agency suspended or termi-
23 nated from further receipt of property under this
24 section, including State, county, and agency, and the

1 reason for and duration of such suspension or termi-
2 nation.

3 “(i) DEFINITIONS.—In this section:

4 “(1) The term ‘appropriate committees of Con-
5 gress’ means—

6 “(A) the Committee on Armed Services
7 and the Committee on Homeland Security and
8 Governmental Affairs of the Senate; and

9 “(B) the Committee on Armed Services
10 and the Committee on Oversight and Govern-
11 ment Reform of the House of Representatives.

12 “(2) The term ‘agent of a State Coordinator’
13 means any individual to whom a State Coordinator
14 formally delegates responsibilities for the duties of
15 the State Coordinator to conduct inventories de-
16 scribed in subsection (g)(2).

17 “(3) The term ‘State Coordinator’, with respect
18 to a State, means the individual appointed by the
19 governor of the State to maintain property account-
20 ability records and oversee property use by the
21 State.”.

22 (2) EFFECTIVE DATE.—The amendments made
23 by this subsection shall take effect on the date of the
24 enactment of this Act.

1 (b) RETURN OF PROPERTY TO DEPARTMENT OF DE-
2 FENSE.—Not later than one year after the date of the en-
3 actment of this Act, each Federal or State agency to which
4 property described by subsection (d) of section 2576a of
5 title 10, United States Code (as added by subsection
6 (a)(1) of this section), was transferred before the date of
7 the enactment of this Act shall return such property to
8 the Defense Logistics Agency on behalf of the Department
9 of Defense.

10 **SEC. 3. USE OF DEPARTMENT OF HOMELAND SECURITY**
11 **PREPAREDNESS GRANT FUNDS.**

12 (a) DEFINITIONS.—In this section—

13 (1) the term “Agency” means the Federal
14 Emergency Management Agency; and

15 (2) the term “preparedness grant program” in-
16 cludes—

17 (A) the Urban Area Security Initiative au-
18 thorized under section 2003 of the Homeland
19 Security Act of 2002 (6 U.S.C. 604);

20 (B) the State Homeland Security Grant
21 Program authorized under section 2004 of the
22 Homeland Security Act of 2002 (6 U.S.C. 605);

23 (C) the Port Security Grant Program au-
24 thorized under section 70107 of title 46, United
25 States Code; and

1 (D) any other non-disaster preparedness
2 grant program of the Agency.

3 (b) LIMITATION.—The Agency may not permit
4 awards under a preparedness grant program—

5 (1) to be used to buy, maintain, or alter—

6 (A) tactical law enforcement protective
7 equipment, including—

8 (i) ballistic helmets;

9 (ii) ballistic shields;

10 (iii) battle dress uniforms, coveralls,
11 and jumpsuits worn during tactical oper-
12 ations, boots, or other specialized tactical
13 clothing or footwear; and

14 (iv) tactical protective padding;

15 (B) explosive entry equipment;

16 (C) portable or transportable explosive
17 magazines;

18 (D) head and face protection equipment,
19 other than those to be used by certified bomb
20 technicians;

21 (E) robot and remotely piloted vehicles, in-
22 cluding upgrades, attachments or tools for ro-
23 bots and remotely piloted vehicles;

1 (F) canines (other than bomb-sniffing ca-
2 nines for agencies with certified bomb techni-
3 cians);

4 (G) tactical or armored vehicles;

5 (H) law enforcement surveillance equip-
6 ment;

7 (I) long range hailing and warning devices;

8 or

9 (J) tactical entry equipment; or

10 (2) to be used for, or to deploy or obtain train-
11 ing in the use or deployment of—

12 (A) robots and remotely piloted vehicles;

13 (B) canines (other than bomb-sniffing ca-
14 nines for agencies with certified bomb techni-
15 cians);

16 (C) explosive entry equipment;

17 (D) law enforcement surveillance equip-
18 ment; or

19 (E) tactical operations.

20 (c) REVIEW OF PRIOR RECEIPT OF PROPERTY BE-
21 FORE AWARD.—In making an award under a prepared-
22 ness grant program, the Agency shall—

23 (1) determine whether the awardee has already
24 received, and still retains, property from the Depart-
25 ment of Defense pursuant to section 2576a of title

1 10, United States Code, including through review of
2 the website maintained by the Defense Logistics
3 Agency pursuant to subsection (h) of such section
4 (as added by section 2(a)(1) of this Act); and

5 (2) require that the award may not be used by
6 the awardee to procure or obtain property deter-
7 mined to be retained by the awardee pursuant to
8 paragraph (1).

9 (d) **USE OF GRANT PROGRAM FUNDS FOR REQUIRED**
10 **RETURN OF PROPERTY TO DOD.**—Notwithstanding any
11 other provision of law, the use of funds by a State or local
12 agency to return to the Department of Defense property
13 transferred to such State or local agency pursuant to sec-
14 tion 2676a of title 10, United States Code, as such return
15 is required by section 2(b) of this Act, shall be an allow-
16 able use of preparedness grant program funds by such
17 agency.

18 **SEC. 4. USE OF EDWARD BYRNE MEMORIAL JUSTICE AS-**
19 **SISTANCE GRANT FUNDS.**

20 (a) **LIMITATION.**—Section 501(d) of title I of the
21 Omnibus Crime Control and Safe Streets Act of 1968 (42
22 U.S.C. 3751(d)) is amended by adding at the end the fol-
23 lowing:

24 “(3) The purchase, maintenance, alteration, or
25 operation of—

1 “(A) lethal weapons; or

2 “(B) less-lethal weapons.”.

3 (b) USE OF GRANT FUNDS FOR REQUIRED RETURN
4 OF PROPERTY TO DOD.—Notwithstanding any other pro-
5 vision of law, the use of funds by a State agency or unit
6 of local government to return to the Department of De-
7 fense property transferred to such agency or unit of local
8 government pursuant to section 2676a of title 10, United
9 States Code, as such return is required by section 2(b)
10 of this Act, shall be an allowable use of grant amounts
11 under the Edward Byrne Memorial Justice Assistance
12 Grant Program.

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