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(Original Signature of Member)

111TH CONGRESS  
1ST SESSION

# H. R.

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To require criminal background checks on all firearms transactions occurring at gun shows.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. CASTLE (for himself and Mrs. MCCARTHY of New York) introduced the following bill; which was referred to the Committee on

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# A BILL

To require criminal background checks on all firearms transactions occurring at gun shows.

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 Show Loophole  
5 Closing Act of 2009”.

6 **SEC. 2. GUN SHOW BACKGROUND CHECK.**

7 (a) FINDINGS.—The Congress finds that—

1           (1) approximately 5,200 traditional gun shows  
2           are held annually across the United States, attract-  
3           ing thousands of attendees per show and hundreds  
4           of Federal firearms licensees and unlicensed fire-  
5           arms sellers; and

6           (2) gun shows at which firearms are exhibited  
7           or offered for sale or exchange provide a convenient  
8           and centralized commercial location where criminals  
9           and other prohibited persons obtain firearms without  
10          background checks and without records that enable  
11          firearm tracing.

12          (b) DEFINITIONS.—Section 921(a) of title 18, United  
13 States Code, is amended by adding at the end the fol-  
14 lowing:

15          “(36) GUN SHOW.—The term ‘gun show’—

16                 “(A) means any event at which 50 or more fire-  
17                 arms are offered or exhibited for sale, exchange, or  
18                 transfer, if 1 or more of the firearms has been  
19                 shipped or transported in, or otherwise affects, inter-  
20                 state or foreign commerce;

21                 “(B) does not include an offer or exhibit of fire-  
22                 arms for sale, exchange, or transfer by an individual  
23                 from the personal collection of that individual, at the  
24                 private residence of that individual, if the individual  
25                 is not required to be licensed under section 923; and

1           “(C) does not include an offer or exhibit of fire-  
2 arms for sale, exchange, or transfer at events con-  
3 ducted and attended by permanent or annual dues  
4 paying members, and their immediate family, of pri-  
5 vate, not-for-profit organizations whose primary pur-  
6 pose is owning and maintaining real property for the  
7 purpose of hunting activities.

8           “(37) GUN SHOW VENDOR.—The term ‘gun show  
9 vendor’ means a person who is not licensed under section  
10 923 and who exhibits, sells, offers for sale, transfers, or  
11 exchanges a firearm at a gun show, regardless of whether  
12 or not the person arranges with the gun show operator  
13 for a fixed location from which to exhibit, sell, offer for  
14 sale, transfer, or exchange the firearm.”.

15           (c) REGULATION OF FIREARMS TRANSFERS AT GUN  
16 SHOWS.—

17           (1) IN GENERAL.—Chapter 44 of such title is  
18 amended by adding at the end the following:

19 **“§ 932. Regulation of firearms transfers at gun shows**

20           “(a) REGISTRATION OF GUN SHOW OPERATORS.—

21 It shall be unlawful for a person to operate a gun show,  
22 unless—

23           “(1) the person has attained 21 years of age;

24           “(2) the person (and, if the person is a corpora-

25 tion, partnership, or association, each individual pos-

1       sessing, directly or indirectly, the power to direct or  
2       cause the direction of the management and policies  
3       of the corporation, partnership, or association) is not  
4       prohibited by subsection (g) or (n) of section 922  
5       from transporting, shipping, or receiving firearms or  
6       ammunition in interstate or foreign commerce;

7               “(3) the person has not willfully violated any  
8       provision of this chapter or regulation issued under  
9       this chapter;

10              “(4) the person has registered with the Attor-  
11       ney General as a gun show operator, in accordance  
12       with regulations promulgated by the Attorney Gen-  
13       eral, and as part of the registration—

14                   “(A) has provided the Attorney General  
15       with a photograph and the fingerprints of the  
16       person; and

17                   “(B) has certified that the person meets  
18       the requirements of subparagraphs (A) through  
19       (D) of section 923(d)(1);

20              “(5) the person has not willfully failed to dis-  
21       close any material information required, and has not  
22       made any false statement as to any material fact, in  
23       connection with the registration; and

1           “(6) the person has paid the Attorney General  
2           a fee for the registration, in an amount determined  
3           by the Attorney General.

