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(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To enhance safety and security at federally licensed gun shops, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MORELLE introduced the following bill; which was referred to the Committee on _____

A BILL

To enhance safety and security at federally licensed gun shops, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Gun Theft Prevention Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Gun shop security measures.
Sec. 3. Repeal of prohibitions on use of funds to implement rule requiring physical inventory by Federal firearms licensees.

Sec. 4. Inspections.
Sec. 5. Employee background checks.
Sec. 6. Gun store thefts.
Sec. 7. Civil enforcement.
Sec. 8. No effect on State laws governing dealing in firearms.
Sec. 9. Repeal of prohibitions on denial of Federal firearm license due to lack of business activity.
Sec. 10. Repeal of limitations relating to use of firearms trace data.
Sec. 11. Report on implementation of this Act.
Sec. 12. Hearing.
Sec. 13. Deadline for issuance of final regulations.

SEC. 2. GUN SHOP SECURITY MEASURES.

(a) REGULATIONS.—

(1) IN GENERAL.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

''(d) The Attorney General shall prescribe such regulations as are necessary to ensure that any premises at which a licensed dealer deals in firearms are secure from theft, which shall include requiring—

''(1) compliance with the security plan submitted by the licensed dealer pursuant to section 923(d)(1)(G);

''(2) the use of locked metal cabinets and fireproof safes;

''(3) security systems, video monitoring, and anti-theft alarms;

''(4) security gates, strong locks, and site hardening; and

''(5) concrete bollards and other access controls, if necessary.''.

(2) TRANSITION RULE.—The regulations prescribed under section 926(d)(1) of title 18, United States Code, shall not apply to a person who, on the date of the enactment of this Act, is a licensed dealer (as defined in section 921(a)(11) of such title), until the earlier of—

(A) the date the person complies with subsection (b)(2) of this section; or

(B) the end of the 1-year period that begins with the date regulations are prescribed under section 926(d) of such title.

(b) SECURITY PLAN SUBMISSION REQUIREMENT.—

(1) IN GENERAL.—Section 923(d)(1)(G) of such title is amended by inserting ''the applicant submits with the application a security plan that describes how the applicant will secure, in accordance with the regulations issued under section 926(d), the premises from which the applicant will conduct business under the license (including in the event of a natural disaster or other emergency), and the applicant certifies that, if issued such a license, the applicant will comply with the plan'' before the period.

(2) TRANSITION RULE.—A person who, on the date of the enactment of this Act, is a licensed dealer (as defined in section 921(a)(11) of title 18,

United States Code) and whose license to deal in firearms, issued under chapter 44 of such title, will not expire before the end of the 1-year period that begins with the date regulations are prescribed under section 926(d) of such title, shall submit to the Attorney General a plan of the type described in section 923(d)(1)(G) of such title not later than the end of that 1-year period. Any plan so submitted shall be considered to be submitted pursuant to such section 923(d)(1)(G), for purposes of such sections 923(g)(6)(B) and 926(d).

(c) ANNUAL SECURITY PLAN COMPLIANCE CERTIFICATION REQUIREMENT.—

(1) IN GENERAL.—Section 923 of title 18, United States Code, is amended by adding at the end the following:

''(m)(1) Each licensed dealer shall annually certify to the Attorney General that each premises from which the licensed dealer conducts business subject to license under this chapter is in compliance with the regulations prescribed under section 926(d), and include with the certification the results of a reconciliation of the firearms inventory of the licensed dealer with the firearms inventory at the time of the most recent prior certification (if any)

under this paragraph, including a report of any missing firearms.

''(2) The Attorney General may impose a civil money penalty of not more than $5,000 on, and may suspend the license to deal in firearms issued under this section to, a licensed dealer who fails to comply with paragraph (1).''.

(2) TRANSITION RULE.—The amendment made by paragraph (1) of this subsection shall not apply to a person who, on the date of the enactment of this Act, is a licensed dealer (as defined in section 921(a)(11) of title 18, United States Code), until the end of the 1-year period that begins with the date person complies with subsection (b)(2) of this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 3. REPEAL OF PROHIBITIONS ON USE OF FUNDS TO IMPLEMENT RULE REQUIRING PHYSICAL INVENTORY BY FEDERAL FIREARMS LICENSEES.

(a) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated and

Further Continuing Appropriations Act, 2013 (Public Law 113–6; 127 Stat. 248) is amended by striking the 5th proviso.

(b) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112–55; 125 Stat. 609) is amended by striking ''Provided further, That no funds made available by this or any other Act shall be expended to promulgate or implement any rule requiring a physical inventory of any business licensed under section 923 of title 18, United States Code:''.

