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SENATE

{ REPORT
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THE LAW ENFORCEMENT OFFICERS SAFETY ACT OF 2002

NOVEMBER 19, 2002.—Ordered to be printed

Mr. LEAHY, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany S. 2480]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to which was referred the bill (S. 2480) to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed firearms, having considered the same, reports favorably thereon, and recommends that the bill, as amended, do pass.

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I. PURPOSE

The purpose of S. 2480, the “Law Enforcement Officers Safety Act of 2002,” is to amend title 18, United States Code, to authorize

qualified off-duty law enforcement officers and qualified retired law enforcement officers carrying the photographic identification issued by the governmental agency for which the individual is, or was, employed as a law enforcement officer to carry a concealed firearm that has been shipped or transported to interstate or foreign commerce. This act, however, does not seek to supersede Federal law or limit the laws of any State that permits private persons or entities to prohibit or restrict the possessions of concealed firearms on their property; or prohibits or restricts the possession of firearms on any State or local government property, installation, building, base, or park.

II. BACKGROUND ON THE LEGISLATION

The “Law Enforcement Officers Safety Act,” S. 2480, was introduced by Senate Judiciary Committee Chairman Leahy and Senate Judiciary Committee Ranking Republican Member Hatch on May 8, 2002. Forty-one Senators—including Senate Judiciary Committee members Thurmond, McConnell, Edwards, Feinstein, Grassley, Sessions, Brownback, Cantwell, DeWine and Kyl—have cosponsored the bill in an effort to make communities safer and to better protect law enforcement officers and their families.

Representative Randy “Duke” Cunningham first introduced similar legislation in the 102nd Congress as the National Police and Peace Officer Protection Act,” H.R. 4897, which was cosponsored by 15 House Members. It was referred to the House Judiciary Committee Subcommittee on Crime and Criminal Justice for consideration, but the Subcommittee took no action on the bills.

Representative Cunningham reintroduced versions of this legislation in the House in the 103rd, 104th, 105th, 106th, and 107th Congresses. In the 105th Congress, as the “Community Protection Act,” this legislation was ordered to be reported, as amended, by voice vote by the House Judiciary Committee and placed on the Union Calendar. No further action, however, was taken on the bill in the 105th Congress. In 1999, the House of Representatives adopted similar legislation, by a vote of 372–53, as a floor amendment during its gun safety debate before the overall legislation was defeated.

For the 107th Congress, Representative Cunningham reintroduced the “Community Protection Act,” H.R. 218 on January 3, 2001, and it has garnered 268 cosponsors. On November 11, 2001, a motion was filed to discharge the Rules Committee from consideration of H. Res. 271, which provides for the consideration of H.R. 218. The discharge petition (No. 107–4) presently has 46 of the required 218 signatures for further action.

III. NEED FOR THE LEGISLATION

Chairman Leahy introduced the “Local Law Enforcement Officers Safety Act” in the Senate at the request of the National President of the Fraternal Order of Police (FOP), Lieutenant Steve Young of Ohio. Lt. Young and the FOP have long dedicated themselves to this matter, and led the campaign to focus Congress on this measure that will help make our communities safer and protect those who are sworn to guard and serve the American public.

Law enforcement officers are never “off-duty.” They are dedicated public servants trained to uphold the law and keep the peace. When there is a threat to the peace or to our public safety, law enforcement officers are sworn to answer that call. The Law Enforcement Officers Safety Act enables law enforcement officers nationwide to be armed and prepared when they answer that call, no matter where, when, or in what form it comes.

There are approximately 740,000 sworn law enforcement officers currently serving in the United States. Since the first recorded police death in 1792, there have been more than 16,200 law enforcement officers killed in the line of duty. A total of 1,800 law enforcement officers died in the line of duty over the last decade, an average of 180 deaths per year. In 2001 alone, there were 232 police deaths, representing a 49-percent increase from the 156 officers who died in 2000. Roughly 5 percent of officers who die are killed taking law enforcement action while in an off-duty capacity. On average, more than 62,000 law enforcement officers are assaulted each year, resulting in some 21,000 injuries.¹

While a police officer may not remember the name and face of every criminal he or she has locked behind bars, criminals often have long and exacting memories. A law enforcement officer is a target in uniform and out; active and retired; on duty and off.

