

118TH CONGRESS
1ST SESSION

S. _____

To amend title 18, United States Code, to restrict the possession of certain firearms, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. HEINRICH introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 18, United States Code, to restrict the possession of certain firearms, 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 “Gas-Operated Semi-
5 Automatic Firearms Exclusion Act” or the “GOSAFE
6 Act”.

7 **SEC. 2. RESTRICTIONS.**

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

1 “(38) The term ‘semi-automatic firearm’ means any
2 firearm that—

3 “(A) upon initiating the firing sequence, fires
4 the first chambered cartridge and uses a portion of
5 the energy of the firing cartridge to—

6 “(i) extract the expended cartridge case;

7 “(ii) chamber the next round; and

8 “(iii) prepare the firing mechanism to fire
9 again;

10 “(B) requires a separate pull, release, push, or
11 initiation of the trigger to fire each cartridge; and

12 “(C) is not a machinegun.

13 “(39) The term ‘cycle the action’, with respect to a
14 firearm, means to extract the fired cartridge case, cham-
15 ber the next cartridge, and prepare the firing mechanism
16 to fire again.

17 “(40) The term ‘gas-operated’, with respect to a
18 semi-automatic firearm, means any firearm that harnesses
19 or traps a portion of the high-pressure gas from a fired
20 cartridge to cycle the action using—

21 “(A) a long stroke piston, where gas is vented
22 from the barrel to a piston that is mechanically fixed
23 to the bolt group and moves to cycle the action;

24 “(B) a short stroke piston, where gas is vented
25 from the barrel to a piston that moves separately

1 from the bolt group so that the energy is imparted
2 through a gas piston to cycle the action;

3 “(C) a system that traps and vents gas from ei-
4 ther the barrel or the chamber to directly strike or
5 impinge the bolt, bolt carrier, or slide assembly, to
6 unlock and cycle the action;

7 “(D) a hybrid system that combines elements of
8 a system described in subparagraph (C) with a sys-
9 tem described in subparagraph (A) or (B) to capture
10 gas vented from the barrel to cycle the action;

11 “(E) a blowback-operated system that directly
12 utilizes the expanding gases of the ignited propellant
13 powder acting on the cartridge case to drive the
14 breechblock or breech bolt rearward; or

15 “(F) a recoil-operated system that utilizes the
16 recoil force to unlock the breech bolt and then to
17 complete the cycle of extracting, ejecting, and re-
18 loading.

19 “(41) The term ‘large capacity ammunition feeding
20 device’—

21 “(A) means a magazine, belt, drum, feed strip,
22 helical feeding device, or similar device, including
23 any such device joined or coupled with another in
24 any manner, that—

1 “(i) has an overall capacity of, or that can
2 be readily restored, altered, or converted to ac-
3 cept, more than 10 rounds of ammunition; and

4 “(ii) is not permanently fixed; and

5 “(B) does not include any device designed to
6 accept, and capable of operating only with, .22 or
7 less caliber rimfire ammunition.”.

8 (b) PROHIBITIONS.—Section 922 of title 18, United
9 States Code, is amended—

10 (1) by inserting after subsection (u) the fol-
11 lowing:

12 “(v)(1) Except as provided in paragraph (2) or (4),
13 it shall be unlawful for any person to import, sell, manu-
14 facture, transfer, receive, or possess, in or affecting inter-
15 state or foreign commerce, a firearm, device, or combina-
16 tion of parts described in subparagraphs (A) through (H),
17 knowing or having reasonable cause to believe that—

18 “(A) the firearm is included on the list of pro-
19 hibited gas-operated semi-automatic firearms de-
20 scribed in section 935(a);

21 “(B) the modified non-prohibited firearm, as
22 modified, operates as a firearm included on the list
23 of prohibited gas-operated semi-automatic firearms
24 described in section 935(a);

1 “(C) the combination of parts is designed and
2 functions to modify an otherwise non-prohibited fire-
3 arm so that the firearm, as modified, operates as a
4 gas-operated semi-automatic firearm included on the
5 list of prohibited gas-operated semi-automatic fire-
6 arms described in section 935(a);