4           “(b) RESPONSIBILITIES OF GUN SHOW OPERA-  
5 TORS.—

6           “(1) IN GENERAL.—It shall be unlawful for a  
7           person to operate a gun show, unless the person—

8                   “(A) not later than 30 days before the  
9                   commencement of the gun show, notifies the  
10                  Attorney General, in writing, of the date, time,  
11                  duration, and location of the gun show, and the  
12                  identity of each person who will be a gun show  
13                  vendor at the gun show;

14                   “(B) before commencement of the gun  
15                  show—

16                           “(i) verifies the identity of each indi-  
17                           vidual who will be a gun show vendor at  
18                           the gun show by examining a valid identi-  
19                           fication document (as defined in section  
20                           1028(d)(3)) of the individual containing a  
21                           photograph of the individual; and

22                           “(ii) requires each such individual to  
23                           sign—

1                   “(I) a ledger, and enter into the  
2                   ledger identifying information con-  
3                   cerning the individual; and

4                   “(II) a notice which sets forth  
5                   the obligations of a gun show vendor  
6                   under this chapter; and

7                   “(C) notifies each person who attends the  
8                   gun show of the requirements of this chapter,  
9                   in accordance with such regulations as the At-  
10                  torney General shall prescribe.

11                  “(2) RECORDKEEPING.—A person who oper-  
12                  ates, or has operated, a gun show shall maintain  
13                  records demonstrating compliance with paragraph  
14                  (1)(B), at such place, for such period of time, and  
15                  in such form as the Attorney General shall require  
16                  by regulation, or transmit the records to the Attor-  
17                  ney General.

18                  “(c) BACKGROUND CHECK REQUIRED BEFORE  
19                  TRANSFER OF FIREARM BETWEEN UNLICENSED PER-  
20                  SONS.—It shall be unlawful for a person who is not li-  
21                  censed under this chapter to transfer possession of, or title  
22                  to, a firearm at, or on the curtilage of, a gun show, to  
23                  another person who is not so licensed, or for a person who  
24                  is not so licensed to receive possession of, or title to, a  
25                  firearm at, or on the curtilage of, a gun show from another

1 person who is not so licensed, unless a licensed importer,  
2 licensed manufacturer, or licensed dealer—

3 “(1) has entered into a separate bound record  
4 the make, model, and serial number of the firearm,  
5 and such other information about the firearm as the  
6 Attorney General may require by regulation; and

7 “(2) has notified the prospective transferor and  
8 prospective transferee of the firearm that the na-  
9 tional instant criminal background check system es-  
10 tablished under section 103 of the Brady Handgun  
11 Violence Prevention Act has provided the licensee  
12 with a unique identification number, indicating that  
13 receipt of the firearm by the prospective transferee  
14 would not violate section 922 of this title or State  
15 law.

16 “(d) RECORDKEEPING REQUIREMENTS.—

17 “(1) IN GENERAL.—A licensee who provides a  
18 notice pursuant to subsection (c)(3) with respect to  
19 the transfer of a firearm shall—

20 “(A) not later than 10 days after the date  
21 of the transfer, submit to the Attorney General  
22 a report of the transfer, which report shall con-  
23 tain such information and be on such form, as  
24 the Attorney General shall require by regula-  
25 tion, except that the report shall not include the

1 name of or other identifying information relat-  
2 ing to any person involved in the transfer who  
3 is not licensed under this chapter; and

4 “(B) retain a record of the transfer as part  
5 of the permanent business records of the li-  
6 censee.

7 “(2) LIMITATION.—The Attorney General may  
8 not impose any recordkeeping requirement on any  
9 gun show vendor by reason of this section.”.

10 (2) PENALTIES.—Section 924(a) of such title is  
11 amended by adding at the end the following:

12 “(8)(A) Whoever knowingly violates subsection (a) or  
13 (d) of section 932 shall be fined under this title, impris-  
14 oned not more than 5 years, or both.

15 “(B) Whoever knowingly violates subsection (b) or (c)  
16 of section 932, shall be—

17 “(i) fined under this title, imprisoned not more  
18 than 2 years, or both; and

19 “(ii) in the case of a second or subsequent con-  
20 viction, fined under this title, imprisoned not more  
21 than 5 years, or both.

22 “(C) In addition to any other penalties imposed  
23 under this paragraph, the Attorney General may, with re-  
24 spect to any person who knowingly violates any provision  
25 of section 932—

1           “(i) if the person is registered pursuant to sec-  
2           tion 932(a), after notice and opportunity for a hear-  
3           ing, suspend for not more than 6 months or revoke  
4           the registration of that person under section 932(a);  
5           and

6           “(ii) impose a civil fine in an amount equal to  
7           not more than \$10,000.”.

