

108TH CONGRESS  
1ST SESSION

# H. R. 260

To extend Brady background checks to gun shows, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 8, 2003

Mr. CONYERS (for himself, Mr. NADLER, Mr. ACKERMAN, Ms. CORRINE BROWN of Florida, Mr. DELAHUNT, Ms. KILPATRICK, Ms. LEE, Mr. MARKEY, Ms. SCHAKOWSKY, Mr. BLUMENAUER, Mr. CUMMINGS, Mr. FATTAH, Mr. HASTINGS of Florida, Mr. KENNEDY of Rhode Island, Ms. LOFGREN, Mr. MEEHAN, Mr. TOWNS, Mr. WEXLER, Mr. DEUTSCH, Mr. FRANK of Massachusetts, Ms. DEGETTE, Mr. PAYNE, Mr. STARK, Mr. BERMAN, Mr. DAVIS of Florida, Mr. CLAY, Ms. NORTON, Mr. HOLT, Mr. GUTIERREZ, and Mr. MCDERMOTT) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To extend Brady background checks to gun shows, and for other purposes.

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 “Gun Show Background  
5 Check Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) more than 4,400 traditional gun shows are  
2 held annually across the United States, attracting  
3 thousands of attendees per show and hundreds of  
4 Federal firearms licensees and nonlicensed firearms  
5 sellers;

6 (2) traditional gun shows, as well as flea mar-  
7 kets and other organized events, at which a large  
8 number of firearms are offered for sale by Federal  
9 firearms licensees and nonlicensed firearms sellers,  
10 form a significant part of the national firearms mar-  
11 ket;

12 (3) firearms and ammunition that are exhibited  
13 or offered for sale or exchange at gun shows, flea  
14 markets, and other organized events move easily in  
15 and substantially affect interstate commerce;

16 (4) in fact, even before a firearm is exhibited or  
17 offered for sale or exchange at a gun show, flea mar-  
18 ket, or other organized event, the gun, its component  
19 parts, ammunition, and the raw materials from  
20 which it is manufactured have moved in interstate  
21 commerce;

22 (5) gun shows, flea markets, and other orga-  
23 nized events at which firearms are exhibited or of-  
24 fered for sale or exchange, provide a convenient and  
25 centralized commercial location at which firearms

1 may be bought and sold anonymously, often without  
2 background checks and without records that enable  
3 gun tracing;

4 (6) at gun shows, flea markets, and other orga-  
5 nized events at which guns are exhibited or offered  
6 for sale or exchange, criminals and other prohibited  
7 persons obtain guns without background checks and  
8 frequently use guns that cannot be traced to later  
9 commit crimes;

10 (7) many persons who buy and sell firearms at  
11 gun shows, flea markets, and other organized events  
12 cross State lines to attend these events and engage  
13 in the interstate transportation of firearms obtained  
14 at these events;

15 (8) gun violence is a pervasive, national prob-  
16 lem that is exacerbated by the availability of guns at  
17 gun shows, flea markets, and other organized events;

18 (9) firearms associated with gun shows have  
19 been transferred illegally to residents of another  
20 State by Federal firearms licensees and nonlicensed  
21 firearms sellers, and have been involved in subse-  
22 quent crimes including drug offenses, crimes of vio-  
23 lence, property crimes, and illegal possession of fire-  
24 arms by felons and other prohibited persons; and

1           (10) Congress has the power, under the inter-  
2           state commerce clause and other provisions of the  
3           Constitution of the United States, to ensure, by en-  
4           actment of this Act, that criminals and other prohib-  
5           ited persons do not obtain firearms at gun shows,  
6           flea markets, and other organized events.

7   **SEC. 3. EXTENSION OF BRADY BACKGROUND CHECKS TO**  
8                                   **GUN SHOWS.**

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

12           “(35) GUN SHOW.—The term ‘gun show’ means any  
13          event—

14                   “(A) at which 50 or more firearms are offered  
15                   or exhibited for sale, transfer, or exchange, if 1 or  
16                   more of the firearms has been shipped or trans-  
17                   ported in, or otherwise affects, interstate or foreign  
18                   commerce; and

19                   “(B) at which—

20                           “(i) not less than 20 percent of the exhibi-  
21                           tors are firearm exhibitors;

22                           “(ii) there are not less than 10 firearm ex-  
23                           hibitors; or

24                           “(iii) 50 or more firearms are offered for  
25                           sale, transfer, or exchange.

1       “(36) GUN SHOW PROMOTER.—The term ‘gun show  
2 promoter’ means any person who organizes, plans, pro-  
3 motes, or operates a gun show.