7 “(D) the combination of parts is designed to be
8 assembled into a firearm that operates as a firearm
9 included on the list of prohibited gas-operated semi-
10 automatic firearms described in section 935(a);

11 “(E) the combination of parts functions to
12 produce a gas-operated semi-automatic cycling ac-
13 tion that was not lawfully manufactured as part of
14 an approved firearm design described in section
15 935(c);

16 “(F) the manual, power-driven, or electronic de-
17 vice is primarily designed, or redesigned, so that if
18 the device is attached to a semi-automatic firearm
19 the device—

20 “(i) materially increases the rate of fire of
21 the firearm; or

22 “(ii) approximates the action or rate of fire
23 of a machinegun;

24 “(G) the device, part, or combination of parts
25 is designed and functions to materially increase the

1 rate of fire of the semi-automatic firearm by elimi-
2 nating the need for the operator of the firearm to
3 make a separate movement for each individual func-
4 tion of the trigger; or

5 “(H) the semi-automatic firearm has been
6 modified in any way that—

7 “(i) materially increases the rate of fire of
8 the firearm; or

9 “(ii) approximates the action or rate of fire
10 of a machinegun.

11 “(2) Paragraph (1) shall not apply to—

12 “(A) the importation or manufacture by or for,
13 sale or transfer to, or possession by or under the au-
14 thority of, the United States or any department or
15 agency thereof or a State or Tribe, or a department,
16 agency, or political subdivision thereof;

17 “(B) the importation or manufacture for, sale
18 or transfer to, or possession by, a licensee under title
19 I of the Atomic Energy Act of 1954 (42 U.S.C.
20 2011 et seq.) for purposes of establishing and main-
21 taining an on-site physical security protection system
22 and security organization required by Federal law,
23 or the transfer to, or possession by, a contractor of
24 such a licensee on-site for such purposes or off-site

1 for purposes of licensee-authorized training or trans-
2 portation of nuclear materials;

3 “(C) the possession of a gas-operated semi-
4 automatic firearm that, before the date of enactment
5 of this subsection, was lawfully—

6 “(i) manufactured; and

7 “(ii) transferred by the manufacturer to
8 another party; or

9 “(D) the transfer of a gas-operated semi-auto-
10 matic firearm that is lawfully possessed before the
11 date of enactment of this subsection in accordance
12 with subparagraph (C), in which—

13 “(i) the transferee is an immediate family
14 member of the transferor;

15 “(ii) the transfer occurs after a licensed
16 importer, licensed manufacturer, or licensed
17 dealer has first taken possession of the firearm
18 for the purpose of complying with subsection (t)
19 before such transfer to the immediate family
20 member occurs; and

21 “(iii) upon taking possession of the firearm
22 under clause (ii), the licensee to whom the fire-
23 arm was transferred under clause (ii) complies
24 with all requirements of this chapter as if the
25 licensee were transferring the firearm from the

1 business inventory of the licensee to the unli-
2 censed transferee.

3 “(3) Licensed importers and licensed manufacturers
4 shall mark all gas-operated semi-automatic firearms im-
5 ported or manufactured under subparagraphs (A) and (B)
6 of paragraph (2) after the date of enactment of this sub-
7 section in the manner prescribed by the Attorney General
8 before any transfer under subparagraph (A) or (B) of
9 paragraph (2).

10 “(4) For purposes of this subsection—

11 “(A) the term ‘gas-operated semi-automatic
12 firearm’ does not include—

13 “(i) any firearm designed to accept, and
14 capable of operating only with, .22 caliber rim-
15 fire ammunition;

16 “(ii) a rifle that—

17 “(I) is a single-shot rifle;

18 “(II) is a breech loading rifle with a
19 capacity not to exceed 2 rounds of ammu-
20 nition;

21 “(III) is a muzzle-loading rifle or
22 smoothbore shoulder-fired firearm;

23 “(IV) uses a bolt action, lever action,
24 or pump action to cycle the action of the
25 rifle; or

1 “(V) has a permanently fixed maga-
2 zine with a capacity not to exceed 10
3 rounds of ammunition that cannot be con-
4 verted or changed to accept more than 10
5 rounds of ammunition;

