

117TH CONGRESS
1ST SESSION

H. R. 5678

To require federally licensed firearms manufacturers, importers, and dealers and their employees to undergo annual training to be eligible to sell a firearm, to require a notice to be posted at retail firearms locations that describes the signs of unlawful firearms purchases, to require such licensees to maintain physical security elements to prevent theft and a minimum level of business liability insurance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2021

Mr. CROW (for himself, Mr. AUCHINCLOSS, Mrs. BEATTY, Mr. CICILLINE, Ms. DEAN, Mr. DEUTCH, Ms. JACKSON LEE, Ms. KELLY of Illinois, Mr. LANGEVIN, Mr. LIEU, Mrs. CAROLYN B. MALONEY of New York, Mrs. MCBATH, Mr. MORELLE, Mr. NEGUSE, Ms. NORTON, Ms. SCANLON, Mr. SCHIFF, Mr. SWALWELL, Ms. WASSERMAN SCHULTZ, and Mrs. WATSON COLEMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require federally licensed firearms manufacturers, importers, and dealers and their employees to undergo annual training to be eligible to sell a firearm, to require a notice to be posted at retail firearms locations that describes the signs of unlawful firearms purchases, to require such licensees to maintain physical security elements to prevent theft and a minimum level of business liability insurance, 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 “Firearms Retailer
5 Code of Conduct Act of 2021”.

6 **SEC. 2. CODE OF CONDUCT FOR FIREARMS MANUFACTUR-**
7 **ERS, IMPORTERS, AND DEALERS.**

8 (a) IN GENERAL.—Section 923 of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 “(m)(1)(A) The Attorney General shall annually
12 make available to each licensed importer, licensed manu-
13 facturer, and licensed dealer, and each employee of such
14 a licensee who is authorized to engage in the transfer of
15 firearms or ammunition in the course of the firearms busi-
16 ness to unlicensed persons, a training course in the con-
17 duct of firearm transfers.

18 “(B) The training course shall describe Federal law
19 governing firearms transfers, and cover, at a minimum,
20 the following matters:

21 “(i) How to recognize and identify straw pur-
22 chasers and fraudulent activity.

23 “(ii) The indicators that a person is attempting
24 to purchase a firearm illegally.

1 “(iii) How to recognize and identify indicators
2 that an individual intends to use a firearm for un-
3 lawful purposes.

4 “(iv) How to recognize and identify indicators
5 that an individual intends to use a firearm for self-
6 harm.

7 “(v) How to prevent theft or burglary of fire-
8 arms and ammunition.

9 “(vi) How to respond in the circumstances de-
10 scribed in clauses (i) through (v), and the applicable
11 reporting requirements.

12 “(vii) Other reasonable business practices that
13 the Attorney General determines will deter gun traf-
14 ficking, or deter the provision of a firearm to those
15 who indicate an intent to use a firearm for unlawful
16 purposes or for self-harm.

17 “(C) The training course shall include an examina-
18 tion with not less than 20 questions derived from the
19 course materials and intended to confirm that a course
20 participant has learned the information covered by the
21 course. To receive certification of completion of the course,
22 a participant must answer at least 70 percent of the exam-
23 ination questions correctly.

24 “(D) Not less frequently than annually, the Attorney
25 General, in consultation with the Assistant Attorney Gen-

1 eral for the Civil Rights Division, shall review the training
2 course materials, and revise them as necessary.

3 “(E) On successful completion of the training course
4 by a participant—

5 “(i) the participant shall attest to his or her
6 participation in the course;

7 “(ii) the participant shall attest to his or her
8 receipt of the course materials;

9 “(iii) if the participant is not a licensed manu-
10 facture, licensed importer, or licensed dealer, the
11 participant has submitted to the national instant
12 criminal background check system established under
13 section 103 of the Brady Handgun Violence Preven-
14 tion Act sufficient information to enable the system
15 to determine whether the participant is prohibited by
16 subsection (g) or (n) of section 922 or State law
17 from receiving a firearm; and

18 “(iv) if the system has determined that the par-
19 ticipant is not so prohibited, the Attorney General
20 shall immediately issue to the participant, through
21 United States mail or electronic means, a certificate
22 which indicates successful completion of the training
23 course and includes a unique certification number,
24 both of which shall expire 2 years after issuance un-
25 less renewed.

1 “(F) The Attorney General shall—

2 “(i) create and maintain a database which iden-
3 tifies each individual to whom such a certificate is
4 issued, the date the certificate is issued, the date the
5 certificate expires, and the unique certification num-
6 ber on the certificate;

7 “(ii) make readily available to persons licensed
8 under this chapter and Federal, State, and local law
9 enforcement authorities, on request, the certification
10 status of current or potential employees; and

11 “(iii) on a monthly basis, provide to the Bureau
12 of Alcohol, Tobacco, Firearms and Explosives a com-
13 plete list of the certificates issued under subpara-
14 graph (E) that have expired or been renewed since
15 the most recent prior provision of information, if
16 any, to the system under this clause.