4       “(37) GUN SHOW VENDOR.—The term ‘gun show  
5 vendor’ means any person who exhibits, sells, offers for  
6 sale, transfers, or exchanges 1 or more firearms at a gun  
7 show, regardless of whether or not the person arranges  
8 with the gun show promoter for a fixed location from  
9 which to exhibit, sell, offer for sale, transfer, or exchange  
10 1 or more firearms.”.

11       (b) REGULATION OF FIREARMS TRANSFERS AT GUN  
12 SHOWS.—

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

16 **“§ 931. Regulation of firearms transfers at gun shows**

17       “(a) REGISTRATION OF GUN SHOW PROMOTERS.—  
18 It shall be unlawful for any person to organize, plan, pro-  
19 mote, or operate a gun show unless that person—

20           “(1) registers with the Secretary in accordance  
21 with regulations promulgated by the Secretary; and

22           “(2) pays a registration fee, in an amount de-  
23 termined by the Secretary.

1       “(b) RESPONSIBILITIES OF GUN SHOW PRO-  
2 MOTERS.—It shall be unlawful for any person to organize,  
3 plan, promote, or operate a gun show unless that person—

4               “(1) before commencement of the gun show,  
5 verifies the identity of each gun show vendor partici-  
6 pating in the gun show by examining a valid identi-  
7 fication document (as defined in section 1028(d)(1))  
8 of the vendor containing a photograph of the vendor;

9               “(2) before commencement of the gun show, re-  
10 quires each gun show vendor to sign—

11                       “(A) a ledger with identifying information  
12 concerning the vendor; and

13                       “(B) a notice advising the vendor of the  
14 obligations of the vendor under this chapter;

15               “(3) notifies each person who attends the gun  
16 show of the requirements of this chapter, in accord-  
17 ance with such regulations as the Secretary shall  
18 prescribe; and

19               “(4) maintains a copy of the records described  
20 in paragraphs (1) and (2) at the permanent place of  
21 business of the gun show promoter for such period  
22 of time and in such form as the Secretary shall re-  
23 quire by regulation.

24       “(c) RESPONSIBILITIES OF TRANSFERORS OTHER  
25 THAN LICENSEES.—

1           “(1) IN GENERAL.—If any part of a firearm  
2 transaction takes place at a gun show, it shall be  
3 unlawful for any person who is not licensed under  
4 this chapter to transfer a firearm to another person  
5 who is not licensed under this chapter, unless the  
6 firearm is transferred through a licensed importer,  
7 licensed manufacturer, or licensed dealer in accord-  
8 ance with subsection (e).

9           “(2) CRIMINAL BACKGROUND CHECKS.—A per-  
10 son who is subject to the requirement of paragraph  
11 (1)—

12                   “(A) shall not transfer the firearm to the  
13 transferee until the licensed importer, licensed  
14 manufacturer, or licensed dealer through which  
15 the transfer is made under subsection (e)  
16 makes the notification described in subsection  
17 (e)(3)(A); and

18                   “(B) notwithstanding subparagraph (A),  
19 shall not transfer the firearm to the transferee  
20 if the licensed importer, licensed manufacturer,  
21 or licensed dealer through which the transfer is  
22 made under subsection (e) makes the notifica-  
23 tion described in subsection (e)(3)(B).

24           “(3) ABSENCE OF RECORDKEEPING REQUIRE-  
25 MENTS.—Nothing in this section shall permit or au-

1 authorize the Secretary to impose recordkeeping re-  
2 quirements on any nonlicensed vendor.

3 “(d) RESPONSIBILITIES OF TRANSFEREES OTHER  
4 THAN LICENSEES.—

5 “(1) IN GENERAL.—If any part of a firearm  
6 transaction takes place at a gun show, it shall be  
7 unlawful for any person who is not licensed under  
8 this chapter to receive a firearm from another per-  
9 son who is not licensed under this chapter, unless  
10 the firearm is transferred through a licensed im-  
11 porter, licensed manufacturer, or licensed dealer in  
12 accordance with subsection (e).

13 “(2) CRIMINAL BACKGROUND CHECKS.—A per-  
14 son who is subject to the requirement of paragraph  
15 (1)—

16 “(A) shall not receive the firearm from the  
17 transferor until the licensed importer, licensed  
18 manufacturer, or licensed dealer through which  
19 the transfer is made under subsection (e)  
20 makes the notification described in subsection  
21 (e)(3)(A); and

22 “(B) notwithstanding subparagraph (A),  
23 shall not receive the firearm from the transferor  
24 if the licensed importer, licensed manufacturer,  
25 or licensed dealer through which the transfer is

1           made under subsection (e) makes the notifica-  
2           tion described in subsection (e)(3)(B).