6 “(iii) a shotgun that—

7 “(I) is a single-shot shotgun;

8 “(II) is a breech loading shotgun with
9 a capacity not to exceed 2 rounds of am-
10 munition;

11 “(III) is a muzzle-loading shotgun;

12 “(IV) uses a bolt action, lever action,
13 or pump action to cycle the action of the
14 shotgun;

15 “(V) is a semi-automatic or auto-load-
16 ing shotgun; or

17 “(VI) has a permanently fixed maga-
18 zine with a capacity not to exceed 10
19 rounds of ammunition that cannot be con-
20 verted or changed to accept more than 10
21 rounds of ammunition;

22 “(iv) a breech loading firearm capable of
23 holding a single cartridge and a single shotgun
24 shell simultaneously and must be reloaded after
25 firing those rounds of ammunition; or

- 1 “(v) a handgun that—
- 2 “(I) is a single-shot handgun;
- 3 “(II) is a breech loading handgun
- 4 with a capacity not to exceed 2 rounds of
- 5 ammunition;
- 6 “(III) is a muzzle-loading or
- 7 smoothbore handgun;
- 8 “(IV) uses a bolt action to cycle the
- 9 action of the handgun;
- 10 “(V) is a single or double action re-
- 11 volver;
- 12 “(VI) is a single or double action
- 13 semi-automatic handgun that uses recoil to
- 14 cycle the action of the handgun; or
- 15 “(VII) has a permanently fixed maga-
- 16 zine with a capacity not to exceed 15
- 17 rounds of ammunition that cannot be con-
- 18 verted or changed to accept more than 15
- 19 rounds of ammunition; and
- 20 “(B) the term ‘immediate family member’
- 21 means, with respect to a person—
- 22 “(i) a spouse, parent, brother or sister, or
- 23 child of that person, or an individual to whom
- 24 that person stands in loco parentis; or

1 “(ii) any other person living in the house-
2 hold of that person and related to that person
3 by blood or marriage.

4 “(w)(1) Except as provided in paragraph (3), it shall
5 be unlawful, on and after the date of enactment of this
6 subsection, for any person to, in or affecting interstate or
7 foreign commerce—

8 “(A) import, sell, manufacture, transfer, or re-
9 ceive a large capacity ammunition feeding device; or

10 “(B) possess a large capacity ammunition feed-
11 ing device manufactured after the date of enactment
12 of this subsection.

13 “(2) It shall be unlawful for any person who lawfully
14 owns or possesses a large capacity ammunition feeding de-
15 vice that was manufactured and purchased or transferred
16 before such date of enactment to transfer, in or affecting
17 interstate or foreign commerce, such device after the date
18 of enactment of this subsection.

19 “(3) This subsection shall not apply with respect to—

20 “(A) the importation for, manufacture for, sale
21 to, transfer to, or possession by or under the author-
22 ity of, the United States or any department or agen-
23 cy thereof or a State or Tribe, or a department,
24 agency, or political subdivision thereof; or

1 “(B) the importation or manufacture for, sale
2 or transfer to, or possession by, a licensee under title
3 I of the Atomic Energy Act of 1954 (42 U.S.C.
4 2011 et seq.) for purposes of establishing and main-
5 taining an on-site physical security protection system
6 and security organization required by Federal law,
7 or the transfer to, or possession by, a contractor of
8 such a licensee on-site for such purposes or off-site
9 for purposes of licensee-authorized training or trans-
10 portation of nuclear materials.

11 “(4) Any licensed importer, licensed manufacturer, or
12 other person in possession of a large capacity ammunition
13 feeding device—

14 “(A) shall mark such large capacity ammuni-
15 tion feeding device imported or manufactured under
16 subparagraph (A) or (B) of paragraph (3) after the
17 date of enactment of this subsection in the manner
18 prescribed by the Attorney General before any trans-
19 fer under subparagraph (A) or (B) of paragraph (3);
20 and

21 “(B) may not obliterate or otherwise alter the
22 serial number on such large capacity ammunition
23 feeding device.”.

