

119TH 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 (for himself, Mr. KING, Mr. KELLY, Mr. BENNET, Mr. KAINE, Ms. DUCKWORTH, Mr. WHITEHOUSE, Mrs. SHAHEEN, Mr. PADILLA, Mr. VAN HOLLEN, Mr. FETTERMAN, Mr. MARKEY, Mr. WYDEN, and Ms. HIRONO) 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”.

1 **SEC. 2. RESTRICTIONS.**

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

5 “(39) The term ‘semi-automatic firearm’ means any
6 firearm that—

7 “(A) upon initiating the firing sequence, fires
8 the first chambered cartridge and uses a portion of
9 the energy of the firing cartridge to—

10 “(i) extract the expended cartridge case;

11 “(ii) chamber the next round; and

12 “(iii) prepare the firing mechanism to fire
13 again;

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

16 “(C) is not a machinegun.

17 “(40) The term ‘cycle the action’, with respect to a
18 firearm, means to extract the fired cartridge case, cham-
19 ber the next cartridge, and prepare the firing mechanism
20 to fire again.

21 “(41) The term ‘gas-operated’, with respect to a
22 semi-automatic firearm, means any firearm that harnesses
23 or traps a portion of the high-pressure gas from a fired
24 cartridge to cycle the action using—

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

4 “(B) a short stroke piston, where gas is vented
5 from the barrel to a piston that moves separately
6 from the bolt group so that the energy is imparted
7 through a gas piston to cycle the action;

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

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

16 “(E) a blowback-operated system that directly
17 utilizes the expanding gases of the ignited propellant
18 powder acting on the cartridge case to drive the
19 breechblock or breech bolt rearward; or

20 “(F) a recoil-operated system that utilizes the
21 recoil force to unlock the breech bolt and then to
22 complete the cycle of extracting, ejecting, and re-
23 loading.

24 “(42) The term ‘large capacity ammunition feeding
25 device’—

1 “(A) means a magazine, belt, drum, feed strip,
2 helical feeding device, or similar device, including
3 any such device joined or coupled with another in
4 any manner, that—

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

8 “(ii) is not permanently fixed; and

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

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

14 (1) by inserting after subsection (u) the fol-
15 lowing:

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

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

1 “(B) the modified non-prohibited firearm, as
2 modified, operates as a firearm included on the list
3 of prohibited gas-operated semi-automatic firearms
4 described in section 935(a);

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

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

15 “(E) the combination of parts functions to
16 produce a gas-operated semi-automatic cycling ac-
17 tion that was not lawfully manufactured as part of
18 an approved firearm design described in section
19 935(c);

20 “(F) the manual, power-driven, or electronic de-
21 vice is primarily designed, or redesigned, so that if
22 the device is attached to a semi-automatic firearm
23 the device—

24 “(i) materially increases the rate of fire of
25 the firearm; or

1 “(ii) approximates the action or rate of fire
2 of a machinegun;

3 “(G) the device, part, or combination of parts
4 is designed and functions to materially increase the
5 rate of fire of the semi-automatic firearm by elimi-
6 nating the need for the operator of the firearm to
7 make a separate movement for each individual func-
8 tion of the trigger; or

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

11 “(i) materially increases the rate of fire of
12 the firearm; or

13 “(ii) approximates the action or rate of fire
14 of a machinegun.

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

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

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

1 and security organization required by Federal law,
2 or the transfer to, or possession by, a contractor of
3 such a licensee on-site for such purposes or off-site
4 for purposes of licensee-authorized training or trans-
5 portation of nuclear materials;

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

9 “(i) manufactured; and

10 “(ii) transferred by the manufacturer to
11 another party; or

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

16 “(i) the transferee is an immediate family
17 member of the transferor;

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

24 “(iii) upon taking possession of the firearm
25 under clause (ii), the licensee to whom the fire-

1 arm was transferred under clause (ii) complies
2 with all requirements of this chapter as if the
3 licensee were transferring the firearm from the
4 business inventory of the licensee to the unli-
5 censed transferee.

