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1ST SESSION

H. R. 3098

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20 (legislative day, NOVEMBER 2), 1993

Received

NOVEMBER 22, 1993

Read twice and referred to the Committee on the Judiciary

AN ACT

To amend title 18, United States Code, to prohibit the possession of a handgun or handgun ammunition by, or the private transfer of a handgun or handgun ammunition to, a juvenile.

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. FINDINGS AND DECLARATIONS.**

4 The Congress finds and declares that—

5 (1) Crime, particularly crime involving drugs
6 and guns, is a pervasive, nationwide problem.

7 (2) Problems with crime at the local level are
8 exacerbated by the interstate movement of drugs,
9 funds, and criminal gangs.

1 (3) Firearms and ammunition, and handguns in
2 particular, move easily in interstate commerce, as
3 documented in numerous hearings in both the Judi-
4 ciary Committee of the House of Representatives
5 and Judiciary Committee of the Senate.

6 (4) In fact, even before the sale of a handgun,
7 the gun, its component parts, ammunition, and the
8 raw materials from which they are made have con-
9 siderably moved in interstate commerce.

10 (5) While criminals freely move from State to
11 State, ordinary citizens may fear to travel to or
12 through certain parts of the country due to the con-
13 cern that violent crime is not under control, and for-
14 eigners may decline to travel in the United States
15 for the same reason.

16 (6) Just as the hardened drug kingpins begin
17 their life in the illicit drug culture by exposure to
18 drugs at a young age, violent criminals often start
19 their criminal careers on streets where the ready
20 availability of guns to young people results in the ac-
21 ceptability of their random use.

22 (7) Violent crime and the use of illicit drugs go
23 hand-in-hand, and attempts to control one without
24 controlling the other may be fruitless.

1 (8) Individual States and localities find it im-
2 possible to handle the problem by themselves; even
3 States and localities that have made a strong effort
4 to prevent, detect, and punish crime find their effort
5 unavailing due in part to the failure or inability of
6 other States and localities to take strong measures.

7 (9) Inasmuch as illicit drug activity and related
8 violent crime overflow State lines and national
9 boundaries, the Congress has power, under the inter-
10 state commerce clause and other provisions of the
11 Constitution, to enact measures to combat these
12 problems.

13 (10) The Congress finds that it is necessary
14 and appropriate to assist the States in controlling
15 crime by stopping the commerce in handguns with
16 juveniles nationwide, and allowing the possession of
17 handguns by juveniles only when handguns are pos-
18 sessed and used for legitimate purposes under ap-
19 propriate conditions.

1 **SEC. 2. PROHIBITION OF THE POSSESSION OF A HANDGUN**
2 **OR AMMUNITION BY, OR THE PRIVATE**
3 **TRANSFER OF A HANDGUN OR AMMUNITION**
4 **TO, A JUVENILE.**

5 (a) DEFINITION.—Section 921(a) of title 18, United
6 States Code, is amended by adding at the end the follow-
7 ing new paragraph:

8 “(29) The term ‘handgun’ means—

9 “(A) a firearm that has a short stock and is de-
10 signed to be held and fired by the use of a single
11 hand; and

12 “(B) any combination of parts from which a
13 firearm described in subparagraph (A) can be as-
14 sembled.”.

15 (b) OFFENSE.—Section 922 of title 18, United States
16 Code, is amended by adding at the end the following new
17 subsection:

18 “(s)(1) It shall be unlawful for a person to sell, de-
19 liver, or otherwise transfer to a juvenile, or to a person
20 who the transferor knows or has reasonable cause to be-
21 lieve is a juvenile—

22 “(A) a handgun; or

23 “(B) ammunition that is suitable for use only
24 in a handgun.

25 “(2) It shall be unlawful for any person who is a juve-
26 nile to knowingly possess—

1 “(A) a handgun; or

2 “(B) ammunition that is suitable for use
3 only in a handgun.

4 “(3) This subsection does not apply—

5 “(A) to a temporary transfer of a handgun or
6 ammunition to a juvenile, or to the possession or use
7 of a handgun or ammunition by a juvenile, if the
8 handgun and ammunition are possessed and used by
9 the juvenile—

10 “(i) in the course of employment, in the
11 course of ranching or farming related to activi-
12 ties at the residence of the juvenile (or on prop-
13 erty used for ranching or farming at which the
14 juvenile, with the permission of the property
15 owner or lessee, is performing activities related
16 to the operation of the farm or ranch), target
17 practice, hunting, or a course of instruction in
18 the safe and lawful use of a handgun;

19 “(ii) with the prior written consent of the
20 juvenile’s parent or guardian who is not prohib-
21 ited by Federal, State, or local law from pos-
22 sessing a firearm;

23 “(iii) with the prior written consent in the
24 juvenile’s possession at all times when a hand-
25 gun is in the possession of the juvenile; and

1 “(iv) in accordance with State and local
2 law;

3 “(B) during transportation by the juvenile of an
4 unloaded handgun in a locked container directly
5 from the place of transfer to a place at which an ac-
6 tivity described in subparagraph (A)(i) is to take
7 place, and transportation by the juvenile of that
8 handgun, unloaded and in a locked container, di-
9 rectly from the place at which such an activity took
10 place to the transferor;

11 “(C) to a juvenile who is a member of the
12 Armed Forces of the United States or the National
13 Guard who possesses or is armed with a handgun in
14 the line duty;

15 “(D) to a transfer by inheritance of title (but
16 not possession) of a handgun or ammunition to a ju-
17 venile; or

18 “(E) to the possession of a handgun or ammu-
19 nition by a juvenile taken in defense of the juvenile
20 or other persons against an intruder into the resi-
21 dence of the juvenile or a residence in which the ju-
22 venile is an invited guest.

