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NEWS

U. S. SENATOR FOR KANSAS

FROM:

SENATE REPUBLICAN LEADER

FOR IMMEDIATE RELEASE
Friday, November 19, 1993

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ACCESS TO FIREARMS

DOLE AMENDMENT PUTS FOCUS ON INSTANT COMPUTER CHECKS TO KEEP GUNS FROM CRIMINALS

I had intended to offer an amendment to the crime bill which would have dealt with a number of real problems with what I call "access to firearms." During its consideration, the crime bill was the potential target for amendments that included bans on certain types of firearms, restrictions on obtaining ammunition, requirements of securing liability insurance, and on and on and on.

Separate Fact from Hysteria

I think it's time to separate fact from hysteria and do something about the real problem with firearms -- keeping the wrong people from getting access to them.

So, I want to say just a word about the Feinstein amendment before moving on. For the first point I am going to make, let's separate all firearms into two categories -- those that fire a stream of bullets when the trigger is pulled and those which fire only once per trigger pull.

The first category are called automatics, or machine guns. We began regulating them in 1939. Since that time, there is no evidence that even one legally owned machine gun has been used in the commission of a crime. Let me repeat that so we can discuss fact. Since 1939, no legally owned machine gun has been used in a crime.

But that wasn't good enough for some. So, in 1986, we banned the future manufacture of these firearms that weren't and still aren't being used in crimes. Then we patted ourselves on the back for that stroke of genius. Now some have begun to call firearms in the second group -- those which fire only one shot when the trigger is pulled -- automatic weapons, or machine guns or machine pistols. Well, they aren't automatic or machine anything, but they are used in crime, and we need to find some way to reduce the chance that they will be.

One line of thinking is that if we can somehow wrongly label a firearm in group two, we can somehow ban it and end crime in America. Unfortunately, injecting falsehoods will only guarantee failed results. We can ban all the group two guns we want and new ones will appear. That approach is quite simply akin to a dog chasing its tail.

There are the other ideas like "let them keep their guns, we'll ban the bullets." Maybe we should go ahead and debate the real issue, maybe one of my colleagues should introduce an amendment to repeal the second amendment and we can get that behind us once and for all. The last time I checked, the second amendment was still part of the Constitution. So, like it or not, there are going to be guns around. But, we still have the problem of guns being used in crime. We still have to find some way to address that problem. Not with hysteria, but with a reasoned approach that addresses reality.

The Evolution of the Brady Bill

We've all heard a lot about something called the Brady bill. Some may think the Brady bill will end the use of firearms in crime. There are two problems with that line of thinking. First, it's not clear exactly what the Brady bill is. Second, whatever it is, it will not end the use of guns in crime.

The first Brady bill was nothing more than a federal waiting period prior to the purchase of a handgun. Unfortunately, a waiting period in and of itself does nothing. I was opposed to the first Brady bill because I generally believe it is better to do nothing than to do something that will have no useful effect, no useful impact.

To the contrary, in the drug enforcement, education, and control act of 1986, Congressman Bill McCollum and I added an amendment calling on the Department of Justice to begin gathering information to assemble a nationwide computer background check on potential firearm purchasers.

Start By Enforcing Existing Law

Ever since that time, I have insisted the first step in corralling gun violence is to enforce a law we already have on the books -- the 1968

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Gun Control Act. That law was passed in response to America's outrage at gun violence in the deaths of Bobby Kennedy and Martin Luther King, Jr. Unfortunately, the key provision in that law has remained virtually unenforced; the provision that prohibits criminals from buying firearms.

In most of America today, a convicted felon can walk into a gun store, check a box on a paper form saying he is not a felon and walk out with a gun. Man first walked on the moon a year after the 1968 Gun Control Act became law. Yet, 25 years after the law was passed the key provision remains unenforced and violence committed by those who misuse firearms has become rampant. That must change, and our priorities must change.

Nationwide Computer Check

In 1991, I sponsored a plan that eventually became known as the Brady bill. Instead of a simple waiting period, it called for a nationwide computer file of convicted felons and others who cannot legally obtain firearms. Further, it required that once operational, that file had to be checked before the purchase of any firearm would be allowed. Finally, prior to the system becoming operational, there would be a federal, five business day waiting period, but the federal waiting period and all other state and local waiting periods would be eliminated once the background check system started operating.

So, that too was called the Brady bill. The first part of the amendment I am now offering is also called the Brady bill. I have not sought the support or endorsement of Jim Brady, and if he wishes, I would be happy to change the name.

But, this amendment preserves the structure in the Brady bill I offered last year. It also requires the Justice Department to work with the states to update criminal records. It requires the Justice Department to work with other federal agencies to update records for illegal aliens, those dishonorably discharged from the military, federal felons and all others who have given up their right to own a firearm.

It then requires an instantaneous computer background check prior to the purchase of a firearm.

With Instant Check, Waiting Periods Not Needed

During the estimated 24 months of record collection, there would be a five business day waiting period. However, once the instant check was up and running, the federal waiting period and all state and local waiting periods would be preempted. It is very similar to the provisions of last year's Brady bill which eventually passed this body overwhelmingly.

