

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 374

To ensure that all individuals who should be prohibited from buying a firearm are listed in the national instant criminal background check system and require a background check for every firearm sale

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. SCHUMER

Viz:

1 Strike all after the enacting clause and insert the following:

2 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

3 (a) **SHORT TITLE.**—This Act may be cited as the “Fix Gun Checks Act of 2013”.

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

Sec. 1. Short title; table of contents.

TITLE I—ENSURING THAT ALL INDIVIDUALS WHO SHOULD BE PROHIBITED FROM BUYING A GUN ARE LISTED IN THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM

Sec. 101. Reauthorization of NICS Act Record Improvement Program grants.
Sec. 102. Penalties for States that do not make data electronically available to the National Instant Criminal Background Check System.

Sec. 103. Clarification that Federal court information is to be made available to the National Instant Criminal Background Check System.

TITLE II—REQUIRING A BACKGROUND CHECK FOR EVERY
FIREARM SALE

Sec. 201. Purpose.

Sec. 202. Firearms transfers.

Sec. 203. Lost and stolen reporting.

Sec. 204. Effective date.

1 **TITLE I—ENSURING THAT ALL**
2 **INDIVIDUALS WHO SHOULD**
3 **BE PROHIBITED FROM BUY-**
4 **ING A GUN ARE LISTED IN**
5 **THE NATIONAL INSTANT**
6 **CRIMINAL BACKGROUND**
7 **CHECK SYSTEM**

8 **SEC. 101. REAUTHORIZATION OF NICS ACT RECORD IM-**
9 **PROVEMENT PROGRAM GRANTS.**

10 (a) IN GENERAL.—Section 102(b) of the NICS Im-
11 provement Amendments Act of 2007 (18 U.S.C. 922 note)
12 is amended—

13 (1) in paragraph (1)(C)—

14 (A) by striking clauses (ii) and (iii); and

15 (B) by redesignating clauses (iv), (v), and

16 (vi) as clauses (ii), (iii), and (iv), respectively;

17 and

18 (2) by striking paragraph (2) and inserting the

19 following:

20 “(2) SCOPE.—

1 “(A) IN GENERAL.—The Attorney General,
2 in determining the compliance of a State under
3 this section or section 104 for the purpose of
4 granting a waiver or imposing a loss of Federal
5 funds, shall assess the total percentage of
6 records provided by the State concerning any
7 event occurring within the time period estab-
8 lished by the Attorney General under subpara-
9 graph (B), which would disqualify a person
10 from possessing a firearm under subsection (g)
11 or (n) of section 922 of title 18, United States
12 Code.

13 “(B) REGULATIONS.—Not later than 1
14 year after the date of enactment of the Fix Gun
15 Checks Act of 2013, the Attorney General shall,
16 through regulation, establish the time period
17 described in subparagraph (A).”.

18 (b) IMPLEMENTATION ASSISTANCE TO STATES.—
19 Section 103 of the NICS Improvement Amendments Act
20 of 2007 (18 U.S.C. 922 note) is amended—

21 (1) by striking subsection (a)(1) and inserting
22 the following:

23 “(1) IN GENERAL.—From amounts made avail-
24 able to carry out this section and subject to section
25 102(b)(1)(B), the Attorney General shall make

1 grants to States and Indian tribal governments, in
2 a manner consistent with the National Criminal His-
3 tory Improvement Program, which shall be used by
4 the States and Indian tribal governments, in con-
5 junction with units of local government and State
6 and local courts to—

7 “(A) establish and plan information and
8 identification technologies for firearms eligi-
9 bility determinations; and

10 “(B) make improvements or upgrade infor-
11 mation and identification technologies for fire-
12 arms eligibility determinations.”;

13 (2) by striking subsections (b) and (c) and in-
14 serting the following:

15 “(b) USE OF GRANT AMOUNTS.—

16 “(1) IN GENERAL.—Grants awarded to States
17 or Indian tribes under subsection (a)(1) may only be
18 used to—