1 **SEC. 3. USE OF BYRNE GRANTS FOR BUY-BACK PROGRAMS**
2 **FOR GAS-OPERATED SEMI-AUTOMATIC FIRE-**
3 **ARMS AND LARGE CAPACITY AMMUNITION**
4 **FEEDING DEVICES.**

5 Section 501(a)(1) of title I of the Omnibus Crime
6 Control and Safe Streets Act of 1968 (34 U.S.C.
7 10152(a)(1)) is amended by adding at the end the fol-
8 lowing:

9 “(J) Compensation for surrendered gas-op-
10 erated semi-automatic firearms and large ca-
11 pacity ammunition feeding devices, as defined
12 in section 921 of title 18, United States Code,
13 under buy-back programs for gas-operated
14 semi-automatic firearms and large capacity am-
15 munition feeding devices.”.

16 **SEC. 4. PENALTIES.**

17 Section 924(a) of title 18, United States Code, is
18 amended by adding at the end the following:

19 “(9)(A) Whoever violates subsection (v) or (w) of sec-
20 tion 922 shall be fined not more than \$5,000, imprisoned
21 not more than 12 months, or both, for each offense.

22 “(B) Whoever, while in possession of a gas-operated
23 semi-automatic firearm in violation of section 922(v), com-
24 mits, or attempts to commit, any other Federal offense
25 punishable by imprisonment for a term exceeding 1 year,
26 shall, in addition to the punishment provided for such of-

1 fense, be fined not more than \$250,000, imprisoned for
2 a term not less than 2 years and not more than 10 years,
3 or both.”.

4 **SEC. 5. PROHIBITED FIREARM DETERMINATIONS.**

5 (a) AMENDMENT.—Chapter 44 of title 18, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 935. Prohibited firearm determinations**

9 “(a) DETERMINATION OF PROHIBITED FIREARMS.—
10 For purposes of carrying out section 922(v), not later than
11 180 days after the date of enactment of this section, the
12 Attorney General, acting through the Director of the Bu-
13 reau of Alcohol, Tobacco, Firearms, and Explosives, shall
14 publish, and update, a list of gas-operated semi-automatic
15 firearms in or affecting interstate or foreign commerce
16 that are subject to the prohibition in section 922(v).

17 “(b) RESPONSIBILITIES.—In carrying out this sec-
18 tion, the Director of the Bureau of Alcohol, Tobacco, Fire-
19 arms, and Explosives shall—

20 “(1) review applications and appeals from li-
21 censed manufacturers submitted under subsections
22 (c) and (d);

23 “(2) require that each licensed dealer record
24 purchaser acknowledgment of the list published

1 under subsection (a) before any sale of a firearm
2 that is not prohibited under that list;

3 “(3) before removing any gas-operated semi-
4 automatic firearm from the list required under sub-
5 section (a), submit to the Attorney General clear
6 and convincing evidence of whether the firearm
7 should be removed from the list; and

8 “(4) advise the Attorney General on carrying
9 out the authority described in subsection (a).

10 “(c) APPLICATIONS FOR APPROVAL OF FIREARM DE-
11 SIGNS.—

12 “(1) IN GENERAL.—Any semi-automatic fire-
13 arm designed on or after the date of enactment of
14 this section shall be required to have an approval
15 under this subsection prior to the manufacture, in or
16 affecting interstate or foreign commerce, of such
17 firearm for sale to civilians.

18 “(2) APPLICATION FOR APPROVAL.—A licensed
19 manufacturer may file with the Attorney General an
20 application, under penalty of perjury, for approval
21 for a semi-automatic firearm as not subject to the
22 prohibition under section 922(v), which shall con-
23 tain—

24 “(A) a detailed description of the specifica-
25 tions and operation of the firearm;

1 “(B) a physical sample of the firearm;

2 “(C) any patent application for the fire-
3 arm;

4 “(D) marketing materials and plans;

5 “(E) an explanation of why the firearm
6 should not be subject to the prohibition under
7 section 922(v);

8 “(F) a description of any features that
9 prevent modification of the firearm; and

10 “(G) any other information the Attorney
11 General shall require.