17 “(G) Each licensee referred to in subparagraph (A)
18 shall keep—

19 “(i) a copy of any certificate issued to the li-
20 censee under subparagraph (E); and

21 “(ii) a copy of any such certificate issued to any
22 employee of the licensee, throughout the duration of
23 employment.

24 “(H) Beginning 545 days after the date of the enact-
25 ment of this subsection, it shall be unlawful for such a

1 licensee or an employee of such a licensee to transfer a
2 firearm or ammunition in the course of firearms business,
3 unless the licensee or employee, as the case may be, has
4 been issued a certificate under this paragraph which has
5 not expired.

6 “(2) In the course of firearms business with a person
7 who is not such a licensee, such a licensee—

8 “(A) shall not transfer a firearm to an indi-
9 vidual if the licensee or an employee of the licensee
10 knows or has reasonable cause to know that the in-
11 dividual is a straw purchaser or a gun trafficker;

12 “(B) shall not transfer a firearm or ammuni-
13 tion to an individual if the licensee or an employee
14 of the licensee knows or has reasonable cause to
15 know that the individual is intoxicated;

16 “(C) shall not transfer a firearm or ammunition
17 to an individual if the licensee or an employee of the
18 licensee knows or has reasonable cause to know that
19 the individual will attempt to harm the individual or
20 others with the firearm or ammunition;

21 “(D) shall not transfer a firearm to an indi-
22 vidual not paying in United States currency, unless
23 the identity of the individual matches the name on
24 the payment method used by the individual; and

1 “(E) immediately notify the Bureau of Alcohol,
2 Tobacco, Firearms and Explosives and local law en-
3 forcement authorities if the licensee or an employee
4 of the licensee knows or has reasonable cause to
5 know that the individual has engaged or attempted
6 to engage in a straw purchase or gun trafficking.

7 “(3)(A) The Attorney General shall make available
8 to each licensee referred to in paragraph (1)(A) written
9 protocols which—

10 “(i) outline the indicators of straw purchasing
11 and gun trafficking, including the presence of a pro-
12 spective firearm transferee who—

13 “(I) is accompanied by 1 or more individ-
14 uals;

15 “(II) is communicating with other individ-
16 uals by telephone or other means;

17 “(III) is buying multiple firearms;

18 “(IV) has been the subject of a crime gun
19 trace;

20 “(V) has purchased a firearm in the pre-
21 ceding 30 days; or

22 “(VI) otherwise indicates that a firearm is
23 being obtained for another person;

24 “(ii) instruct licensees and their employees to
25 attempt to ascertain whether a prospective firearm

1 transferee is lawfully purchasing a firearm, including
2 by asking questions of the prospective firearm trans-
3 feree (including whether he or she intends to trans-
4 fer the firearm to another person); and

5 “(iii) inform licensees and their employees
6 about how to report a suspected fraudulent firearm
7 purchase to the Bureau of Alcohol, Tobacco, Fire-
8 arms and Explosives.

9 “(B) Beginning 545 days after the date of the enact-
10 ment of this subsection, each such licensee shall—

11 “(i) obtain the written protocols described in
12 subparagraph (A); and

13 “(ii) during all business hours, display the writ-
14 ten protocols at each point of sale in the firearms
15 business of the licensee, in a manner that is clearly
16 visible to employees of the business.

17 “(4) Beginning 545 days after the date of the enact-
18 ment of this subsection, each licensee referred to in para-
19 graph (1)(A) of this subsection shall maintain general
20 business and liability insurance as described in subsection
21 (d)(1)(F)(iv) during each day of a calendar month, unless
22 the licensee has certified to the Attorney General, on the
23 1st day of that month, that the licensee—

1 “(A) did not transfer more than 20 firearms in
2 the 12-month period that precedes the date of the
3 certification; and

4 “(B) expects to transfer not more than 20 fire-
5 arms in the 12-month period that begins with that
6 date.

7 “(5)(A) Beginning on the date that is 24 months
8 after the date of the enactment of this subsection, each
9 licensee referred to in paragraph (1)(A) of this subsection
10 shall, when the premises covered by the license is not open
11 for business except as provided for in subsection (j), secure
12 each firearm in the business inventory of the licensee by
13 means of devices or storage containers that are designed
14 to deny unauthorized access to, and theft of, firearms.

15 “(B) Each device or storage container shall be se-
16 cured by a combination lock, key lock, or lock based on
17 biometric information which, once locked, is incapable of
18 being opened without the combination, key, or biometric
19 information, respectively.”.

