

115TH CONGRESS  
2D SESSION

# S. 2627

To appropriately restrict sales of ammunition.

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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

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## 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-

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

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

(C) BRADY HANDGUN VIOLENCE PREVENTION ACT.—Section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901) is amended—

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

(ii) in subsection (i)—

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

(II) in paragraph (2), by inserting “ ammunition,” after “firearms,”; and

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

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

“(36) The term ‘incendiary ammunition’—

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

“(B) includes such bullets commonly designated as ‘M1 Incendiary’, ‘M23 Incendiary’, ‘M8 Armor-Piercing Incendiary’, ‘API’, ‘M20 Armor-Piercing Incendiary Tracer’, or ‘APIT’.”.

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

(A) by inserting “or incendiary ammunition” after “armor piercing ammunition” each place it appears, except—

(i) in section 921; and

(ii) in section 923(k);

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

(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).

○