12 “(3) REVIEW OF APPLICATION.—

13 “(A) IN GENERAL.—Not later than 240
14 days after the date on which an application is
15 submitted under paragraph (2), the Attorney
16 General shall review the application and issue a
17 written determination approving or denying the
18 application.

19 “(B) REQUEST FOR INFORMATION.—The
20 Attorney General may request any additional
21 information from the manufacturer necessary to
22 make the determination under subparagraph
23 (A).

24 “(4) FEES.—

1 “(A) IN GENERAL.—Not later than 60
2 days after the date of enactment of this section,
3 the Attorney General shall determine the appro-
4 priate fee structure for application submissions
5 under this subsection by licensed manufactur-
6 ers.

7 “(B) CONSIDERATION.—In determining
8 the fee structure required under subparagraph
9 (A), the Attorney General shall ensure that the
10 fees collected are substantial enough to cover
11 the necessary costs associated with carrying out
12 the activities described in subparagraph (A).

13 “(C) FIREARM SAFETY TRUST FUND.—

14 “(i) ESTABLISHMENT.—There is es-
15 tablished in the Treasury of the United
16 States a fund to be known as the ‘Firearm
17 Safety Trust Fund’.

18 “(ii) DEPOSITS.—Notwithstanding
19 section 3302 of title 31, there shall be de-
20 posited in the Firearm Safety Trust
21 Fund—

22 “(I) all taxes collected by the Bu-
23 reau of Alcohol, Tobacco, Firearms,
24 and Explosives under subchapter A of

1 chapter 53 of the Internal Revenue
2 Code of 1986; and

3 “(II) any fees collected under
4 this paragraph.

5 “(iii) AVAILABILITY OF AMOUNTS .—

6 All amounts deposited in the Firearm
7 Safety Trust Fund shall—

8 “(I) be deposited as offsetting
9 collections into the Firearm Safety
10 Trust Fund for use by the Attorney
11 General in carrying out the require-
12 ments of the GOSAFE Act and the
13 National Firearms Act (26 U.S.C.
14 5849 et seq.); and

15 “(II) remain available until ex-
16 pended.

17 “(d) APPEALS.—

18 “(1) IN GENERAL.—Not later than 90 days
19 after the date on which the Attorney General denies
20 an application under subsection (c)(3), the licensed
21 manufacturer may appeal the determination by filing
22 an appeal with the Attorney General.

23 “(2) REVIEW BY ATTORNEY GENERAL.—Not
24 later than 180 days after the date on which an ap-
25 peal is filed under paragraph (1), the Attorney Gen-

1 eral shall issue a written determination upholding or
2 revising the denial of the application.

3 “(3) JUDICIAL REVIEW.—

4 “(A) IN GENERAL.—Upon a determination
5 by the Attorney General to uphold the denial of
6 an application under paragraph (2), the li-
7 censed manufacturer may file a petition for re-
8 view of the determination in the appropriate
9 district court of the United States.

10 “(B) STANDARD OF PROOF.—In a review
11 conducted under subparagraph (A), the court
12 may set aside the determination if the deter-
13 mination is found to be arbitrary and capri-
14 cious.

15 “(e) PRIVATE RIGHT OF ACTION.—

16 “(1) IN GENERAL.—If the Attorney General,
17 acting through the Director of the Bureau of Alco-
18 hol, Tobacco, Firearms, and Explosives, removes any
19 gas-operated semi-automatic firearm from the list of
20 gas-operated semi-automatic firearms required under
21 subsection (a), any person may file an action in an
22 appropriate district court of the United States for
23 review of such removal.

24 “(2) STANDARD OF PROOF.—In a review con-
25 ducted under paragraph (1), the court may grant

1 the petitioner injunctive relief if the determination is
2 found to be arbitrary and capricious.

3 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as may be
5 necessary to carry out this section, and any amounts so
6 appropriated shall remain available until expended.”.

7 (b) TABLE OF SECTIONS.—The table of sections for
8 chapter 44 of title 18, United States Code, is amended
9 by inserting after the item relating to section 934 the fol-
10 lowing:

“935. Prohibited firearm determinations.”.