The Law Enforcement Officers Safety Act of 2002 is designed to protect officers and their families from vindictive criminals, and to allow thousands of equipped, trained and certified law enforcement officers, whether on-duty, off-duty or retired, to carry concealed firearms in most situations, thus enabling them to respond immediately to a crime across State and other jurisdictional lines.

As Lt. Steve Young stated in his July 23, 2002, testimony before the Senate Judiciary Committee:

Among the many tools of a professional law enforcement officer are the badge and the gun. The badge symbolizes the officer’s authority and, in worst-case scenarios, the gun enforces that authority. These tools are given to the officer in trust by the public to enforce the peace and fight crime. In asking Congress to pass this bill, we seek a measured extension of that trust. In certain emergency circumstances, an officer’s knowledge and training would be rendered virtually useless without a firearm, as would his ability to provide for his own self-defense or that of his family. This bill will provide the means for law enforcement officers to enforce the law, keep the peace and respond to crisis situations by enabling them to put to use that training and answer the call to duty when need arises.

Today, a complex patchwork of Federal, State, and local laws govern the carrying of concealed firearms for current and retired law enforcement officers. Many members of the law enforcement community, including the FOP, the National Association of Police Officers (NAPO), Federal Law Enforcement Officers Association (FLEOA), and International Brotherhood of Police Officers (IBPO),

¹“The Officer Down Memorial Page, Inc.” See <http://www.odmp.org/>. See also “Law Enforcement Officers Killed and Assaulted—2001 (Preliminary).” U.S. Department of Justice, Federal Bureau of Investigations, Uniform Crime Reports.

believe that national legislation is necessary because of this patchwork of conceal-carry laws. This bill addresses this need by establishing national measures of uniformity and consistency to permit law enforcement officers to respond immediately to a crime when off duty, as well as to protect officers and their families from vindictive criminals.

The Law Enforcement Officers Safety Act creates a mechanism by which law enforcement officers may travel interstate with a firearm. Qualified active-duty law enforcement officers will be permitted to travel interstate with a firearm subject to certain limitations and provided that officers are carrying their official badges and photographic identification.

Generally, an active-duty officer is qualified to carry a concealed firearm under S. 2480 if he or she is authorized to engage in or supervise any violation of law, is authorized to carry a firearm at all times, is not subject to any disciplinary action by the agency, and meets any agency standards with respect to qualification with a firearm. A qualified active-duty officer may not, however, carry a concealed firearm on any privately owned lands if the owner prohibits or restricts such possession. A qualified officer also may not carry a firearm on any State or local government property, installation, building, base, or park. In his or her official capacity, though, a law enforcement officer is permitted to carry weapons whenever Federal, State, or local law allows. This bill is not intended to interfere with any law enforcement officer's right to carry a concealed firearm, on private or government property, while on duty or in the course of official business.

Off-duty and retired officers should also be permitted to carry their firearms across State and other jurisdictional lines, at no cost to taxpayers, in order better to serve and protect our communities. The Law Enforcement Officers Safety Act would permit qualified law enforcement officers and qualified retired law enforcement officers across the Nation to carry concealed firearms in most situations. It also preserves, however, any State law that permits citizens from restricting a concealed firearm on private property and preserves any State law that restricts the possession of a firearm on State or local government property.

In order to qualify for the bill's exemptions in permitting a qualified off-duty law enforcement officer to carry a concealed firearm notwithstanding the law of the State or political subdivision of the State, a qualified off-duty law enforcement officer must be authorized to use a firearm by the law enforcement agency where he or she works, not be subject to any disciplinary action, meet the standards of the agency to regularly use a firearm, not be prohibited by Federal law from receiving a firearm, and be carrying a photo identification issued by the agency. The bill preserves any State law that restricts concealed firearms on private property, and preserves any State law that restricts the possession of a firearm on State or local government property or park.