3           “(e) RESPONSIBILITIES OF LICENSEES.—A licensed  
4 importer, licensed manufacturer, or licensed dealer who  
5 agrees to assist a person who is not licensed under this  
6 chapter in carrying out the responsibilities of that person  
7 under subsection (e) or (d) with respect to the transfer  
8 of a firearm shall—

9           “(1) enter such information about the firearm  
10          as the Secretary may require by regulation into a  
11          separate bound record;

12          “(2) record the transfer on a form specified by  
13          the Secretary;

14          “(3) comply with section 922(t) as if transfer-  
15          ring the firearm from the inventory of the licensed  
16          importer, licensed manufacturer, or licensed dealer  
17          to the designated transferee (although a licensed im-  
18          porter, licensed manufacturer, or licensed dealer  
19          complying with this subsection shall not be required  
20          to comply again with the requirements of section  
21          922(t) in delivering the firearm to the nonlicensed  
22          transferor), and notify the nonlicensed transferor  
23          and the nonlicensed transferee—

24                 “(A) of such compliance; and

1           “(B) if the transfer is subject to the re-  
2           quirements of section 922(t)(1), of any receipt  
3           by the licensed importer, licensed manufacturer,  
4           or licensed dealer of a notification from the na-  
5           tional instant criminal background check sys-  
6           tem that the transfer would violate section 922  
7           or would violate State law;

8           “(4) not later than 10 days after the date on  
9           which the transfer occurs, submit to the Secretary a  
10          report of the transfer, which report—

11                  “(A) shall be on a form specified by the  
12                  Secretary by regulation; and

13                  “(B) shall not include the name of or other  
14                  identifying information relating to any person  
15                  involved in the transfer who is not licensed  
16                  under this chapter;

17           “(5) if the licensed importer, licensed manufac-  
18           turer, or licensed dealer assists a person other than  
19           a licensee in transferring, at 1 time or during any  
20           5 consecutive business days, 2 or more pistols or re-  
21           volvers, or any combination of pistols and revolvers  
22           totaling 2 or more, to the same nonlicensed person,  
23           in addition to the reports required under paragraph  
24           (4), prepare a report of the multiple transfers, which  
25           report shall be—

1           “(A) prepared on a form specified by the  
2           Secretary; and

3           “(B) not later than the close of business  
4           on the date on which the transfer occurs, for-  
5           warded to—

6                   “(i) the office specified on the form  
7                   described in subparagraph (A); and

8                   “(ii) the appropriate State law en-  
9                   forcement agency of the jurisdiction in  
10                  which the transfer occurs; and

11           “(6) retain a record of the transfer as part of  
12           the permanent business records of the licensed im-  
13           porter, licensed manufacturer, or licensed dealer.

14           “(f) RECORDS OF LICENSEE TRANSFERS.—If any  
15           part of a firearm transaction takes place at a gun show,  
16           each licensed importer, licensed manufacturer, and li-  
17           censed dealer who transfers 1 or more firearms to a person  
18           who is not licensed under this chapter shall, not later than  
19           10 days after the date on which the transfer occurs, sub-  
20           mit to the Secretary a report of the transfer, which re-  
21           port—

22                   “(1) shall be in a form specified by the Sec-  
23           retary by regulation;

1           “(2) shall not include the name of or other  
2 identifying information relating to the transferee;  
3 and

4           “(3) shall not duplicate information provided in  
5 any report required under subsection (e)(4).

6           “(g) FIREARM TRANSACTION DEFINED.—In this sec-  
7 tion, the term ‘firearm transaction’—

8           “(1) includes the offer for sale, sale, transfer,  
9 or exchange of a firearm; and

10           “(2) does not include the mere exhibition of a  
11 firearm.”.

12           (2) PENALTIES.—Section 924(a) of title 18,  
13 United States Code, is amended by adding at the  
14 end the following:

15           “(7)(A) Whoever knowingly violates section 931(a)  
16 shall be fined under this title, imprisoned not more than  
17 5 years, or both.

18           “(B) Whoever knowingly violates subsection (b) or (c)  
19 of section 931, shall be—

20           “(i) fined under this title, imprisoned not more  
21 than 2 years, or both; and

22           “(ii) in the case of a second or subsequent con-  
23 viction, such person shall be fined under this title,  
24 imprisoned not more than 5 years, or both.

