

115TH CONGRESS
2D SESSION

S. 2627

To appropriately restrict sales of ammunition.

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2018

Mr. BLUMENTHAL (for himself, Mr. MURPHY, and Mr. WHITEHOUSE) 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 2018”.

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) Beginning on the date that is 180 days after
18 the date of enactment of the Ammunition Background
19 Check Act of 2018, 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

1 of the Brady Handgun Violence Prevention Act (34
2 U.S.C. 40901);

3 “(B) the system provides the licensee with a
4 unique identification number; and

5 “(C) the transferor has verified the identity of
6 the transferee by examining a valid identification
7 document, as defined in section 1028(d) of this title,
8 of the transferee containing a photograph of the
9 transferee.

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

12 “(A) assign a unique identification number to
13 the transfer;

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

15 “(C) destroy all records of the system with re-
16 spect to the call (other than the identifying number
17 and the date the number was assigned) and all
18 records of the system relating to the person or the
19 transfer.

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

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

24 “(I) allows such other person to possess or
25 acquire ammunition; and

1 “(II) was issued not more than 5 years
2 earlier by the State in which the transfer is to
3 occur; and

4 “(ii) the law of the State in which the transfer
5 is to take place provides that such a permit is to be
6 issued only after an authorized government official
7 has verified that the information available to such
8 official does not indicate that possession of a firearm
9 or ammunition by such other person would be in vio-
10 lation of law;

11 “(B) the Attorney General has approved the
12 transfer in the same manner as provided in section
13 5812 of the Internal Revenue Code of 1986; or

14 “(C) on application of the transferor, the Attor-
15 ney General has certified that compliance with para-
16 graph (1) is impracticable because—

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

21 “(ii) the business premises of the licensee
22 at which the transfer is to occur are extremely
23 remote in relation to the chief law enforcement
24 officer, as defined in subsection (s)(8); and

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

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

13 “(5) If any person licensed under this chapter know-
14 ingly transfers ammunition to another person and know-
15 ingly fails to comply with paragraph (1) with respect to
16 the transfer and, at the time such other person most re-
17 cently proposed the transfer, the national instant criminal
18 background check system was operating and information
19 was available to the system demonstrating that receipt of
20 ammunition by such other person would violate subsection
21 (g) or (n) or State law, the Attorney General may, after
22 notice and opportunity for a hearing—

23 “(A) suspend for not more than 6 months or
24 revoke any license issued to the licensee under sec-
25 tion 923; and

1 “(B) impose on the licensee a civil fine of not
2 more than—

3 “(i) in the case of a first violation, \$5,000;

4 “(ii) in the case of a second violation,
5 \$25,000; and

6 “(iii) in the case of any subsequent viola-
7 tion, \$100,000.

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

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

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

20 (2) REGULATIONS RELATING TO RETENTION
21 AND DESTRUCTION OF RECORDS IN SYSTEM.—In
22 promulgating regulations to carry out section
23 922(v)(2)(C) of title 18, United States Code, as
24 added by this Act, the Attorney General shall ensure
25 that the records described in that subsection are de-

1 stroyed not later than 3 business days after the date
 2 on which a licensee is notified that a transfer of am-
 3 munition may proceed under that subsection.

4 (3) CONFORMING AMENDMENTS.—

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

7 (i) in subsection (c)—

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

11 (II) in paragraph (1)—

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

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

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

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

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

1 scribed in paragraphs (1) through (9) after
 2 failing to comply with the requirements of
 3 subsection (v) shall be deemed to have
 4 acted knowingly with respect to this sub-
 5 section.”.

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

9 (C) BRADY HANDGUN VIOLENCE PREVEN-
 10 TION ACT.—Section 103 of the Brady Handgun
 11 Violence Prevention Act (34 U.S.C. 40901) is
 12 amended—

13 (i) by inserting “or ammunition” after
 14 “firearm” each place it appears, except
 15 where “firearm” appears in subsection (j);

16 (ii) in subsection (i)—

17 (I) in the subsection heading, by
 18 inserting “OR AMMUNITION” after
 19 “FIREARMS”; and

20 (II) in paragraph (2), by insert-
 21 ing “ ammunition,” after “firearms,”;
 22 and

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

25 (b) AMMUNITION TRANSFERS.—

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

4 **“§ 932. Background checks for ammunition transfers**
5 **by unlicensed persons**

6 “(a) DEFINITIONS.—In this section—

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

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

10 and

11 “(B) desires to receive ammunition from
12 an unlicensed transferor; and

13 “(2) the term ‘unlicensed transferor’ means a
14 person who—

15 “(A) is not licensed under this chapter;

16 and

17 “(B) desires to transfer ammunition to an
18 unlicensed transferee.

