



Bill Summary and Position Paper

S.1775 “Cruz-Grassley”

117th Congress (2021-2022)

By: Sen. Ted Cruz (R-TX) &
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**NAGR Position: Amendments needed
to remove unnecessary gun control**

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Summary

The “Protecting Communities and Preserving the Second Amendment Act of 2021” (S.1775) is changed slightly from past versions of “Cruz-Grassley” ([see link](#)).

This legislation doubles down on failed government gun control programs like “Project Exile”, better known to gun owners as “Project Gestapo” for how it’s been abused.

Straw purchases are already illegal, yet the bill aims to entrap ordinary gun sellers for purposes of prosecuting them.

The bill reinforces existing unconstitutional Federal gun controls and falls short of real life-saving reforms like repealing gun free zones.

It focuses on the gun, not the person behind the crime. In this regard, it’s just a light version of the gun controls proposed by the Democrats.

Overview - The Good:

The Cruz Grassley bill does offer some marginal improvements in gun laws.

In particular it would allow interstate and gun show sales of all firearms, not just long guns. It would allow spouses of members of the military to buy guns based on where their spouse is assigned, in addition to their home state.

It improves protection for interstate travel with firearms and ammunition through states with laws that might regulate the firearms or ammunition being transported.

It improves protection from the imposition of a firearms disability for people with mental health problems, and it prohibits the SSA or VA gun bans being applied to people who have their welfare sent to a fiduciary.

Overview – The Bad:

The bad parts of this bill outweigh the good parts. The bill greatly increases the federal law

enforcement dedicated to harassing gun owners with technical violation of federal laws on firearms, especially on sales.

Straw purchases are already illegal under Federal law, as construed by the Supreme Court. In spite of this the bill creates two new straw purchase crimes. The bill opens anyone selling firearms, whether as a trade or business or not, to severe penalties if the buyer turns out to be buying for someone else or buying to move the guns to a place where they are not allowed.

The bill uses “Project Exile” as a model for enforcement, when that program resulted in law enforcement abuses of search and seizure and results in punishment for mere possession of a gun that is excessive compared to the crime.

The enforcement portions of the bill focus on the instrument of crime, the firearm, and not the person behind it. In this regard this bill is just like the gun bans proposed by the Democrats.

Analysis:

The bill appropriates 20 million dollars each year in the years 2022 to 2026 to states to provide records to NICS, under the 2007 NIAA. (Bad – massive record dumps are not good.)

The DOJ Inspector General is supposed to audit records provided by states to ensure they are accurate, and states without problems are supposed to receive priority for the money. (Neutral)

The bill requires federal agencies to provide records to NICS. (Bad)

The bill rewrites the definition of being mentally ill or defective so as to trigger a firearms ban, to require more due process (notice and a hearing with the right to have an attorney) and broadly speaking, a finding that the person is a danger to himself or to others, or was involuntarily admitted as an in-patient. (Neutral, Complete repeal of “adjudication” by non-judicial entities needed.)

The bill specifies that no one found to be mentally incompetent or incapacitated by the VA for benefits purposes is also barred from firearms possession unless he was also found to be a danger to himself or others by a judge. (Good)

The bill specifies that the Federal courts are to report relevant records to NICS. Every year all Federal agencies are supposed to report to Congress on providing records to NICS. (Concerning)

Every year the US Attorney General is to report to Congress on prosecutions for firearm crimes under the NFA and GCA laws, and what happened in each prosecution. The idea is to gather information on whether the DOJ is actually prosecuting violations of the GCA and NFA. (Neutral)

The bill requires the DOJ to expand the Project Exile program to fifteen places with lots of crime, and three Indian tribal areas that also have crime. The program is supposed to include charging everyone accused of a firearm crime with the most serious charge possible and to focus on “straw purchasing rings.” The paragraph calls for the hiring of more ATF agents to assist with this. The bill appropriates \$15 million a year for 2022-2024. (Bad – Project Exile has been abused. It’s about the gun not the criminal.)

The bill requires the DOJ to establish a “Felon and Fugitive Firearm Task Force.” This will pursue firearm crimes. It appropriates money for this, ten million dollars a year for the years 2022 to 2026. (Bad – Will this be used by a future administration to serve “Red Flag” raids?)

The bill prohibits the DOJ from conducting “Fast and Furious” type investigations where the DOJ encourages an FFL to sell a gun to someone the DOJ knows is purchasing for someone who is prohibited, unless the plan is approved by the “Attorney General, the Deputy Attorney General, or

the Assistant Attorney General for the Criminal Division personally reviews and approves the operation, in writing, and determines that the agency has prepared an operational plan that includes sufficient safeguards to prevent firearms from being transferred to third parties without law enforcement taking reasonable steps to lawfully interdict those firearms.” (Good)

The bill creates a new crime of purchasing a firearm for someone else when the “true” buyer is an illegal alien, or not able to buy on their own, or wants the firearm to commit a terrorism crime or a drug trafficking crime or a crime of violence. This would be a variation on the straw purchase crime. It carries a new penalty of up to 15 years in prison. The bill does not do away with the straw purchase crime the U.S. Supreme Court created in its decision in *Abramski v. United States*. So now there would be two straw purchase crimes. (Neutral)

The bill creates a new crime of trafficking in firearms, for moving more than one firearm in commerce to a buyer the seller knows is buyer is an illegal alien, or not able to buy on their own, or wants the firearm to commit a terrorism crime or a drug trafficking crime or a crime of violence. This would be a variation on the straw purchase crime. This is also punishable by 15 years in prison. (Bad – straw purchases already illegal, can be abused against legal gun sellers.)

The bill ups the penalties for many GCA crimes by 5 years. Five year crimes are now ten years, and ten year crimes are now 15, under the bill. (Bad – Mandatory minimums are usually a stacked charge already, all this does is make it more likely technical violations of the GCA will lump honest gun buyers in with gang members.)

The bill bans the DOJ from requiring FFLs report sales of more than one rifle or shotgun in a transaction, the way that ATF currently does for certain states on the border with Mexico, with certain centerfire semi-auto rifles. (Good)

The bill calls on the NIJ to study mass shootings and the role seven specific factors play in them, such as video games and bullying. (Neutral)

The bill reduces certain criminal justice grants to places that do not report mental health information to NICS. Eleven states, do not do this. (Bad – gun control bribery.)

The bill allows FFLs to sell any firearm (not just long guns) to a resident of any state, and to sell any firearm (not just long guns) at a gun show in any state, provided the laws of both states permit it. (Good)

The bill allows spouses of people in the Armed Forces to be considered a resident of the state their spouse is assigned to, not just the person in the Armed Forces. This would allow spouses to buy guns in the state their spouse is assigned to, in addition to their home state. (Good)

The bill would allow FFL holders to use NICS to do background checks on their employees. (Neutral)

The bill would allow FFL holders to use NCIC to see if firearms offered for sale/trade to the FFL have been reported stolen in NCIC. The bill specifies that a failure to use this service does not result in civil liability to the FFL holder. (Neutral – what’s optional today will be mandatory tomorrow.)

The bill rewrites 18 USC 926A, the provision from FOPA that is supposed to allow people to transport firearms from one place where they are legal to another place where they are legal, through a place where they may not be legal. The bill bars arrests for firearm possession done in compliance with the law, and provides for an award of attorney fees for wrongful arrests/prosecutions. (Good)

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