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

13 “(4) For purposes of this subsection—

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

16 “(i) any firearm designed to accept, and
17 capable of operating only with, .22 caliber rim-
18 fire ammunition, provided that such firearm
19 does not have a separate upper and lower re-
20 ceiver;

21 “(ii) a rifle that—

22 “(I) is a single-shot rifle;

23 “(II) is a breech loading rifle with a
24 capacity not to exceed 2 rounds of ammu-
25 nition;

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

3 “(IV) uses a bolt action, lever action,
4 or pump action to cycle the action of the
5 rifle; or

6 “(V) has a permanently fixed maga-
7 zine with a capacity not to exceed 10
8 rounds of ammunition that cannot be con-
9 verted or changed to accept more than 10
10 rounds of ammunition;

11 “(iii) a shotgun that—

12 “(I) is a single-shot shotgun;

13 “(II) is a breech loading shotgun with
14 a capacity not to exceed 2 rounds of am-
15 munition;

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

17 “(IV) uses a bolt action, lever action,
18 or pump action to cycle the action of the
19 shotgun;

20 “(V) is a semi-automatic or auto-load-
21 ing shotgun; or

22 “(VI) has a permanently fixed maga-
23 zine with a capacity not to exceed 10
24 rounds of ammunition that cannot be con-

1 verted or changed to accept more than 15
2 rounds of ammunition; and

3 “(B) the term ‘immediate family member’
4 means, with respect to a person—

5 “(i) a spouse, parent, brother or sister, or
6 child of that person, or an individual to whom
7 that person stands in loco parentis; or

8 “(ii) any other person living in the house-
9 hold of that person and related to that person
10 by blood or marriage.

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

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

17 “(B) possess a large capacity ammunition feed-
18 ing device manufactured after the date of enactment
19 of this subsection.

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

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

2 “(A) the importation for, manufacture for, sale
3 to, transfer to, or possession by or under the author-
4 ity of, the United States or any department or agen-
5 cy thereof or a State or Tribe, or a department,
6 agency, or political subdivision thereof; or

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

17 “(4) Any licensed importer, licensed manufacturer, or
18 other person in possession of a large capacity ammunition
19 feeding device—

20 “(A) shall mark such large capacity ammuni-
21 tion feeding device imported or manufactured under
22 subparagraph (A) or (B) of paragraph (3) after the
23 date of enactment of this subsection in the manner
24 prescribed by the Attorney General before any trans-

1 fer under subparagraph (A) or (B) of paragraph (3);
2 and

3 “(B) may not obliterate or otherwise alter the
4 serial number on such large capacity ammunition
5 feeding device.”.

6 **SEC. 3. USE OF BYRNE GRANTS FOR BUY-BACK PROGRAMS**
7 **FOR GAS-OPERATED SEMI-AUTOMATIC FIRE-**
8 **ARMS AND LARGE CAPACITY AMMUNITION**
9 **FEEDING DEVICES.**

10 Section 501(a)(1) of title I of the Omnibus Crime
11 Control and Safe Streets Act of 1968 (34 U.S.C.
12 10152(a)(1)) is amended by adding at the end the fol-
13 lowing:

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

21 **SEC. 4. PENALTIES.**

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

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

4 “(B) Whoever, while in possession of a gas-operated
5 semi-automatic firearm in violation of section 922(v), com-
6 mits, or attempts to commit, any other Federal offense
7 punishable by imprisonment for a term exceeding 1 year,
8 shall, in addition to the punishment provided for such of-
9 fense, be fined not more than \$250,000, imprisoned for
10 a term not less than 2 years and not more than 10 years,
11 or both.”.

12 **SEC. 5. PROHIBITED FIREARM DETERMINATIONS.**

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

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

17 “(a) DETERMINATION OF PROHIBITED FIREARMS.—
18 For purposes of carrying out section 922(v), not later than
19 180 days after the date of enactment of this section, the
20 Attorney General, acting through the Director of the Bu-
21 reau of Alcohol, Tobacco, Firearms, and Explosives, shall
22 publish, and update, a list of gas-operated semi-automatic
23 firearms in or affecting interstate or foreign commerce
24 that are subject to the prohibition in section 922(v).