19 “(b) PROHIBITION.—

20 “(1) IN GENERAL.—It shall be unlawful for an
21 unlicensed transferor to knowingly transfer ammuni-
22 tion to an unlicensed transferee and knowingly fail
23 to obtain a background check conducted by a li-
24 censed dealer in accordance with subsection (d) with
25 respect to the transfer.

1 “(2) CRIMINAL PENALTY.—An unlicensed
2 transferor who violates paragraph (1) shall be fined
3 under this title, imprisoned for not more than 1
4 year, or both.

5 “(c) CIVIL PENALTY.—If any unlicensed transferor
6 knowingly transfers ammunition to an unlicensed trans-
7 feree and knowingly fails to obtain a background check
8 conducted by a licensed dealer in accordance with sub-
9 section (d) with respect to the transfer and, at the time
10 such unlicensed transferee most recently proposed the
11 transfer, the national instant criminal background check
12 system was operating and information was available to the
13 system demonstrating that receipt of ammunition by such
14 unlicensed transferee would violate subsection (g) or (n)
15 of section 922 or State law, the Attorney General may,
16 after notice and opportunity for a hearing, impose on the
17 unlicensed transferee a civil fine of not more than—

18 “(1) in the case of a first violation, \$5,000;

19 “(2) in the case of a second violation, \$25,000;

20 and

21 “(3) in the case of any subsequent violation,
22 \$100,000.

23 “(d) BACKGROUND CHECKS THROUGH LICENSED
24 DEALERS.—A licensed dealer who agrees to assist in the

1 transfer of ammunition between an unlicensed transferor
2 and an unlicensed transferee shall—

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

6 “(2) record the transfer on a form specified by
7 the Attorney General;

8 “(3) comply with section 922(v) as if transfer-
9 ring the ammunition from the inventory of the li-
10 censed dealer to the unlicensed transferee (except
11 that a licensed dealer assisting in the transfer of
12 ammunition under this subsection shall not be re-
13 quired to comply again with the requirements of sec-
14 tion 922(v) in delivering the ammunition to the unli-
15 censed transferee) and notify the unlicensed trans-
16 feror and unlicensed transferee—

17 “(A) of such compliance; and

18 “(B) if the transfer is subject to the re-
19 quirements of section 922(v)(1), of any receipt
20 by the licensed dealer of a notification from the
21 national instant criminal background check sys-
22 tem that the transfer would violate section 922
23 or State law;

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

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

6 “(B) shall not include the name of or other
7 identifying information relating to the unli-
8 censed transferor or unlicensed transferee;

9 “(5) if the licensed dealer assists an unlicensed
10 transferor in transferring, at the same time or dur-
11 ing any 5 consecutive business days, not less than
12 1,000 rounds of ammunition, to the same unlicensed
13 transferee, in addition to the reports required under
14 paragraph (4), prepare a report of the multiple
15 transfers that shall—

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

18 “(B) not later than the close of business
19 on the date on which the transfer requiring the
20 report under this paragraph occurs, be sub-
21 mitted to—

22 “(i) the office specified on the form
23 described in subparagraph (A); and

1 “(ii) the appropriate State law en-
2 forcement agency of the jurisdiction in
3 which the transfer occurs; and

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

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

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

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Attorney General
13 such sums as are necessary—

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

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

21 **SEC. 4. REGULATORY REQUIREMENTS.**

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

1 (b) NO AMMUNITION SALES CONTRARY TO STATE
2 LAW.—Section 922(b)(2) of title 18, United States Code,
3 is amended by inserting “or ammunition” after “firearm”
4 each place it appears.