The most divisive remaining issue on the Brady bill is whether to preempt state and local waiting periods. But, it should not be divisive at all. The backers of the other Brady bill have already agreed that once a computer check is in place, no waiting period is necessary. And, if any state has an instant check system, it needs no waiting period. So, if we pass a law that requires a computer check for every firearm purchase, regardless of location, why would we need a waiting period in some areas of the country and not the others? The fact is, waiting periods don't work, they don't accomplish anything. So why shouldn't we put that issue behind us, and join together and pass this common sense piece of legislation. We have even significantly reduced the preemption so that it includes only waiting periods. Schemes calling for fingerprinting, licenses, permits, safety courses, etc. are not preempted. And, states and local governments are free to impose new waiting periods after the instant check goes on line.

Notify Authority of Multiple sales

The Brady bill, as drafted in this amendment, will help reduce some access to firearms by those who want firearms for criminal purposes. But, most violent offenders do not obtain firearms in retail establishments.

Therefore, I have added a number of other provisions to this amendment which recognize other avenues by which firearms find their way onto the streets and involved in crime.

First, current law requires that, if a gun dealer sells more than one firearm to an individual in any five day period, notification must be sent to the Bureau of Alcohol, Tobacco and Firearms. The problem we have is that these postcard notifications are filed away in shoe boxes at a warehouse in some out of the way location -- they aren't used for anything other than an occasional after-the-crime review.

My amendment proposes adding the requirement that the state and local police departments be notified. It also requires no -- I repeat no -- record can be kept at the state and local police departments which eliminates the concern that this would be back door gun registration.

There is a growing business in black market gun sales. It works various ways -- using straw man purchasers, using counterfeit or deceptive drivers licenses, etc -- but, to be profitable, it always involves multiple sales.

This provision will allow police to get a better handle on the
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individuals who buy four or five firearms this week, sell them on the street for an inflated price, and then buy eight firearms next week and sell them on the street. Someone ought to knock on the door of the that fellow and simply ask him if he is a legitimate collector or a trafficker. Let me say clearly, there is nothing wrong with multiple firearm purchases, it is legal and proper and should be allowed to continue. It's the illegal activity of reselling the handguns to those bent on the improper use of handguns that we must stamp out.

Firearm Licenses

This amendment also includes a section on updating federal firearm licenses -- so-called FFL's -- and related material. A number were included in the Simon/Bennett amendment and have been deleted from this amendment.

To address the real problem of gun theft, the first part of this title includes several provisions concerning the theft of firearms which are not contained in current law. The first relates to a requirement in current law that dealers and manufacturers must notify interstate carriers when packages contain firearms. This has led to the carriers requiring the packages contain labels and tags to clearly identify that firearms are inside. Well, you guessed it -- these packages have been disappearing in ever increasing numbers. The amendment prohibits these labelling requirements, since it is already against the law to send loaded firearms, and the only real effect of the labels is to invite theft.

Second, it requires a "paper trail" when firearms are sent by carrier. Regardless of industry, most businesses require paper trails on important documents. It seems reasonable to require the same be done on firearms. At least then, we would know these firearms are stolen and know when they enter the black market.

Third, BATF interprets a part of the current law to require dealers from different states use common carriers in all sales. The amendment allows the direct, face-to-face transfer of firearms when dealers are from different states. This will reduce the chance of theft while the firearm is in the possession of the carrier.

Theft of Firearms

Fourth, current law prohibits the knowing sale or transfer of stolen firearms. The law does not prohibit stealing the firearms from the dealer or manufacturer in the first place. This amendment changes that and establishes the penalty for theft from gun stores at 10 years in prison, \$10,000 or both.

I almost cannot believe it, but there are criminals who rob gun stores -- not burglarize, but commit armed robbery. I cannot think of a more violent criminal. Obviously, the clerk in the gun store has a high probability of being armed, yet these criminals shoot their way through the theft knowing in advance that this violence will occur. For those criminals and those stealing firearms in a riot, the penalty is thirty years parole, and life with no parole if the crime results in the loss of life.

Finally, this part of the FFL title explicitly allows states to prosecute -- under state laws -- these same violations.

The next part of the FFL title eliminates the current distinction between pawnbrokers and dealers and raises the fees to \$200 for the initial application and \$90 for renewal.

The following section will reduce the number of individuals who need FFL's by updating the definitions for "antique firearms." Current law exempts these individuals from needing a dealers' license and this amendment simply moves the date forward in the definition of these guns.

In an effort to ensure dealers follow all the rules, and fully assist the BATF in our effort to reduce firearms falling into the wrong hands, the amendment requires BATF to send the new regulations to all FFL's. The cost of this provision is offset by the new higher fees.

Youth Firearm Safety

My original amendment also included a "youth handgun safety" provision, a concept originated by Arizona Governor Fife Symington. That part was similar in nature to the Kohl juvenile handgun amendment, so it has been deleted from this amendment.

We should move this debate forward in a non-partisan and positive fashion. Gun violence is calling out for realistic answers. We are not going to solve it in one amendment or ten, but we can take constructive steps forward.

I will say up front that some will want to make an issue over state and local waiting periods -- they should not. The waiting period concept has already been abandoned in other Brady bills. We should allow that issue to pass and get on with addressing the real problems.

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