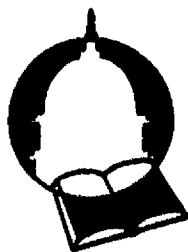


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NATIONAL FIREARMS CONTROL;  
BRIEF SUMMARY OF EXISTING AND PROPOSED LEGISLATION



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NATIONAL FIREARMS CONTROL:  
BRIEF SUMMARY OF EXISTING AND PROPOSED LEGISLATION

Existing Law

The two basic Federal statutes regulating the manufacture and distribution of firearms are the National Firearms Act, enacted in 1934, and the Federal Firearms Act, enacted in 1938. Both laws were designed primarily to curb the activities of the criminal gangs of that era.

The Federal Firearms Act (15 U.S.C. secs. 901-909) prohibits shipping or receiving firearms in interstate commerce without complying with certain licensing requirements. Firearms may not be sent to persons convicted for a crime punishable by a term of imprisonment exceeding one year, or to fugitives from justice; and the transporting of stolen firearms, or firearms from which the manufacturer's mark has been removed, obliterated, or altered is prohibited.

The National Firearms Act (Internal Revenue Code, 26 U.S.C. secs. 5801-5862) is designed to make it difficult for criminals to obtain certain specified types of especially lethal firearms - that is, sawed-off shotguns and machine guns. It does this in two ways: first, it places heavy taxes on all aspects of the manufacture and distribution of such weapons. For example, each manufacturer must pay an annual franchise tax of \$500, each dealer \$200, and each pawnbroker \$300 for the privilege of dealing in these types of firearms; and a tax of \$200 is levied on the transfer of each such firearm. Second, the Act

compels the disclosure of the production and distribution system from manufacturer to eventual buyer. Penalties are provided for failure to comply with these statutory provisions.

Other existing statutes relating to firearms are: (1) The provisions of section 4181 and 4182 of the Internal Revenue Code, which place a 10% tax on the sale price of pistols and revolvers; the tax on other firearms and ammunition is 1%. (2) Sections 781 and 782 of Title 49 of the U.S. Code, which prohibit the transportation in interstate commerce of firearms with respect to which there has been a violation of the National Firearms Act. (3) Section 1715 of Title 18 of the U.S. Code, which declares that pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable, except under regulations prescribed by the Postmaster General to certain designated persons (e.g., officers of the Armed Forces or a State militia and bona fide dealers).

The Mutual Security Act of 1954 authorizes the President to regulate the export and import of firearms. The Act is administered by the Department of State.

#### Pending Bills: General Background and Summary

In recent years the Federal Firearms Act and the National Firearms Act have come under attack as being insufficiently effective. Critics of the Federal Firearms Act have been especially concerned with what they see as inadequate Federal government control, under the provisions of that Act, over the substantial commerce in firearms

by way of mail-order . The majority of efforts to broaden the scope of Federal regulation have been directed primarily at such commerce. These efforts - as represented in bills introduced during the 88th, 89th, and 90th Congresses - have been, according to their initiators, principally aimed at keeping firearms out of the hands of irresponsible and criminal persons. Most of such bills have taken the form of amendments to -- or substitutions for -- the Federal Firearms Act.

The general case for greater Federal control was presented by Attorney General Ramsey Clark in his testimony of March 16, 1967, before the House Judiciary subcommittee which is considering the Administration firearms control bill, H.R. 5384:

Existing Federal firearms laws are largely ineffective and inadequate. These laws do little to control the mail order sale of handguns, rifles, and shotguns. It is estimated that 1,000,000 dangerous weapons are sold by mail each year. Many persons circumvent local law by ordering firearms by mail and receiving them in interstate commerce.

Strict firearms controls by one state or city are nullified when a potential criminal secures a firearm in a neighboring jurisdiction with lax controls and returns to his own state to commit crime.

Another inadequacy in the present system of firearms control is the ease with which low priced and widely available surplus weapons are brought into the United States from foreign countries. These surplus military weapons include inexpensive pistols and revolvers, and antitank guns, bazookas and other such destructive devices.

The bill before you today is designed to provide better controls over interstate and foreign commerce in firearms, thus enabling the states to control more effectively the traffic of firearms within their own borders.

An estimated 750,000 Americans have died since 1900 by means of firearms, other than in armed conflicts. In contrast, 530,000 Americans have been killed in all our wars from the Revolution through Vietnam. Each year 17,000 people die by means of firearms. Guns claim on the average of 50 lives a day, or one every half-hour. This is not to say that most of these deaths are the result of criminal acts, though many are. It is to say guns are dangerous. They can kill. They should not be available for those who will use them for crime. Common sense dictates that we act now.