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

4 “(1) review applications and appeals from li-
5 censed manufacturers submitted under subsections
6 (c) and (d);

7 “(2) require that each licensed dealer record
8 purchaser acknowledgment of the list published
9 under subsection (a) before any sale of a firearm
10 that is not prohibited under that list;

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

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

18 “(c) APPLICATIONS FOR APPROVAL OF FIREARM DE-
19 SIGNS.—

20 “(1) IN GENERAL.—Any semi-automatic fire-
21 arm designed on or after the date of enactment of
22 this section shall be required to have an approval
23 under this subsection prior to the manufacture, in or
24 affecting interstate or foreign commerce, of such
25 firearm for sale to civilians.

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

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

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

10 “(C) any patent application for the fire-
11 arm;

12 “(D) marketing materials and plans;

13 “(E) an explanation of why the firearm
14 should not be subject to the prohibition under
15 section 922(v);

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

18 “(G) any other information the Attorney
19 General shall require.

20 “(3) REVIEW OF APPLICATION.—

21 “(A) IN GENERAL.—Not later than 240
22 days after the date on which an application is
23 submitted under paragraph (2), the Attorney
24 General shall review the application and issue a

1 written determination approving or denying the
2 application.

3 “(B) REQUEST FOR INFORMATION.—The
4 Attorney General may request any additional
5 information from the manufacturer necessary to
6 make the determination under subparagraph
7 (A).

8 “(4) FEES.—

9 “(A) IN GENERAL.—Not later than 60
10 days after the date of enactment of this section,
11 the Attorney General shall determine the appro-
12 priate fee structure for application submissions
13 under this subsection by licensed manufactur-
14 ers.

15 “(B) CONSIDERATION.—In determining
16 the fee structure required under subparagraph
17 (A), the Attorney General shall ensure that the
18 fees collected are substantial enough to cover
19 the necessary costs associated with carrying out
20 the activities described in subparagraph (A).

21 “(C) FIREARM SAFETY TRUST FUND.—

22 “(i) ESTABLISHMENT.—There is es-
23 tablished in the Treasury of the United
24 States a fund to be known as the ‘Firearm
25 Safety Trust Fund’.

1 “(ii) DEPOSITS.—Notwithstanding
2 section 3302 of title 31, there shall be de-
3 posited in the Firearm Safety Trust
4 Fund—

5 “(I) all taxes collected by the Bu-
6 reau of Alcohol, Tobacco, Firearms,
7 and Explosives under subchapter A of
8 chapter 53 of the Internal Revenue
9 Code of 1986; and

10 “(II) any fees collected under
11 this paragraph.

12 “(iii) AVAILABILITY OF AMOUNTS .—
13 All amounts deposited in the Firearm
14 Safety Trust Fund shall—

15 “(I) be deposited as offsetting
16 collections into the Firearm Safety
17 Trust Fund for use by the Attorney
18 General in carrying out the require-
19 ments of the GOSAFE Act and the
20 National Firearms Act (26 U.S.C.
21 5849 et seq.); and

22 “(II) remain available until ex-
23 pended.

24 “(d) APPEALS.—

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

6 “(2) REVIEW BY ATTORNEY GENERAL.—Not
7 later than 180 days after the date on which an ap-
8 peal is filed under paragraph (1), the Attorney Gen-
9 eral shall issue a written determination upholding or
10 revising the denial of the application.

11 “(3) JUDICIAL REVIEW.—

12 “(A) IN GENERAL.—Upon a determination
13 by the Attorney General to uphold the denial of
14 an application under paragraph (2), the li-
15 censed manufacturer may file a petition for re-
16 view of the determination in the appropriate
17 district court of the United States.

18 “(B) STANDARD OF PROOF.—In a review
19 conducted under subparagraph (A), the court
20 may set aside the determination if the deter-
21 mination is found to be arbitrary and capri-
22 cious.

23 “(e) PRIVATE RIGHT OF ACTION.—

24 “(1) IN GENERAL.—If the Attorney General,
25 acting through the Director of the Bureau of Alco-

1 hol, Tobacco, Firearms, and Explosives, removes any
2 gas-operated semi-automatic firearm from the list of
3 gas-operated semi-automatic firearms required under
4 subsection (a), any person may file an action in an
5 appropriate district court of the United States for
6 review of such removal.

7 “(2) STANDARD OF PROOF.—In a review con-
8 ducted under paragraph (1), the court may grant
9 the petitioner injunctive relief if the determination is
10 found to be arbitrary and capricious.

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

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

“935. Prohibited firearm determinations.”.