23 “(4) A handgun or ammunition, the possession of
24 which is transferred to a juvenile in circumstances in
25 which the transferor is not in violation of this subsection

1 shall not be subject to permanent confiscation by the Gov-
2 ernment if its possession by the juvenile subsequently be-
3 comes unlawful because of the conduct of the juvenile, but
4 shall be returned to the lawful owner when such handgun
5 or ammunition is no longer required by the Government
6 for the purposes of investigation or prosecution.

7 “(5) For purposes of this subsection, the term ‘juve-
8 nile’ means a person who is less than 18 years of age.

9 “(6)(A) In a prosecution of a violation of this sub-
10 section, the court shall require the presence of a juvenile
11 defendant’s parent or legal guardian at all proceedings.

12 “(B) The court may use the contempt power to en-
13 force subparagraph (A).

14 “(C) The court may excuse attendance of a parent
15 or legal guardian of a juvenile defendant at a proceeding
16 in a prosecution of a violation of this subsection for good
17 cause shown.”.

18 (c) PENALTIES.—Section 924(a) of title 18, United
19 State Code, is amended—

20 (1) in paragraph (1) by striking “paragraph (2)
21 or (3) of”; and

22 (2) by adding at the end the following new
23 paragraph:

24 “(5)(A)(i) A juvenile who violates section 922(s) shall
25 be fined under this title, imprisoned not more than 1 year,

1 or both, except that a juvenile described in clause (ii) shall
2 be sentenced to probation on appropriate conditions and
3 shall not be incarcerated unless the juvenile fails to comply
4 with a condition of probation.

5 “(ii) A juvenile is described in this clause if—

6 “(I) the offense of which the juvenile is charged
7 is possession of a handgun or ammunition in viola-
8 tion of section 922(s)(2); and

9 “(II) the juvenile has not been convicted in any
10 court of an offense (including an offense under sec-
11 tion 922(s) or a similar State law, but not including
12 any other offense consisting of conduct that if en-
13 gaged in by an adult would not constitute an of-
14 fense) or adjudicated as a juvenile delinquent for
15 conduct that if engaged in by an adult would con-
16 stitute an offense.

17 “(B) A person other than a juvenile who knowingly
18 violates section 922(s)—

19 “(i) shall be fined under this title, imprisoned
20 not more than 1 year, or both; and

21 “(ii) if the person sold, delivered, or otherwise
22 transferred a handgun or ammunition to a juvenile
23 knowing or having reasonable cause to know that
24 the juvenile intended to carry or otherwise possess
25 or discharge or otherwise use the handgun or ammu-

1 nition in the commission of a crime of violence, shall
2 be fined under this title, imprisoned not more than
3 10 years, or both.”.

4 (d) TECHNICAL AMENDMENT OF JUVENILE DELIN-
5 QUENCY PROVISIONS IN TITLE 18, UNITED STATES
6 CODE.—

7 (1) SECTION 5031.—Section 5031 of title 18,
8 United States Code, is amended by inserting “or a
9 violation by such person of section 922(s)” before
10 the period at the end.

11 (2) SECTION 5032.—Section 5032 of title 18,
12 United States Code, is amended—

13 (A) in the first undesignated paragraph by
14 inserting “or(s)” after “922(p)”; and

15 (B) in the fourth undesignated paragraph
16 by inserting “or section 922(s) of this title,” be-
17 fore “criminal prosecution on the basis”.

18 (e) TECHNICAL AMENDMENT OF THE JUVENILE
19 JUSTICE AND DELINQUENCY PREVENTION ACT OF
20 1974.—Section 223(a)(12)(A) of the Juvenile Justice and
21 Delinquency Prevention Act of 1974 (42 U.S.C.
22 5633(a)(12)(A)) is amended by striking “which do not
23 constitute violations of valid court orders” and inserting
24 “(other than an offense that constitutes a violation of a

1 valid court order or a violation of section 922(s) of title
2 18, United States Code, or a similar State law)''.

3 (f) MODEL LAW.—The Attorney General, acting
4 through the Director of the National Institute for Juvenile
5 Justice and Delinquency Prevention, shall—

6 (1) evaluate existing and proposed juvenile
7 handgun legislation in each State;

8 (2) develop model juvenile handgun legislation
9 that is constitutional and enforceable;

10 (3) prepare and disseminate to State authorities
11 the findings made as the result of the evaluation;
12 and

13 (4) report to Congress by December 31, 1994,
14 findings and recommendations concerning the need
15 or appropriateness of further action by the Federal
16 Government.

Passed the House of Representatives November 20,
1993.

Attest: DONNALD K. ANDERSON,
Clerk.