19 “(A) create electronic systems, which pro-
20 vide accurate and up-to-date information that is
21 directly related to checks under the National
22 Instant Criminal Background Check System
23 (referred to in this section as ‘NICS’), including
24 court disposition and corrections records;

1 “(B) assist States in establishing or en-
2 hancing their own capacities to perform NICS
3 background checks;

4 “(C) supply accurate and timely informa-
5 tion to the Attorney General concerning final
6 dispositions of criminal records to databases
7 accessed by NICS;

8 “(D) supply accurate and timely informa-
9 tion to the Attorney General concerning the
10 identity of persons who are prohibited from ob-
11 taining a firearm under section 922(g)(4) of
12 title 18, United States Code, to be used by the
13 Federal Bureau of Investigation solely to con-
14 duct NICS background checks;

15 “(E) supply accurate and timely court or-
16 ders and records of misdemeanor crimes of do-
17 mestic violence for inclusion in Federal and
18 State law enforcement databases used to con-
19 duct NICS background checks; and

20 “(F) collect and analyze data needed to
21 demonstrate levels of State compliance with this
22 Act.

23 “(2) ADDITIONAL USES.—

24 “(A) IN GENERAL.—In addition to the
25 uses described in paragraph (1)—

1 “(i) a grant awarded under subsection
2 (a)(1)(A) may be used to assist States in
3 establishing or enhancing a relief from dis-
4 abilities program in accordance with sec-
5 tion 105; and

6 “(ii) a grant awarded under sub-
7 section (a)(1)(B) may be used to maintain
8 the relief from disabilities program in ac-
9 cordance with section 105.

10 “(B) LIMITATION.—Not less than 3 per-
11 cent and no more than 10 percent of each grant
12 awarded under subsection (a)(1)(B) shall be
13 used for the purpose described in subparagraph
14 (A)(i).

15 “(c) ELIGIBILITY.—To be eligible for a grant under
16 section 103(a)(1)(B), a State shall certify, to the satisfac-
17 tion of the Attorney General, that the State has imple-
18 mented a relief from disabilities program in accordance
19 with section 105.”; and

20 (3) by striking subsection (e) and inserting the
21 following:

22 “(e) AUTHORIZATION OF APPROPRIATIONS.—

23 “(1) IN GENERAL.—There are to be authorized
24 to be appropriated to carry out this section

1 \$100,000,000 for each of fiscal years 2014 through
2 2018.

3 “(2) LIMITATIONS.—

4 “(A) USE OF AMOUNTS AUTHORIZED.—Of
5 the amounts authorized to be appropriated for
6 each fiscal year under paragraph (1), not more
7 than 30 percent may be used to carry out sub-
8 section (a)(1)(B) .

9 “(B) ALLOCATIONS.—A State may not be
10 awarded more than 2 grants under subsection
11 (a)(1)(B).”.

12 **SEC. 102. PENALTIES FOR STATES THAT DO NOT MAKE**
13 **DATA ELECTRONICALLY AVAILABLE TO THE**
14 **NATIONAL INSTANT CRIMINAL BACKGROUND**
15 **CHECK SYSTEM.**

16 (a) IN GENERAL.—Section 104(b) of the NICS Im-
17 provement Amendments Act of 2007 (18 U.S.C. 922 note)
18 is amended by striking paragraphs (1) and (2) and insert-
19 ing the following:

20 “(1) DISCRETIONARY REDUCTION.—

21 “(A) During the 2-year period beginning
22 on the date on which the Attorney General pub-
23 lishes final rules required under section
24 102(b)(2)(B), the Attorney General may with-
25 hold not more than 3 percent of the amount

1 that would otherwise be allocated to a State
2 under section 505 of the Omnibus Crime Con-
3 trol and Safe Streets Act of 1968 (42 U.S.C.
4 3755) if the State provides less than 50 percent
5 of the records required to be provided under
6 sections 102 and 103.