(c) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated and Further Continuing Appropriations Act, 2010 (Public Law 111–117; 123 Stat. 3128) is amended by striking the 7th proviso.

(d) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 574) is amended by striking the 7th proviso.

(e) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1903) is amended by striking the 7th proviso.

(f) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title I of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2295) is amended by striking the 7th proviso.

(g) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title I of division B of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2859) is amended by striking the 7th proviso.

(h) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title I of division B of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 52) is amended by striking the 7th proviso.

SEC. 4. INSPECTIONS.

(a) ELIMINATION OF LIMIT ON ANNUAL INSPECTIONS OF LICENSEES.—Section 923(g)(1)(B)(ii) of title

18, United States Code, is amended by striking ''—'' and all that follows through ''(II)''.

(b) MANDATED ANNUAL INSPECTIONS OF HIGH-RISK LICENSEES, TRIENNIAL INSPECTIONS OF OTHER LICENSEES.—Section 923(g)(1)(B) of such title is amended by adding after and below the end the following flush sentence: ''The Attorney General shall, without such reasonable cause or warrant, annually inspect or examine the inventory, records, and business premises of each licensed dealer, manufacturer, or importer who sells firearms directly to persons not licensed under this chapter or dealers and who, in the previous 3 calendar years, has had 25 or more firearms with a time-to-crime of 3 years or less traced to the firearms business of the licensee by the National Tracing Center of the Bureau of Alcohol, Tobacco, Firearms, and Explosives in a single calendar year, and triennially inspect or examine the inventory, records, and business premises of each other licensed dealer, manufacturer, or importer. In the preceding sentence, the term 'time-to-crime' means, with respect to a firearm, the period between the last known retail sale of the firearm and the recovery of the firearm by a law enforcement agency as a result of the use or suspected use of the firearm in a crime, including a use in which the purchase or possession of the firearm is a crime. Within 6 months after an

inspection under this subparagraph reveals a violation of this section or any regulation prescribed under this chapter, and within 6 months after a security inspection conducted under paragraph (6)(B)(i) of this subsection, the Attorney General shall conduct an inspection to determine whether the violation identified in the preceding inspection has been cured.''.

(c) AUTHORITY TO HIRE ADDITIONAL INDUSTRY OPERATION INVESTIGATORS FOR BATFE.—The Attorney General may hire 650 Industry Operation Investigators for the Bureau of Alcohol, Tobacco, Firearms and Explosives, in addition to any personnel needed to carry out this Act and any Industry Operation Investigators authorized by other law.

SEC. 5. EMPLOYEE BACKGROUND CHECKS.

(a) REQUIREMENTS.—

(1) BACKGROUND CHECK REQUIRED BEFORE FIREARM POSSESSION BY DEALER EMPLOYEE.—Section 923(g) of title 18, United States Code, is amended by adding at the end the following:

''(8) A licensed dealer shall not allow an employee of the licensed dealer to possess a firearm at a premises from which the licensed dealer conducts business subject to license under this chapter unless—

''(A) the licensed dealer has contacted the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act for information about whether it would be unlawful for the individual to receive a firearm; and

''(B) the system has notified the licensee that the information available to the system—

''(i) does not demonstrate that the receipt of a firearm by the individual would violate subsection (g) or (n) of section 922 or State law; and

''(ii) if the individual has not attained 21 years of age, does not demonstrate that transfer of a firearm to the individual would violate section 922(d) or State law.''.

(2) BACKGROUND CHECKS REQUIRED BEFORE ISSUANCE OR RENEWAL OF DEALER LICENSE.—Section 923(c) of such title is amended by inserting after the 1st sentence the following: ''Notwithstanding the preceding sentence, the Attorney General may not issue or renew a license to deal in firearms unless the Attorney General has contacted the national instant criminal background check system established under section 103 of the Brady Handgun

Violence Prevention Act for information about whether it would be unlawful for any employee of the applicant for the license or renewal, identified by the applicant as having the responsibility to receive a firearm, for information about whether it would be unlawful for the employee to receive a firearm, and the system has notified the Attorney General that the information available to the system does not demonstrate that the receipt of a firearm by the employee would violate subsection (g) or (n) of section 922 or the law of the State in which the business premises of the applicant subject to the license is located.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 1 year after the date of the enactment of this Act.

(b) AUTHORITY OF NICS SYSTEM TO RESPOND TO LICENSED DEALER REQUEST FOR CRIMINAL BACKGROUND CHECK OF EMPLOYEE OR PROSPECTIVE EMPLOYEE.—Section 103(b)(2) of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901(b)(2)) is amended—

(1) in the paragraph heading, by striking ''VOLUNTARY'' and inserting ''EMPLOYEE'';

(2) in subparagraph (A), by striking ''voluntarily''; and

(3) in subparagraph (D), by inserting ''or (in the case of an individual who has not attained 21 years of age) the transfer of a firearm to the individual would violate section 922(d) or State law'' before ''may appeal''.

