

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5284

To provide compensation for victims from persons who unlawfully provide firearms to juveniles, felons, and other disqualified individuals.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 7, 1994

Mr. TORRICELLI introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide compensation for victims from persons who unlawfully provide firearms to juveniles, felons, and other disqualified individuals.

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 Victim Compensa-  
5        tion Act”.

1 **SEC. 2. VICTIM COMPENSATION FROM PERSONS WHO UN-**  
2 **LAWFULLY PROVIDE FIREARMS TO JUVE-**  
3 **NILES, FELONS, AND OTHER DISQUALIFIED**  
4 **INDIVIDUALS.**

5 (a) VICTIM COMPENSATION.—Section 924 of title 18,  
6 United States Code, is amended by adding at the end the  
7 following new subsection:

8 “(o) VICTIM COMPENSATION.—

9 “(1) IN GENERAL.—Any person who sells, deliv-  
10 ers, or otherwise transfers—

11 “(A) a firearm in violation of section  
12 922(d) or section 922(b)(1); or

13 “(B) a handgun to a person who the trans-  
14 feror knows or has reasonable cause to believe  
15 is a juvenile, except as provided in paragraph  
16 (6) of this subsection,

17 shall be liable for damages caused by a discharge of  
18 the transferred firearm by the transferee.

19 “(2) CIVIL ACTION.—An action to recover dam-  
20 ages under paragraph (1) may be brought in a Unit-  
21 ed States district court by, or on behalf of, any per-  
22 son, or the estate of any person, who suffers dam-  
23 ages resulting from bodily injury to or the death of  
24 any person caused by a discharge of the transferred  
25 firearm by the transferee.

1           “(3) DISENTITLEMENT TO RECOVERY.—There  
2 shall be no liability under this subsection if it is es-  
3 tablished by a preponderance of the evidence that—

4           “(A) the damages were suffered by a per-  
5 son who was engaged in a criminal act against  
6 the person or property of another at the time  
7 of the injury; or

8           “(B) the injury was self-inflicted, unless  
9 the plaintiff establishes that, at the time of the  
10 transfer, the transferor knew or had reasonable  
11 cause to believe that the transferee had not at-  
12 tained the age of 18 years or had been adju-  
13 dicated as a mental defective or committed to  
14 a mental institution.

15           “(4) PERIOD OF LIABILITY.—No action under  
16 this subsection may be brought for damages that are  
17 caused more than 5 years after the date of the  
18 transfer of a firearm upon which an action could  
19 otherwise be based.

20           “(5) ATTORNEY’S FEES AND PUNITIVE DAM-  
21 AGES.—A prevailing plaintiff in an action under this  
22 subsection—

23           “(A) shall be awarded reasonable attor-  
24 ney’s fees and costs, and

25           “(B) may be awarded punitive damages.

1           “(6) JUVENILES.—Paragraph (1)(B) does not  
2     apply to—

3           “(A) a temporary transfer of a handgun to  
4     a juvenile if the handgun is used by the juve-  
5     nile—

6           “(i) in the course of employment, in  
7     the course of ranching or farming related  
8     to activities at the residence of the juvenile  
9     (or on property used for ranching or farm-  
10    ing at which the juvenile, with the permis-  
11    sion of the property owner or lessee, is per-  
12    forming activities related to the operation  
13    of the farm or ranch), target practice,  
14    hunting, or a course of instruction in the  
15    safe and lawful use of a handgun;

16          “(ii) with the prior written consent of  
17    the juvenile’s parent or guardian who is  
18    not prohibited by Federal, State, or local  
19    law from possessing a firearm, except—

20          “(I) during transportation by the  
21    juvenile of an unloaded handgun in a  
22    locked container directly from the  
23    place of transfer to a place at which  
24    an activity described in clause (i) is to  
25    take place and transportation by the

1 juvenile of that handgun, unloaded  
2 and in a locked container, directly  
3 from the place at which such an activ-  
4 ity took place to the transferor; or

5 “(II) with respect to ranching or  
6 farming activities as described in  
7 clause (i), with the prior written ap-  
8 proval of the juvenile’s parent or legal  
9 guardian and at the direction of an  
10 adult who is not prohibited by Fed-  
11 eral, State, or local law from possess-  
12 ing a firearm;

13 “(iii) if the juvenile keeps the prior  
14 written consent in the juvenile’s possession  
15 at all times when a handgun is in the pos-  
16 session of the juvenile; and

17 “(iv) in accordance with State and  
18 local law;

19 “(B) issuance of a handgun to a juvenile  
20 who is a member of the Armed Forces of the  
21 United States or the National Guard who pos-  
22 sesses or is armed with the handgun in the line  
23 of duty;

24 “(C) a transfer by inheritance of title (but  
25 not possession) of a handgun to a juvenile;

1           “(D) a delivery of a handgun by a juvenile  
2           to be used in defense of the juvenile or other  
3           persons against an intruder into the residence  
4           of the juvenile or a residence in which the juve-  
5           nile is an invited guest; or

6           “(E) a transfer of a handgun for consider-  
7           ation if the transfer is made in accordance with  
8           State and local law and with the prior consent  
9           of the juvenile’s parent or legal guardian who is  
10          not prohibited by Federal, State, or local law  
11          from possessing a firearm.

12          “(7) RULE OF CONSTRUCTION.—Nothing in  
13          this subsection shall be construed to limit or have  
14          any other effect on any other cause of action avail-  
15          able to any person.”.

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

19          “(33) The term ‘juvenile’ means a person who is less  
20          than 18 years of age.”.

21          (c) APPLICATION OF AMENDMENT.—The amendment  
22          made by subsection (a) of this section shall apply to dam-  
23          ages resulting from a firearm that was transferred as de-

- 1 scribed in section 924(o)(1) of title 18, United States
- 2 Code, on or after the date of enactment of this Act.