For a retired law enforcement officer to qualify for exemption from State laws prohibiting the carrying of concealed firearms, he or she must have retired in good standing, have been qualified by the agency to carry or use a firearm, have been employed at least 15 years as a law enforcement officer unless forced to retire due to a service-connected disability, have a nonforfeitable right to retire-

ment plan benefits of the law enforcement agency, meet the same State firearms training and qualifications as an active officer, not be prohibited by Federal law from receiving a firearm, and be carrying a photo identification issued by the agency. This section preserves any State law that restricts concealed firearms on private property and preserves any State law that restricts the possession of a firearm on State or local government property or park.

IV. HEARINGS

The Senate Judiciary Committee held one hearing on “The Law Enforcement Officers Safety Act, S. 2480,” on July 23, 2002. Testimony was received from six witnesses, including Senator Max Baucus of Montana and Representative Cunningham. The other witnesses were: Lt. Steve Young, national president of the Fraternal Order of Police; Mr. Arthur Gordon, a national executive board member of the Federal Law Enforcement Officers Association; Deputy Chief of Police David Johnson of the Cedar Rapids Police Department in Cedar Rapids, IA; and Col. Lonnie J. Westphal, chief of the Colorado State Patrol.

V. COMMITTEE CONSIDERATION

On September 19, 2002, the Judiciary Committee met in open and executive session to consider S. 2480, the “Law Enforcement Officers Safety Act.”

The Committee approved by voice vote an amendment introduced by Senator Durbin. The Durbin amendment increased the service requirement for a retired officer to qualify to carry a concealed firearm under the bill from 5 years to 15 years of regular employment for a law enforcement agency. The Durbin amendment also requires retired officers to meet the same firearms training qualifications as active law enforcement officers. Finally, the Durbin amendment makes it explicit that an active officer does not qualify under the bill if he or she is prohibited by Federal law from receiving a firearm.

Senator Kennedy offered an amendment to bar officers from carrying a concealed firearm into another State unless they were permitted to carry that particular firearm while on active duty. The Committee, on a 9 to 9 rollcall vote, defeated this amendment. The Committee did not complete consideration of S. 2480 on September 19.

On October 8, 2002, the Committee continued consideration of S. 2480 but did not complete consideration of the bill.

On November 14, 2002, the Committee adopted, without objection, an amendment by Chairman Leahy and Senator Hatch to clarify that the legislation does not cover any machine gun (as defined in section 5845 of title 26), any firearm silencer (as defined in section 921 of title 18) and any destructive device (as defined in section 921 of title 18). The Committee then ordered the Law Enforcement Officers Safety Act to be reported favorably to the full Senate, with Senator Kennedy dissenting, with a recommendation that the bill do pass.

VI. VOTES OF THE COMMITTEE

The Committee approved by voice vote the amendment by Senator Durbin.

The rollcall vote on the amendment by Senator Kennedy barring officers from carrying any concealed firearm unless the officer was authorized and qualified to carry that same firearm was as follows:

Tally: 9 Yes, 9 No, 1 Not Voting

Democrats (10)

N Leahy (D-VT.)
 Y Kennedy (D-Mass.)
 Y Biden (D-Del.)
 Y Kohl (D-Wis.)
 Y Feinstein (D-Calif.)
 Y Feingold (D-Wis.)
 Y Schumer (D-N.Y.)
 Y Durbin (D-Ill.)
 Y Cantwell (D-Wash.)
 NV Edwards (D-N.C.)

Republicans (9)

N Hatch (R-Utah)
 N Thurmond (R-S.C.)
 N Grassley (R-Iowa)
 Y Specter (R-Pa.)
 N Kyl (R-Ariz.)
 N DeWine (R-Ohio)
 N Sessions (R-Ala.)
 N Brownback (R-Kan.)
 N McConnell (R-Ky.)