J. Edgar Hoover, in the FBI Law Enforcement Bulletin in June 1963, observed forcefully: "The easy accessibility of firearms is a significant factor in murders committed in the United States today. It is a problem which the American public needs to examine closely ...The questionable traffic in deadly weapons in many sections of our country is a disgrace. To my mind, the public has a right to expect that the distributor and the purchaser of weapons so deadly and easily concealed such as handguns must meet certain regulations and qualification. Spotlight of such attention should be focused on the easy accessibility of firearms and its influence on willful killings."

The bills introduced by Senator Dodd of Connecticut -- in the 89th and 90th Congresses, on behalf of the Administration -- have generally served as focal points for comment by spokesmen both for and against further regulation. The Dodd-Administration bill of the 90th Congress -- introduced on the House side as H.R. 5384 by Rep. Celler -- was presented to the Senate in the form of an amendment to the Senator's own, earlier bill, S. 1. The amendment (Senate Amendment no. 90) would amend S. 1 in toto, substituting the Administration proposal. S. Amendment no. 90 (H.R. 5384) is substantially similar to the Administration bill of the 89th Congress (S. 1592, H.R. 6628, and H.R.6783)

as originally introduced and is a more restrictive measure than S. 1, which is identical to S. 1592 of the 89th Congress as reported to the full Senate Committee on the Judiciary by the Juvenile Delinquency Subcommittee, where it was considerably modified.

The Administration bill of the 90th Congress (H.R. 5384, S. Amendment no. 90) would:

- (1) Prohibit interstate mail order sale of all firearms. However, rifles and shotguns purchased in person at the licensee's place of business may be shipped interstate to the purchaser at his residence.
- (2) Prohibit a Federal licensee from selling or delivering a firearm to a person less than 21 years of age, and 18 years of age in the case of a rifle or shotgun.
- (3) Prohibit a Federal licensee from selling or delivering a firearm to a person who the licensee believes is prohibited by State or local law from receiving or possessing a firearm.
- (4) Prohibit the sale or delivery of any firearm, other than a rifle or shotgun, to anyone not residing in the State in which the licensee's place of business is located.
- (5) Provide standards and increase licensing fees for Federal firearms dealers, importers and manufacturers.
- (6) Prohibit interstate transportation of destructive devices, machine guns, and short-barrelled shotguns and rifles,

except between Federal licensees or with the approval of the Secretary of the Treasury.

(7) Regulate the importation of firearms into the United States.

Of the approximately 35 other National firearms control bills introduced thus far in the 90th Congress, the majority have been presented by opponents of the Administration approach and have been characterized by the National Rifle Association as reflecting that organization's "four-point legislative program." These four points, with bills exemplifying the aims contained therein, are as follows:

1. To impose a mandatory penalty for the carrying or use of a firearm, transported in interstate or foreign commerce, during the commission of certain crimes.

H.R. 360, by Rep. Casey, to amend the Federal Firearms Act [Title 15 ("Commerce and Trade"), U.S. Code]. Referred to Committee on Ways and Means.

H.R. 6137, by Rep. Casey, to amend Title 18 ("Crimes and Criminal Procedures"), U.S. Code. Referred to Committee on the Judiciary.

Bills with an approach similar to that of the Casey bills: H.R. 542, by Rep. Edmondson; H.R. 1007, by Rep. Murphy of New York; H.R. 1554, by Rep. Wyatt; H.R. 6067, by Rep. Zwach; H.R. 11299, by Rep. Cunningham.

2. To prohibit any licensed manufacturer or dealer from shipping any firearm to any person in any State in violation of the laws of that State.



H.R. 2839, by Rep. Sikes, to amend the Federal Firearms Act. Referred to Committee on Ways and Means.

3. To place "destructive devices" (e.g., bombs, mines, grenades, crew-served military ordnance) under the tax and registration provisions of the National Firearms Act (sometimes called "the machine-gun law").

H.R. 7174, by Rep. Horton, to amend the National Firearms Act. Referred to Committee on Ways and Means.

H.R. 7457, by Rep. King of California, to amend the National Firearms Act. Referred to Committee on Ways and Means.

H.R. 7467, by Rep. Dingell, to amend the National Firearms Act. Referred to Committee on Ways and Means.