1 “(C) Whoever willfully violates section 931(d), shall  
2 be—

3 “(i) fined under this title, imprisoned not more  
4 than 2 years, or both; and

5 “(ii) in the case of a second or subsequent con-  
6 viction, such person shall be fined under this title,  
7 imprisoned not more than 5 years, or both.

8 “(D) Whoever knowingly violates subsection (e) or (f)  
9 of section 931 shall be fined under this title, imprisoned  
10 not more than 5 years, or both.

11 “(E) In addition to any other penalties imposed  
12 under this paragraph, the Secretary may, with respect to  
13 any person who knowingly violates any provision of section  
14 931—

15 “(i) if the person is registered pursuant to sec-  
16 tion 931(a), after notice and opportunity for a hear-  
17 ing, suspend for not more than 6 months or revoke  
18 the registration of that person under section 931(a);  
19 and

20 “(ii) impose a civil fine in an amount equal to  
21 not more than \$10,000.”.

22 (3) TECHNICAL AND CONFORMING AMEND-  
23 MENTS.—Chapter 44 of title 18, United States  
24 Code, is amended—

1 (A) in the chapter analysis, by adding at  
2 the end the following:

“931. Regulation of firearms transfers at gun shows.”;

3 and

4 (B) in the first sentence of section 923(j),  
5 by striking “a gun show or event” and inserting  
6 “an event”.

7 (c) INSPECTION AUTHORITY.—Section 923(g)(1) of  
8 title 18, United States Code, is amended by adding at the  
9 end the following:

10 “(E) Notwithstanding subparagraph (B), the Sec-  
11 retary may enter during business hours the place of busi-  
12 ness of any gun show promoter and any place where a  
13 gun show is held for the purposes of examining the records  
14 required by sections 923 and 931 and the inventory of  
15 licensees conducting business at the gun show. Such entry  
16 and examination shall be conducted for the purposes of  
17 determining compliance with this chapter by gun show  
18 promoters and licensees conducting business at the gun  
19 show and shall not require a showing of reasonable cause  
20 or a warrant.”.

21 (d) INCREASED PENALTIES FOR SERIOUS RECORD-  
22 KEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3)  
23 of title 18, United States Code, is amended to read as  
24 follows:

1 “(3)(A) Except as provided in subparagraph (B), any  
2 licensed dealer, licensed importer, licensed manufacturer,  
3 or licensed collector who knowingly makes any false state-  
4 ment or representation with respect to the information re-  
5 quired by this chapter to be kept in the records of a person  
6 licensed under this chapter, or violates section 922(m)  
7 shall be fined under this title, imprisoned not more than  
8 1 year, or both.

9 “(B) If the violation described in subparagraph (A)  
10 is in relation to an offense—

11 “(i) under paragraph (1) or (3) of section  
12 922(b), such person shall be fined under this title,  
13 imprisoned not more than 5 years, or both; or

14 “(ii) under subsection (a)(6) or (d) of section  
15 922, such person shall be fined under this title, im-  
16 prisoned not more than 10 years, or both.”.

17 (e) INCREASED PENALTIES FOR VIOLATIONS OF  
18 CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

19 (1) PENALTIES.—Section 924 of title 18,  
20 United States Code, is amended—

21 (A) in paragraph (5), by striking “sub-  
22 section (s) or (t) of section 922” and inserting  
23 “section 922(s)”; and

24 (B) by adding at the end the following:

1 “(8) Whoever knowingly violates section 922(t) shall  
2 be fined under this title, imprisoned not more than 5  
3 years, or both.”.

4 (2) ELIMINATION OF CERTAIN ELEMENTS OF  
5 OFFENSE.—Section 922(t)(5) of title 18, United  
6 States Code, is amended by striking “and, at the  
7 time” and all that follows through “State law”.

8 (f) GUN OWNER PRIVACY AND PREVENTION OF  
9 FRAUD AND ABUSE OF SYSTEM INFORMATION.—Section  
10 922(t)(2)(C) of title 18, United States Code, is amended  
11 by inserting before the period at the end the following:  
12 “, as soon as possible, consistent with the responsibility  
13 of the Attorney General under section 103(h) of the Brady  
14 Handgun Violence Prevention Act to ensure the privacy  
15 and security of the system and to prevent system fraud  
16 and abuse, but in no event later than 90 days after the  
17 date on which the licensee first contacts the system with  
18 respect to the transfer”.

19 (g) EFFECTIVE DATE.—This Act and the amend-  
20 ments made by this Act shall take effect 180 days after  
21 the date of enactment of this Act.

○