The Committee approved without objection the amendment by Senator Leahy and Senator Hatch regarding the types of firearms covered by the legislation.

The Committee then ordered the Law Enforcement Officers Safety Act, as amended, to be reported favorably to the full Senate, with Senator Kennedy dissenting, with a recommendation that the bill do pass.

VII. SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short title

Section 1 provides that the short title of the bill shall be the Law Enforcement Officers Safety Act of 2002.

Section 2. Exemption of qualified law enforcement officers from State law prohibiting the carrying of concealed firearms

Section 2 would permit qualified law enforcement officers to carry a concealed firearm notwithstanding the law of the State or political subdivision of the State. A qualified law enforcement officer under this section must be authorized to use a firearm by the law enforcement agency where he or she works, not be subject to any disciplinary action, meet the standards of the agency to regularly use a firearm, not be prohibited by Federal law from receiving a firearm, and be carrying a photo identification issued by the

agency. This section preserves any State law that restricts concealed firearms on private property and preserves any State law that restricts the possession of a firearm on State or local government property or park. This section does not supercede any other Federal law.

Section 3. Exemption of qualified retired law enforcement officers from State laws prohibiting the carrying of concealed firearms

Section 3 would permit a qualified retired law enforcement officer to carry a concealed firearm notwithstanding the law of the State or political subdivision of the State. A qualified retired law enforcement officer under this section must have retired in good standing, have been qualified by the agency to carry or use a firearm, have been employed at least 15 years as a law enforcement officer unless forced to retire due to a service-connected disability, have a nonforfeitable right to retirement plan benefits of the law enforcement agency, annually meet State firearms training and qualifications that are the same as active law enforcement officers, not be prohibited by Federal law from receiving a firearm, and be carrying a photo identification issued by the agency. This section preserves any State law that permits or restricts concealed firearms on private property and preserves any State law that restricts the possession of a firearm on State or local government property or park. This section does not supercede any other Federal law.

VIII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the standing rules of the Senate, the Committee sets forth, with respect to the bill, S. 2480, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 19, 2002.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2480, the Law Enforcement Officers Safety Act of 2002.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for federal costs) and Angela Seitz (for the state and local impact).

Sincerely,

ROBERT A. SUNSHINE
(For Dan L. Crippen, Director).

Enclosure.

S. 2480—Law Enforcement Officers Safety Act of 2002

S. 2480 would exempt certain current and former law enforcement officers from state laws prohibiting the carrying of concealed handguns. CBO estimates that the bill would have no impact on

federal spending. The legislation would not affect direct spending or receipts.

S. 2480 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) because it would preempt certain state and local laws that prohibit carrying concealed weapons. CBO estimates that complying with that mandate would result in no direct costs to state and local governments, and thus the costs of that mandate would not exceed the threshold established by that act (\$58 million in 2002, adjusted annually for inflation). S. 2480 contains no new private-sector mandates as defined in UMRA.

The CBO staff contacts for this estimate are Mark Grabowicz (for federal costs) and Angela Seitz (for the impact on state and local governments). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

IX. REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b)(1), rule XXVI of the Standing Rules of the Senate, the Committee, after due consideration, concludes that S. 2480 will not have significant regulatory impact.

X. MINORITY VIEW OF SENATOR EDWARD M. KENNEDY

The horrific sniper shootings in Maryland, Virginia, and the District of Columbia in October 2002 called our attention once again to the problem of gun violence facing our nation: the pointless injury and loss of life, the families that are ripped apart, the communities consumed in fear. Tens of thousands of people in the United States die from gunshot wounds each year. The rate of firearm deaths among children is nearly twelve times higher in the United States than in other industrial countries.

The national response to this death toll has been minimal. Americans overwhelmingly favor responsible gun-safety measures. Nevertheless, Congress has to this point failed to close the “gun show loophole,” which allows firearms to be purchased illegally at gun shows, no questions asked. Similarly, efforts to enact a national ballistic tracking system, which would strengthen the ability of law enforcement to catch serial killers, have stalled.