5 (c) NO INTERSTATE AMMUNITION SALES.—

6 (1) IN GENERAL.—Section 922(b)(3) of title
7 18, United States Code, is amended—

8 (A) by inserting “or ammunition” after
9 “any firearm”; and

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

12 (2) OTHER PROVISIONS.—Section 922(a) is
13 amended—

14 (A) in paragraph (3) by inserting “or am-
15 munition” after “firearm” each place it ap-
16 pears; and

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

20 (d) REPORTING.—

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

23 (A) in paragraph (1)(A)—

1 (i) in the first sentence, by inserting
 2 “or ammunition” after “other disposition
 3 of firearms”; and

4 (ii) in the third sentence, by striking
 5 “, or any licensed importer or manufac-
 6 turer of ammunition,” and inserting “, or
 7 any licensed importer, manufacturer, or
 8 dealer of ammunition,”;

9 (B) in paragraph (2)—

10 (i) by inserting “or ammunition” after
 11 “disposition of firearms”; and

12 (ii) by inserting “or ammunition”
 13 after “a firearm”;

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

16 “(C)(i) Each licensee shall prepare a report of mul-
 17 tiple sales or other dispositions whenever the licensee sells
 18 or otherwise disposes of, at one time or during any 5 con-
 19 secutive business days, a large quantity of ammunition (as
 20 determined in accordance with clause (ii)) to an unlicensed
 21 person. The report shall be prepared on a form specified
 22 by the Attorney General and forwarded to the office speci-
 23 fied thereon and to the department of State police or State
 24 law enforcement agency of the State and, where feasible,
 25 the local law enforcement agency of the local jurisdiction

1 in which the sale or other disposition took place, not later
2 than the close of business on the day that the multiple
3 sales or other disposition occurs.

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

7 “(I) shall be based on the determination by the
8 Attorney General of the quantity that indicates an
9 intent to engage in any type of criminal activity;

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

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

15 (D) in paragraph (6)—

16 (i) by inserting “or a significant quan-
17 tity of ammunition,” after “theft or loss of
18 a firearm”; and

19 (ii) by adding at the end the fol-
20 lowing: “Not later than 60 days after the
21 date of enactment of the Ammunition
22 Background Check Act of 2018, the Attor-
23 ney General shall promulgate rules defin-
24 ing ‘significant quantity’ for the purpose of
25 this paragraph.”; and

1 (E) in paragraph (7), by inserting “or any
2 quantity of ammunition” after “1 or more fire-
3 arms”.

4 (2) CONFORMING AMENDMENT.—Section
5 4182(d) of the Internal Revenue Code of 1986 (re-
6 lating to exemptions relating to firearms) is amend-
7 ed by inserting “and except as provided in para-
8 graphs (1)(A) and (3)(C) of section 923(g) of title
9 18, United States Code,” before “no person holding
10 a Federal license”.

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

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

16 (2) by inserting “or ammunition” after “any
17 firearm”.

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

21 (1) in paragraph (1)(B), by striking “only”;
22 and

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

24 (g) LICENSING OF AMMUNITION DEALERS.—

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

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

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

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

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

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

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

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

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

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

21 “(iii) a bullet or projectile which is coated with
22 Teflon or any chemical compound with properties
23 similar to Teflon.”.

24 (b) BANNING INCENDIARY AMMUNITION.—

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

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

5 “(A) means a bullet that is designed for
6 the purpose of, held out by the manufacturer or
7 distributor as, or generally recognized as having
8 a specialized capability to ignite upon impact;
9 and

10 “(B) includes such bullets commonly des-
11 igned as ‘M1 Incendiary’, ‘M23 Incendiary’,
12 ‘M8 Armor-Piercing Incendiary’, ‘API’, ‘M20
13 Armor-Piercing Incendiary Tracer’, or
14 ‘APIT’.”.

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

17 (A) by inserting “or incendiary ammuni-
18 tion” after “armor piercing ammunition” each
19 place it appears, except—

20 (i) in section 921; and

21 (ii) in section 923(k);

22 (B) in section 922(b)(5), by inserting “or
23 incendiary ammunition” after “armor-piercing
24 ammunition”; and

25 (C) in section 923(k)—

1 (i) by inserting “, incendiary projec-
2 tiles, and” after “armor piercing projec-
3 tiles”; and

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

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

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

13 (2) in subparagraph (A)—

14 (A) by inserting “, transfer, or possession”
15 after “manufacture”; and

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

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

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

23 (d) GRANDFATHERING OF CONTINUED POSSESSION
24 OF AMMUNITION.—

1 (1) IN GENERAL.—The amendments made by
2 this section shall not apply to the possession of any
3 armor piercing ammunition (as defined in section
4 921(a)(17)(B) of title 18, United States Code, as
5 amended by subsection (a)), or incendiary ammuni-
6 tion (as defined in section 921(a)(36) of title 18,
7 United States Code, as added by subsection (b)) oth-
8 erwise lawfully possessed under Federal law on the
9 date of enactment of this Act.

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

○