S. 1854, by Sen. Hruska, to amend the National Firearms Act. Referred to Committee on the Judiciary.

4. To regulate the movement of handguns in interstate and foreign commerce by (1) requiring a sworn statement, containing certain information, from the purchaser to the seller for the receipt of a handgun in interstate commerce; (2) providing for notification to the local police of prospective sale; (3) requiring an additional 7-day waiting period by the seller after receipt of acknowledgment of notification to local police; (4) prescribing a minimum age of 21 for the obtaining of a firearms license and increasing the license fees; (5) providing for written notification by manufacturer or dealer to carrier that a firearm is

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being shipped in interstate commerce; (6) increasing penalties for violation; and (7) providing other restrictions and controls.

H.R. 8645, by Rep. King of California, to amend the Federal Firearms Act. Referred to Committee on Ways and Means.

H.R. 7745, by Rep. King of California, to amend Title 18, U.S. Code. Referred to Committee on the Judiciary.

H.R. 11887, by Reps. Biester and Railsback, to amend Title 18, U.S. Code. Referred to Committee on the Judiciary.

S. 1853, by Sen. Hruska, to amend the Federal Firearms Act. Referred to Committee on the Judiciary.

Other bills similar to the King-Hruska bills listed above under point 4 are H.R. 867, introduced by Rep. Michel, and H.R. 7173, introduced by Rep. Horton. Both bills would amend the Federal Firearms Act and were referred to the Committee on Ways and Means. H.R. 999, introduced by Rep. Murphy of New York, and referred to Ways and Means, is similar to bills listed under point 3 but has a broader definition of "destructive devices." H.R. 7450 and H.R. 7466, introduced by Rep. Dingell, would make it a Federal crime to transport or receive a firearm in interstate commerce with intent to commit a felony; they are similar in general principle to the bills listed under NRA point 1 above. The two bills are identical except that the first would amend the Federal Firearms Act and was referred to Ways and Means and the second would amend Title 18 and was referred to the Committee on the Judiciary.

Bills either identical to or reflecting the general approach of the Administration bill are:

H.R. 1000, by Rep. Murphy of New York. Referred to Committee on Ways and Means.

H.R. 5463, by Rep. Multer. Referred to Committee on Ways and Means.

H.R. 10086, by Rep. Gallagher. Referred to Committee on the Judiciary.

H.R. 10112, by Rep. McCarthy. Referred to Committee on the Judiciary.

H.R. 11554, by Rep. Brasco. Referred to Committee on the Judiciary.

H.R. 11616, by Rep. Kelly. Referred to Committee on the Judiciary.

H.R. 11621, by Rep. Rees. Referred to Committee on the Judiciary.

H.R. 11823, by Rep. Reid of New York. Referred to Committee on the Judiciary.

H.R. 12034, by Rep. Minish. Referred to Committee on the Judiciary.

Several bills revert to the original Dodd bill, S. 1975 of the 88th Congress. S. 1975, as first introduced on August 2, 1963, was primarily directed at the mail-order traffic in handguns. It required that the purchaser of any mail-order firearm covered by its provisions enclose with his purchase order a sworn statement to the effect that he (1) is 18 years of age or over, (2) that he is not prohibited by

the Act from receiving a firearm, and (3) that no law will be violated by shipping the firearm to him. In the 90th Congress H.R. 9863, presented by Rep. Fulton of Tennessee, is identical except for a provision extending coverage to rifles. A later amendment (November 27, 1963) to S. 1975 of the 88th Congress extended its application to all firearms. In addition, a change was made to require that the affidavit or sworn statement submitted by the purchaser be accompanied by a certificate executed by the chief law enforcement officer of the locality in which the person resides to the effect that, to the best of the law officer's knowledge and belief, the statements made in the affidavit are true. In the 90th Congress, H.R. 3993, presented by Rep. O'Neill, is similar to the Dodd bill as then amended.

One other type of approach is reflected in the bill introduced by Rep. Joelson, H.R. 11732, which would require that any firearm shipped in interstate commerce be consigned through the chief law enforcement officer of the State or municipality in which the recipient resides.

The House Committee on the Judiciary has completed hearings on the Administration bill and other bills referred to it, but as of September 25 has issued no report. No hearings have been held by the House Ways and Means Committee. The Senate Juvenile Delinquency Subcommittee has completed hearings on the Dodd bill (S. 1), the Dodd-Administration bill (S. Amendment no. 90), and the Hruska bill (S. 1853). On September 20 the subcommittee reported the Administration bill favorably and without amendment to the full Committee on the Judiciary.