Instead of pursuing such needed gun-safety measures, the Judiciary Committee has passed S. 2480, the “Law Enforcement Officers Safety Act,” a bill that would undermine gun-safety laws that have been passed by State and local governments. It is a giant step in the wrong direction.

The Majority argues that S. 2480 is necessary to protect active and retired officers and their families from “vindictive” criminals. It points to “a complex patchwork of Federal, state and local laws” that govern the carrying of concealed weapons. However, while the safety of police officers is a goal of the highest importance, there is no evidence that a national override of State and local gun-safety laws is necessary to achieve this goal.

The Fraternal Order of Police (FOP), the primary supporter of this bill, has submitted two lists of officers and prison guards who were killed while off-duty or retired. The stories of these slain men and women are tragic. Their killers deserve to be severely punished. But not one of these incidents involved an officer who was killed outside his or her home state. Indeed, these lists show that States and local governments are best equipped to implement policies, regulations, and laws that protect the safety of their own law enforcement officers, and also protect the public at large.

Consider one of the FOP’s most recent examples. In New Jersey, retired police chief John Deventer was shot while heroically trying to stop a robbery. This incident prompted New Jersey to enact a law allowing retired officers to carry handguns under a number of conditions. In drafting this law, now codified at N.J.S.A. 2C:39-6(1), the New Jersey legislature made a deliberate effort to balance the safety of police officers with the safety of the public at large. The Majority offers no reason why Congress shall second-guess this State’s decision, or the considered judgment of any other State—particularly when S. 2480 fails to provide the basic safeguards that

the New Jersey legislature considered necessary even in the wake of Chief Deventer's shooting. Unlike New Jersey's statute, S. 2480:

- does not set a maximum age;
- does not have an annual application process;
- does not require retirees to list all their guns;
- does not give police departments discretion to deny permits; and
- is not limited to handguns.

A comparison of the balanced New Jersey statute with the sweeping approach of S. 2480 argues against, not for, enactment of this federal legislation.

The Majority claims that it is advancing the interests of law enforcement by allowing off-duty and retired officers "to carry their firearms across State and other jurisdiction lines * * * in order better to serve and protect our communities." I strongly favor giving State and local police departments all the resources they need to fight and prevent crime. I am proud to have played a leading role in increasing by more than 100,000 the number of police officers in our communities through the 1994 Crime Act. I question, however, the Majority's assertion that communities will be safer if we override gun-safety laws for the purpose of arming out-of-State off-duty and retired police officers. The evidence is to the contrary.

S. 2480 is strongly opposed by the Police Executive Research Forum and the International Association of Chiefs of Police (IACP). These law enforcement organizations understand the potential of this bill to undermine the safety of our communities and the safety of police officers. As Colonel Lonnie Westphal of the IACP stated in testimony to our Committee in July:

[O]ne of the reasons that this legislation is especially troubling to our nation's law enforcement executives is because [it] could in fact threaten the safety of police officers by creating tragic situations where officers from other jurisdictions are wounded or killed by the local officers. Police Departments throughout the nation train their officers to respond as a team to dangerous situations. This teamwork requires months of training to develop and provides the officers with an understanding of how their coworkers will respond when faced with different situations. Injecting an armed, unknown officer, who has received different training and is operating under different assumptions, can turn an already dangerous situation deadly.

S. 2480 does not simply override State law for active police officers. It does so for retired officers also—and, indeed, for anyone who has served in a law enforcement capacity for fifteen years in the "aggregate"—before resigning and moving on to a different job. There is no requirement that a retiree demonstrate a special need for a firearm.