7 “(B) During the 3-year period after the
8 expiration of the period described in subpara-
9 graph (A), the Attorney General may withhold
10 4 percent of the amount that would otherwise
11 be allocated to a State under section 505 of the
12 Omnibus Crime Control and Safe Streets Act of
13 1968 (42 U.S.C. 3755) if the State provides
14 less than 70 percent of the records required to
15 be provided under sections 102 and 103.

16 “(2) MANDATORY REDUCTION.—After the expi-
17 ration of the period referred to in paragraph (1)(B),
18 the Attorney General shall withhold 5 percent of the
19 amount that would otherwise be allocated to a State
20 under section 505 of the Omnibus Crime Control
21 and Safe Streets Act of 1968 (42 U.S.C. 3755), if
22 the State provides less than 90 percent of the
23 records required to be provided under sections 102
24 and 103.”.

1 (b) REPORTING OF STATE COMPLIANCE.—Not later
2 than 1 year after the date of enactment of this Act, and
3 every year thereafter, the Attorney General shall publish,
4 and make available on a publicly accessible website, a re-
5 port that ranks the States by the ratio of number of
6 records submitted by each State under sections 102 and
7 103 of the NICS Improvement Amendments Act of 2007
8 (18 U.S.C. 922 note) to the estimated total number of
9 available records of the State.

10 **SEC. 103. CLARIFICATION THAT FEDERAL COURT INFOR-**
11 **MATION IS TO BE MADE AVAILABLE TO THE**
12 **NATIONAL INSTANT CRIMINAL BACKGROUND**
13 **CHECK SYSTEM.**

14 Section 103(e)(1) of the Brady Handgun Violence
15 Prevention Act (18 U.S.C. 922 note), is amended by add-
16 ing at the end the following:

17 “(F) APPLICATION TO FEDERAL
18 COURTS.—In this paragraph—

19 “(i) the terms ‘department of agency
20 of the United States’ and ‘Federal depart-
21 ment or agency’ include a Federal court;
22 and

23 “(ii) for purposes of any request, sub-
24 mission, or notification, the Director of the
25 Administrative Office of the United States

1 Courts shall perform the functions of the
2 head of the department or agency.”.

3 **TITLE II—REQUIRING A BACK-**
4 **GROUND CHECK FOR EVERY**
5 **FIREARM SALE**

6 **SEC. 201. PURPOSE.**

7 The purpose of this title is to extend the Brady Law
8 background check procedures to all sales and transfers of
9 firearms.

10 **SEC. 202. FIREARMS TRANSFERS.**

11 (a) IN GENERAL.—Section 922 of title 18, United
12 States Code, is amended—

13 (1) by repealing subsection (s);

14 (2) by redesignating subsection (t) as sub-
15 section (s);

16 (3) in subsection (s), as redesignated—

17 (A) in paragraph (3)(C)(ii), by striking
18 “(as defined in subsection (s)(8))”; and

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

20 “(7) In this subsection, the term ‘chief law en-
21 forcement officer’ means the chief of police, the
22 sheriff, or an equivalent officer or the designee of
23 any such individual.”; and

24 (4) by inserting after subsection (s), as redesi-
25 gnated, the following:

1 “(t)(1) Beginning on the date that is 180 days after
2 the date of enactment of this subsection, it shall be unlaw-
3 ful for any person who is not licensed under this chapter
4 to transfer a firearm to any other person who is not li-
5 censed under this chapter, unless a licensed importer, li-
6 censed manufacturer, or licensed dealer has first taken
7 possession of the firearm for the purpose of complying
8 with subsection (s). Upon taking possession of the firearm,
9 the licensee shall comply with all requirements of this
10 chapter as if the licensee were transferring the firearm
11 from the licensee’s inventory to the unlicensed transferee.