SEC. 6. GUN STORE THEFTS.

(a) IN GENERAL.—Section 923(g)(6) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' after ''(6)''; and

(2) by adding at the end the following:

''(B)(i) Within 30 days after the Attorney General receives a report from a licensed dealer pursuant to subparagraph (A) of this paragraph of the theft of a firearm, the Attorney General shall conduct an independent inspection of the security of the premises at which the theft occurred, which may include an inspection of the measures taken to implement the security plan submitted by the licensed dealer pursuant to subsection (d)(1)(G).

''(ii) On completion of the security inspection, the Attorney General shall provide the licensed dealer with—

''(I) a notice of any violation by the licensed dealer of any security requirements prescribed under section 926(d); and

''(II) recommendations for improving security of the premises involved.''.

(b) EXEMPTION OF STOLEN FIREARMS FROM PRODUCT LIABILITY.—Section 4(4) of the Protection of Lawful Commerce in Arms Act (15 U.S.C. 7903(4)) is amended by inserting '', except any such firearm the theft of which is required by section 923(g)(6)(A) of such title to be reported'' before the period.

SEC. 7. CIVIL ENFORCEMENT.

Section 923 of title 18, United States Code, as amended by section 2(c)(1) of this Act, is amended by adding at the end the following:

''(n) In the case of a licensed dealer who the Attorney General has found to be in violation of a regulation prescribed under section 926(d), to not have implemented a corrective action required by the Attorney General at the completion of a security inspection conducted under subsection (g)(6)(B)(i) of this section within 30 days after the date of the inspection, or to be in violation of subsection (g)(8) of this section—

''(1) the Attorney General shall—

''(A) if the violation is not a result of gross negligence by the licensed dealer—

''(i) in the case of the 1st such violation of the law or regulation by the li-

censed dealer, if not preceded by a violation to which subparagraph (B) applies, transmit to the licensed dealer a written notice specifying the violation, which shall include a copy of the provision of law or regulation violated and a plan for how to cure the violation;

''(ii) in the case of the 2nd such violation by the licensed dealer, if not preceded by a violation to which subparagraph (B) applies, impose a civil money penalty in an amount that is not less than $2,500 and not more than $20,000;

''(iii) in the case of the 3rd such violation by the licensed dealer, if not preceded by a violation to which subparagraph (B) applies, after notice and opportunity for a hearing, suspend the license to deal in firearms issued to the licensed dealer under this chapter until the violation ceases;

''(iv) in the case of the 4th such violation by the licensed dealer, whether or not preceded by a violation to which subparagraph (B) applies, after notice and opportunity for a hearing, revoke that license; or

''(v) in the case of any such violation by the licensed dealer, if preceded by a violation to which subparagraph (B) applies, apply the penalty authorized under this subsection that is 1 level greater in severity than the level of severity of the penalty most recently applied to the licensed dealer under this subsection; or

''(B) if the violation is a result of such gross negligence—

''(i) in the case of the 1st such violation by the licensed dealer, impose a civil money penalty in an amount that is not less than $2,500 and not more than $20,000;

''(ii) in the case of the 2nd such violation by the licensed dealer—

''(I) impose a civil money penalty in an amount equal to $20,000;

''(II) after notice and opportunity for a hearing, suspend the license to deal in firearms issued to the licensed dealer under this chapter until the violation ceases; or

''(III) after notice and opportunity for a hearing, revoke that license; or

''(iii) in the case of the 3rd or subsequent such violation by the licensed dealer, apply the penalty authorized under this subsection that is 1 or 2 levels greater in severity than the level of severity of the penalty most recently applied to the licensed dealer under this subsection; and

''(2) in the case of any such violation, if the Attorney General finds that the nature of the violation indicates that the continued operation of a firearms business by the licensed dealer presents an imminent risk to public safety, the Attorney General shall, notwithstanding paragraph (1), immediately suspend the license to deal in firearm issued to the licensed dealer under this chapter and secure the firearms inventory of the licensed dealer, until the violation ceases.''.

SEC. 8. NO EFFECT ON STATE LAWS GOVERNING DEALING IN FIREARMS.

Nothing in this Act shall be interpreted to preclude a State from imposing or enforcing any requirement relat-

ing to dealing in firearms (as defined in section 921(a)(3) of title 18, United States Code).

SEC. 9. REPEAL OF PROHIBITIONS ON DENIAL OF FEDERAL FIREARM LICENSE DUE TO LACK OF BUSINESS ACTIVITY.