While S. 2480 provides that an officer must have technically left law enforcement in "good standing," it is well known that sub-par employees can be released from their jobs without a formal finding of misconduct. This bill does not draw a distinction between officers who served ably and those who did not. Officers who retire in "good standing" while under investigation for domestic violence, racial

profiling, excessive force, or substance abuse could still qualify for broad concealed-carry authority for the rest of their lives. Furthermore, as the IACP has observed:

[T]his legislation fails to take into account those officers who have retired under threat of disciplinary action or dismissal for emotional problems that did not rise to the level of “mental instability.” Officers who retire or quit just prior to a disciplinary or competency hearing may still be eligible for benefits and appear to have left the agency in good standing. Even a police officer who retires with exceptional skills today may be stricken with an illness or other problem that makes him or her unfit to carry a concealed weapon, but they will not be overseen by a police management structure that identifies such problems in current officers.

Indeed, although Senator Durbin’s amendment of September 19 clarified somewhat the firearms training standards that retired officers must meet, these officers will not be subject to any continuing police department policies or guidelines. Thus, if it passes this bill, Congress will be effectively extending to former police officers greater authority to carry concealed weapons than it extends to active police officers.

Furthermore, in granting off-duty and retired police officers broad authority to violate State and local gun-safety laws, S. 2480 is not limited to the carrying of officers’ authorized weapons. In most police departments, officers may seek authorization to carry a range of weapons. If an officer wants to carry a weapon other than his service weapon—typically, a nine-millimeter semi-automatic pistol—he must show that he is qualified before the department will authorize him to carry it. To be qualified, the officer must demonstrate that he can handle that weapon safely.

Rather than limiting itself to authorized weapons, the initial version of S. 2480 provided that so long as an officer received authorization to carry a particular kind of firearm (such as his service weapon), he could carry concealed any other kind of firearm while off-duty or retired—even if he never received authorization from his own police department to carry that weapon, and regardless of all applicable State and local laws. Even worse, under federal law the term “firearm” is defined extremely broadly. It includes “any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive”—and “any destructive device.” 18 U.S.C. §921(a)(3). Thus, under the initial version of S. 2480, so long as an officer had been at some point authorized to use his service weapon on the job, he could carry a concealed bomb or grenade while off-duty.

On September 19, 2002, I introduced an amendment providing that an off-duty or retired officer could carry a concealed firearm only if he had been authorized to carry that firearm by the agency he works for, or if he had been so authorized at the time of his retirement. The Committee rejected this amendment by an evenly divided 9–9 vote.

On November 14, the Committee adopted without objection an amendment by Chairman Leahy and Senator Hatch providing that

S. 2480 does not authorize the carrying of machine guns, silencers, and destructive devices such as bombs and grenades. This amendment takes a step in the direction of common sense. Clearly, no civilian—not even an off-duty or retired police officer—needs to carry a machine gun, bomb, or grenade. It is equally clear, however, that off-duty and retired officers do not need to carry concealed shotguns or long-range sniper rifles. S. 2480 will still override State and local laws that prohibit such dangerous weapons, and will still allow off-duty and retired officers to carry a wide range of weapons which their own police departments do not allow them to carry. The idea that Americans will be safer if we allow more people to carry such weapons is pure fiction.

S. 2480 does little to preserve “safe harbors” from gun violence that currently exist under State and local laws. Many States and local governments now single out places as needing special protection from the scourge of gun violence. Michigan, for example, prohibits concealed firearms in schools, sports arenas, bars, churches, and hospitals. Georgia law allows active and retired police officers to carry firearms in publicly owned buildings, but not in churches, sports arenas, or places where alcohol is sold. Kentucky prohibits carrying concealed firearms in government buildings, bars, and schools. South Carolina prohibits concealed firearms at school athletic events, churches, and hospitals. Rochester, New York, prohibits guns in government buildings, on school property, and in public parks. Cincinnati prohibits carrying deadly weapons on school property.

Inexplicably, S. 2480 overrides all local gun-safety laws, without exception. In the 1990’s, cities like Boston and New York made great strides in the fight against crime precisely because they were able to pass laws that addressed the factors that lead to violence—including the prevalence of firearms in inner cities. As Congressman Henry Hyde has observed, “the best decisions on fighting crime are made at the local level.” By overriding all local gun-safety laws, S. 2480 will undermine the ability of cities to fight crime.