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

13 “(A) bona fide gifts between spouses, between
14 parents and their children, between siblings, or be-
15 tween grandparents and their grandchildren;

16 “(B) a transfer made from a decedent’s estate,
17 pursuant to a legal will or the operation of law;

18 “(C) a temporary transfer of possession that
19 occurs between an unlicensed transferor and an unli-
20 censed transferee, if —

21 “(i) the temporary transfer of possession
22 occurs in the home or curtilage of the unli-
23 censed transferor;

1 “(ii) the firearm is not removed from that
2 home or curtilage during the temporary trans-
3 fer; and

4 “(iii) the transfer has a duration of less
5 than 7 days; and

6 “(D) a temporary transfer of possession with-
7 out transfer of title made in connection with lawful
8 hunting or sporting purposes if the transfer oc-
9 curs—

10 “(i) at a shooting range located in or on
11 premises owned or occupied by a duly incor-
12 porated organization organized for conservation
13 purposes or to foster proficiency in firearms
14 and the firearm is, at all times, kept within the
15 premises of the shooting range;

16 “(ii) at a target firearm shooting competi-
17 tion under the auspices of or approved by a
18 State agency or nonprofit organization and the
19 firearm is, at all times, kept within the prem-
20 ises of the shooting competition; and

21 “(iii) while hunting or trapping, if—

22 “(I) the activity is legal in all places
23 where the unlicensed transferee possesses
24 the firearm;

1 “(II) the temporary transfer of pos-
2 session occurs during the designated hunt-
3 ing season; and

4 “(III) the unlicensed transferee holds
5 any required license or permit.

6 “(3) For purposes of this subsection, the term ‘trans-
7 fer’—

8 “(A) shall include a sale, gift, loan, return from
9 pawn or consignment, or other disposition; and

10 “(B) shall not include temporary possession of
11 the firearm for purposes of examination or evalua-
12 tion by a prospective transferee while in the presence
13 of the prospective transferee.

14 “(4)(A) Notwithstanding any other provision of this
15 chapter, the Attorney General may implement this sub-
16 section with regulations.

17 “(B) Regulations promulgated under this para-
18 graph—

19 “(i) shall include a provision setting a max-
20 imum fee that may be charged by licensees for serv-
21 ices provided in accordance with paragraph (1); and

22 “(ii) shall include a provision requiring a record
23 of transaction of any transfer that occurred between
24 an unlicensed transferor and unlicensed transferee
25 accordance with paragraph (1).”.

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

2 (1) SECTION 922.—Section 922(y)(2) of title
3 18, United States Code, is amended, in the matter
4 preceding subparagraph (A), by striking “,
5 (g)(5)(B), and (s)(3)(B)(v)(II)” and inserting “and
6 (g)(5)(B)”.

7 (2) SECTION 925A.—Section 925A of title 18,
8 United States Code, is amended, in the matter pre-
9 ceding paragraph (1), by striking “subsection (s) or
10 (t) of section 922” and inserting “section 922(s)”.

11 **SEC. 203. LOST AND STOLEN REPORTING.**

12 (a) IN GENERAL.—Section 922 of title 18, United
13 States Code, is amended by adding at the end—

14 “(aa) It shall be unlawful for any person who lawfully
15 possesses or owns a firearm that has been shipped or
16 transported in, or has been possessed in or affecting, inter-
17 state or foreign commerce, to fail to report the theft or
18 loss of the firearm, within 24 hours after the person dis-
19 covers the theft or loss, to the Attorney General and to
20 the appropriate local authorities.”.

21 (b) PENALTY.—Section 924(a)(1) of title 18, United
22 States Code, is amended by striking subparagraph (B)
23 and inserting the following:

24 “(B) knowingly violates subsection (a)(4), (f),
25 (k), (q), or (aa) of section 922;”.

1 SEC. 204. EFFECTIVE DATE.

2 The amendments made by this Act shall take effect

3 180 days after the date of enactment of this Act.