8           (3) CLERICAL AMENDMENT.—The table of con-  
9           tents for chapter 44 of such title is amended by add-  
10          ing at the end the following:

          “Sec. 932. Regulation of firearms transfers at gun shows.”.

11          (d) INSPECTION AUTHORITY.—Section 923(g)(1) of  
12          such title is amended by adding at the end the following:

13                 “(E) Notwithstanding subparagraph (B) of  
14                 this paragraph, the Attorney General may enter  
15                 during business hours any place where a gun  
16                 show operator operates a gun show or is re-  
17                 quired to maintain records pursuant to section  
18                 932(b)(2), for purposes of examining the  
19                 records required by sections 923 and 932 and  
20                 the inventory of licensees conducting business  
21                 at the gun show. The entry and examination  
22                 shall be conducted for the purposes of deter-  
23                 mining compliance with this chapter by gun  
24                 show operators and licensees conducting busi-

1           ness at the gun show, and shall not require a  
2           showing of reasonable cause or a warrant.”.

3           (e) REPORTS OF MULTIPLE SALES ASSISTED BY LI-  
4   CENSEES AT GUN SHOWS.—Section 923(g)(3)(A) of such  
5   title is amended by inserting “or provides pursuant to sec-  
6   tion 932(c)(2) notice with respect to,” after “sells or oth-  
7   erwise disposes of,”.

8           (f) INCREASED PENALTIES FOR SERIOUS RECORD-  
9   KEEPING VIOLATIONS BY LICENSEES.—Section 924(a)(3)  
10   of such title is amended to read as follows:

11           “(3)(A) Except as provided in subparagraph  
12           (B), any licensed dealer, licensed importer, licensed  
13           manufacturer, or licensed collector who knowingly  
14           makes any false statement or representation with re-  
15           spect to the information required by this chapter to  
16           be kept in the records of a person licensed under  
17           this chapter, or violates section 922(m), shall be  
18           fined under this title, imprisoned not more than 1  
19           year, or both.

20           “(B) If the violation described in subparagraph  
21           (A) is in relation to an offense—

22                   “(i) under paragraph (1) or (3) of section  
23                   922(b), such person shall be fined under this  
24                   title, imprisoned not more than 5 years, or  
25                   both; or

1           “(ii) under subsection (a)(6) or (d) of sec-  
2           tion 922, such person shall be fined under this  
3           title, imprisoned not more than 10 years, or  
4           both.”.

5           (g) INCREASED PENALTIES FOR VIOLATIONS OF  
6 CRIMINAL BACKGROUND CHECK REQUIREMENTS.—

7           (1) PENALTIES.—Section 924(a)(5) of such  
8           title is amended—

9                   (A) by striking “subsection (s) or (t) of  
10                   section 922” and inserting “section 922(t)”;  
11                   and

12                   (B) by striking “1” and inserting “5”.

13           (2) ELIMINATION OF CERTAIN ELEMENTS OF  
14 OFFENSE.—Section 922(t)(5) of such title is amend-  
15           ed by striking “and, at the time” and all that fol-  
16           lows through “State law”.

17           (h) AUTHORITY OF BATFE TO HIRE PERSONNEL TO  
18 INSPECT GUN SHOWS.—The Director of the Bureau of  
19 Alcohol, Tobacco, Firearms, and Explosives may hire at  
20 least 40 additional Industry Operations Investigators for  
21 the purpose of carrying out inspections of gun shows (as  
22 defined in section 921(a)(36) of title 18, United States  
23 Code).

24           (i) REPORT TO THE CONGRESS.—The Director of the  
25 Bureau of Alcohol, Tobacco, Firearms, and Explosives

1 shall submit biennial reports to the Congress on how fire-  
2 arms (as defined in section 921(a)(3) of title 18, United  
3 States Code) are sold at gun shows (as defined in para-  
4 graph (36) of such section), how this section is being car-  
5 ried out, whether firearms are being sold without back-  
6 ground checks conducted by the national instant criminal  
7 background check system established under section 103  
8 of the Brady Handgun Violence Prevention Act, what re-  
9 sources are needed to carry out this section, and any rec-  
10 ommendations for improvements to ensure that firearms  
11 are not sold without the background checks.

12 (j) EFFECTIVE DATE.—This section and the amend-  
13 ments made by this section shall take effect 180 days after  
14 the date of enactment of this Act.