(a) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated and Further Continuing Appropriations Act, 2013 (18 U.S.C. 923 note; Public Law 113–6; 127 Stat. 248) is amended by striking '': Provided further, That, in the current fiscal year and any fiscal year thereafter, no funds authorized or made available under this or any other Act may be used to deny any application for a license'' and all that follows through ''Internal Revenue Code of 1986''.

(b) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112–55; 125 Stat. 609) is amended by striking '': Provided further, That no funds authorized or made available under this or any other Act may be used to deny any application for a license'' and all that follows through ''Internal Revenue Code of 1986''.

(c) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated and Further Continuing Appropriations Act, 2010 (Public Law 111–117; 123 Stat. 3128) is amended by striking '': Provided further, That no funds authorized or made available under this or any other Act may be used to deny any application for a license'' and all that follows through ''Internal Revenue Code of 1986''.

(d) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 574) is amended by striking '': Provided further, That no funds authorized or made available under this or any other Act may be used to deny any application for a license'' and all that follows through ''Internal Revenue Code of 1986''.

(e) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1903) is amended by striking '': Provided further, That no funds authorized or made available under this or any other Act may be used to deny any application for a li-

cense'' and all that follows through ''Internal Revenue Code of 1986''.

(f) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title I of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2295) is amended by striking '': Provided further, That no funds authorized or made available under this or any other Act may be used to deny any application for a license'' and all that follows through ''Internal Revenue Code of 1986''.

(g) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title I of division B of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2859) is amended by striking '': Provided further, That no funds authorized or made available under this or any other Act may be used to deny any application for a license'' and all that follows through ''Internal Revenue Code of 1986''.

SEC. 10. REPEAL OF LIMITATIONS RELATING TO USE OF FIREARMS TRACE DATA.

(a) The matter under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title I of division B of the Consolidated and

Further Continuing Appropriations Act, 2012 (18 U.S.C. 923 note; Public Law 112–55; 125 Stat. 609–610) is amended by striking the 6th proviso.

(b) The 6th proviso under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated Appropriations Act, 2010 (18 U.S.C. 923 note; Public Law 111–117; 123 Stat. 3128–3129) is amended by striking ''beginning in fiscal year 2010 and thereafter'' and inserting ''in fiscal year 2010''.

(c) The 6th proviso under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Omnibus Appropriations Act, 2009 (18 U.S.C. 923 note; Public Law 111–8; 123 Stat. 574–576) is amended by striking ''beginning in fiscal year 2009 and thereafter'' and inserting ''in fiscal year 2009''.

(d) The 6th proviso under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title II of division B of the Consolidated Appropriations Act, 2008 (18 U.S.C. 923 note; Public Law 110–161; 121 Stat. 1903–1904) is amended by striking ''beginning in fiscal year 2008 and thereafter'' and inserting ''in fiscal year 2008''.

(e) The 6th proviso under the heading ''Bureau of Alcohol, Tobacco, Firearms and Explosives—Salaries and Expenses'' in title I of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (18 U.S.C. 923 note; Public Law 109–108; 119 Stat. 2295–2296) is amended by striking ''with respect to any fiscal year''.

(f) The 6th proviso under the heading in title I of division B of the Consolidated Appropriations Act, 2005 (18 U.S.C. 923 note; Public Law 108–447; 118 Stat. 2859–2860) is amended by striking ''with respect to any fiscal year''.

(g) Section 644 of title VI of division J of the Consolidated Appropriations Resolution, 2003 (5 U.S.C. 552 note; Public Law 108–7; 117 Stat. 473–474) is amended by striking ''or any other Act with respect to any fiscal year''.

SEC. 11. REPORT ON IMPLEMENTATION OF THIS ACT.

Within 2 years after the date of the enactment of this Act, the Attorney General shall submit to the Congress a written report on the implementation of this Act and the amendments made by this Act, including any remaining steps that are necessary to complete the implementation, which shall also identify any additional resources that are required to conduct regular inspections and to ensure

that this Act and the amendments made by this Act are enforced against noncompliant firearm dealers in a timely manner.

SEC. 12. HEARING.

(a) IN GENERAL.—The Committee on the Judiciary of the House of Representatives shall hold a hearing on the report submitted by the Attorney General under section 11.

(b) EXERCISE OF RULEMAKING AUTHORITY.—Subsection (a) is enacted—

(1) as an exercise of rulemaking power of the House of Representatives, and, as such, shall be considered as part of the rules of the House, and such rules shall supersede any other rule of the House only to the extent that rule is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of the House.

SEC. 13. DEADLINE FOR ISSUANCE OF FINAL REGULATIONS.

Within 1 year after the date of the enactment of this Act, the Attorney General shall prescribe, in final form,

all regulations required to carry out this Act and the amendments made by this Act.