20 (b) DEADLINE FOR DEVELOPMENT OF FIREARM
21 TRANSFER TRAINING COURSE.—Within 180 days after
22 the date of the enactment of this Act, the Attorney Gen-
23 eral, in consultation with the Assistant Attorney General
24 for the Civil Rights Division, shall develop the training

1 course provided for in section 923(m)(1) of title 18,
2 United States Code.

3 (c) DEADLINE FOR DEVELOPMENT OF WRITTEN
4 BUSINESS PROTOCOLS FOR FIREARMS SALES.—Within
5 180 days after the date of the enactment of this Act, the
6 Attorney General shall, in consultation with the Assistant
7 Attorney General for the Civil Rights Division—

8 (1) develop the written protocols provided for in
9 section 923(m)(3) of title 18, United States Code;
10 and

11 (2) not less frequently than annually, review the
12 protocols, and revise them as necessary.

13 (d) BUSINESS LIABILITY INSURANCE CERTIFICATION
14 REQUIRED IN APPLICATION FOR FIREARMS LICENSE.—
15 Section 923(d)(1)(F) of title 18, United States Code, is
16 amended—

17 (1) by striking “and” at the end of clause
18 (ii)(II); and

19 (2) by adding at the end the following:

20 “(iv) the applicant has applied for, and will
21 not conduct the business before the applicant
22 has received, a general business and liability in-
23 surance policy from an insurance company li-
24 censed to do business in the State in which the
25 licensed premises is located, which provides cov-

1 erage for damages for the negligent or unlawful
 2 transfer of a firearm in an amount of at least
 3 \$1,000,000, unless the applicant certifies in the
 4 application that the applicant expects to trans-
 5 fer to persons not licensed under this chapter
 6 not more than 20 firearms per year; and”.

7 (e) VALIDATION OF LICENSEE AND EMPLOYEE CER-
 8 TIFICATIONS.—Section 922(t)(1) of such title is amend-
 9 ed—

10 (1) by striking “and” at the end of subpara-
 11 graph (B)(ii);

12 (2) by striking the period at the end of sub-
 13 paragraph (C) and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(D) a unique certification number has been
 16 issued to the transferor under section
 17 923(m)(1)(E)(iv) and has not expired, and the
 18 transferor has validated that number with the sys-
 19 tem.”.

20 **SEC. 3. DEFINITIONS.**

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

23 “(36) The term ‘straw purchase’ means the purchase
 24 of a firearm by an individual who conceals, or intends to
 25 conceal, from any entity that the purchase is being made

1 on behalf of a third party who is identified or not yet iden-
2 tified. The term shall not include a bona fide gift to a
3 person who is not prohibited by law from possessing or
4 receiving a firearm. For purposes of the preceding sen-
5 tence, a gift to a person is not a bona fide gift if the per-
6 son has offered or given the purchaser a service or thing
7 of value to acquire the firearm for the person.

8 “(37) The term ‘straw purchaser’ means a person en-
9 gaged in a straw purchase.

10 “(38) The term ‘gun trafficking’ means the knowing
11 acquisition, transfer, or attempted acquisition or transfer
12 of a firearm for purposes of unlawful commerce by a li-
13 censed or unlicensed person.”.

14 **SEC. 4. PENALTIES.**

15 Section 924 of title 18, United States Code, is
16 amended by adding at the end the following:

17 “(q)(1) With respect to each violation of subpara-
18 graph (A), (B), or (C) of section 923(m)(2), a person shall
19 be fined under this title, imprisoned not more than 18
20 months, or both.

21 “(2) With respect to each violation of section
22 923(m)(2)(D), a person shall be fined not more than
23 \$2,500, imprisoned not more than 1 year, or both.

24 “(3) With respect to each violation of paragraph
25 (1)(G) or (3)(B) of section 923(m), and with respect to

1 each violation or related series of violations of section
2 923(m)(5)(A) that occurs on the same date, a licenced im-
3 porter, licensed manufacturer, or licensed dealer shall be
4 fined not more than \$500.

5 “(4)(A) With respect to each violation of paragraph
6 (1)(H) or (2)(E) of section 923(m), the Attorney General
7 shall, after notice and opportunity for hearing—

8 “(i) suspend for not more than 6 months, or re-
9 voke, the license under which the firearms transfer
10 involved was conducted; or

11 “(ii) subject the licensee to a civil penalty of not
12 more than \$2,500.

13 “(B) With respect to each violation of section
14 923(m)(4) the Attorney General shall, after notice and op-
15 portunity for hearing—

16 “(i) suspend for not more than 6 months, or re-
17 voke, the license under which the firearms transfer
18 involved was conducted; or

19 “(ii) subject the licensee to a civil penalty of not
20 more than \$10,000.”.

21 **SEC. 5. EFFECTIVE DATE.**

22 The amendments made by this Act shall take effect
23 90 days after the date of the enactment of this Act.

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