Even at the State level, S. 2480 will override most “safe harbor” laws. For example, it will override State laws that categorically prohibit guns in churches and other houses of worship, since only laws that permit private entities to post signs prohibiting concealed firearms on their property will remain in force. In most States, churches are not currently required to post signs in order to secure a gun-free zone. S. 2480 also overrides laws that prohibit concealed weapons in places where alcohol is served. Surely, it is reasonable for a State to prohibit people from bringing guns into bars, to prevent the extreme danger that results when liquor and firearms are mixed.

Massachusetts has some of the strictest gun-safety laws in the country, including a comprehensive ban on carrying concealed weapons without a permit. The decision to grant a permit lies in the discretion of local law enforcement officials. Massachusetts has taken strong steps to protect our citizens, our children, and our communities, and the results are clear. The firearm death rate in the State is well below the national average.

There is simply no reason for Congress to second-guess the judgment of Massachusetts, Michigan, Georgia, Kentucky, South Caro-

lina, or any other State when it comes to protecting its citizens from gun violence. Each State and local government should be allowed to reach its own judgment as to where citizens and out-of-State visitors may carry concealed weapons—and whether active or retired law enforcement officers should be included in or exempted from any prohibition. In the words of the International Association of Chiefs of Police, it is “essential that state and local governments maintain the ability to legislate concealed carry laws that best fit the needs of their communities.”

For all of these reasons, I oppose S. 2480.

TED KENNEDY.

XI. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 2480, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman);

UNITED STATES CODE

* * * * *

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

Part I. CRIMES Section 1

PART I—CRIMES

Chapter 1. General provisions Section 1
44. Firearms 921

CHAPTER 44—FIREARMS

Sec. 921. Definitions.
926. Rules and regulations.
926A. Interstate transportation of firearms.
926B. Carrying of concealed firearms by qualified law enforcement officers.
926C. Carrying of concealed firearms by qualified retired law enforcement officers.

§ 926A. Interstate transportation of firearms

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle:

Provided, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

§926B. Carrying of concealed firearms by qualified law enforcement officers

(a) *Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).*

(b) *This section shall not be construed to supersede or limit the laws of any State that—*

(1) *permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or*

(2) *prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.*

(c) *As used in this section, the term “qualified law enforcement officer” means an employee of a governmental agency who—*

(1) *is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for any violation of law, and has statutory powers of arrest;*

(2) *is authorized by the agency to carry a firearm;*

(3) *is not the subject of any disciplinary action by the agency;*

(4) *meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm; and*

(5) *is not prohibited by Federal law from receiving a firearm.*

(d) *The identification required by this subsection is the photographic identification issued by the government agency for which the individual is, or was, employed as a law enforcement officer.*

(e) *DEFINED TERM.—As used in this section, the term “firearm” does not include—*

(1) *any machinegun (as defined in section 5845 of title 26);*

(2) *any firearm silencer (as defined in section 921); and*

(3) *any destructive device (as defined in section 921).*

§926C. Carrying of concealed firearms by qualified retired law enforcement officers

(a) *Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).*

(b) *This section shall not be construed to supersede or limit the laws of any State that—*

(1) *permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or*

(2) *prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.*

(c) *As used in this section, the term “qualified retired law enforcement officer” means an individual who—*

(1) *retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;*

(2) *before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;*

(3)(A) *before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more;* or

(B) *retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;*

(4) *has a nonforfeitable right to benefits under the retirement plan of the agency;*

(5) *during the most recent 12-month period, has met, at the expense of the individual, the State’s standards for training and qualification for active law enforcement officers to carry firearms; and*

(6) *is not prohibited by Federal law from receiving a firearm.*

(d) *The identification required by this subsection is photographic identification issued by the agency for which the individual was employed as a law enforcement officer.*

(e) *DEFINED TERM.—As used in this section, the term “firearm” does not include—*

(1) *any machinegun (as defined in section 5845 of title 26);*

(2) *any firearm silencer (as defined in section 921); and*

(3) *a destructive device (as defined in section 921).*

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