

118TH CONGRESS
1ST SESSION

S. 632

To amend the Internal Revenue Code of 1986 to require the Bureau of Alcohol, Tobacco, Firearms and Explosives to establish an administrative relief process for individuals whose applications for transfer and registration of a firearm were denied, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2, 2023

Mr. RISCH (for himself, Mr. SCOTT of Florida, Mr. CRAPO, Ms. LUMMIS, Mr. LANKFORD, and Mr. MARSHALL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Internal Revenue Code of 1986 to require the Bureau of Alcohol, Tobacco, Firearms and Explosives to establish an administrative relief process for individuals whose applications for transfer and registration of a firearm were denied, 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 “ATF Transparency
5 Act”.

1 **SEC. 2. ADMINISTRATIVE RELIEF FOR DENIAL OF FIREARM**
2 **TRANSFER APPLICATION.**

3 (a) IN GENERAL.—Section 5812 of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end the
5 following new subsection:

6 “(c) ADMINISTRATIVE RELIEF.—

7 “(1) IN GENERAL.—With respect to any appli-
8 cation described in subsection (a) for the transfer
9 and registration of a firearm which is denied by the
10 Secretary based on a determination that transferring
11 the firearm to the transferee would violate sub-
12 section (d) of section 922 of title 18, United States
13 Code, or receipt of the firearm by the transferee
14 would violate subsection (g) or (n) of that section or
15 State, local, or tribal law, the Secretary shall—

16 “(A) provide the transferee with the rel-
17 evant NICS transaction number with respect to
18 such application,

19 “(B) permit such transferee to appeal such
20 denial to the Secretary in a manner similar to
21 the process for appeals provided under section
22 25.10 of title 28, Code of Federal Regulations,
23 and

24 “(C) permit such transferee to provide in-
25 formation to the Secretary to prevent any sub-
26 sequent erroneous denial or extended delay by

1 NICS pursuant to a program (as established by
2 the Secretary) similar to the Voluntary Appeal
3 File program described in section 25.10(g) of
4 title 28, Code of Federal Regulations.

5 “(2) ATTORNEY FEES.—In the case of any suc-
6 cessful appeal by the transferee pursuant to the
7 process described in paragraph (1)(B), the Secretary
8 shall reimburse the transferee for any reasonable
9 and necessary attorney fees incurred with respect to
10 such appeal.

11 “(3) NICS.—For purposes of this subsection,
12 the term ‘NICS’ means the national instant criminal
13 background check system established under section
14 103 of the Brady Handgun Violence Prevention Act
15 (34 U.S.C. 40901).”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to applications for the transfer and
18 registration of a firearm which are filed or pending on or
19 after the date of enactment of this Act.

20 **SEC. 3. TIMELY PROCESSING OF APPLICATIONS.**

21 (a) TRANSFER OF FIREARMS.—Section 5812 of the
22 Internal Revenue Code of 1986, as amended by section
23 2, is amended by adding at the end the following new sub-
24 section:

1 “(d) PROCESSING OF APPLICATIONS.—Notwith-
2 standing subsection (a), if an application described in such
3 subsection with respect to the transfer and registration of
4 a firearm has been filed with the Secretary and the Sec-
5 retary fails to make a determination regarding whether
6 to approve or deny such application prior to the date which
7 is 90 calendar days after the date on which such applica-
8 tion was originally filed by the transferor, the transfer and
9 registration of such firearm to the transferee shall be
10 deemed to have been approved by the Secretary for pur-
11 poses of this section and such transfer may be made. The
12 Secretary shall only deny an application described in sub-
13 section (a) on the grounds that the applicable require-
14 ments under such subsection have not been satisfied, and
15 may not deny an application solely on the grounds that
16 a determination regarding whether to approve or deny
17 such application could not be completed by the Secretary
18 during the period described in the preceding sentence.”.

19 (b) MAKING OF FIREARMS.—Section 5822 of the In-
20 ternal Revenue Code of 1986 is amended by adding at the
21 end the following: “Notwithstanding the preceding sen-
22 tences, if a person files an application to make and reg-
23 ister a firearm with the Secretary and the Secretary fails
24 to make a determination regarding whether to approve or
25 deny such application prior to the date which is 90 cal-

1 endar days after the date on which such application was
2 originally filed by such person, such application shall be
3 deemed to have been approved by the Secretary for pur-
4 poses of this section and such firearm may be made by
5 such person. The Secretary shall only deny an application
6 to make and register a firearm on the grounds that the
7 applicable requirements under this section have not been
8 satisfied, and may not deny an application solely on the
9 grounds that a determination regarding whether to ap-
10 prove or deny such application could not be completed by
11 the Secretary during the period described in the preceding
12 sentence.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to applications which are filed or
15 pending on or after the date of enactment of this Act.

16 **SEC. 4. REPORTS AND AGREEMENTS.**

17 (a) UNRESOLVED NICS CHECKS.—Not later than
18 180 days after the date of enactment of this Act, the
19 Comptroller General of the United States, in conjunction
20 with the Inspector General of the Department of Justice,
21 shall submit a report to Congress—

22 (1) detailing the number of NICS inquiries re-
23 ceived during the period of calendar years 2010
24 through 2021 with respect to the transfer of a fire-
25 arm which remained unresolved following the expira-

1 tion of the 90-day period described in section
2 25.9(b)(1) of title 28, Code of Federal Regulations;
3 and

4 (2) providing recommendations for administra-
5 tive actions to be adopted by the Bureau of Alcohol,
6 Tobacco, Firearms and Explosives to minimize the
7 number of unresolved NICS inquiries described in
8 paragraph (1).

9 (b) ADMINISTRATION OF NICS CHECKS.—Not later
10 than 180 days after the date of enactment of this Act,
11 the Inspector General of the Department of Justice shall
12 submit a report to Congress regarding the percentage of
13 NICS inquiries during the period of calendar years 2014
14 through 2021 with respect to the transfer of a firearm
15 which were administered by the Federal Bureau of Inves-
16 tigation on behalf of the Bureau of Alcohol, Tobacco, Fire-
17 arms and Explosives.

18 (c) MEMORANDUM OF UNDERSTANDING.—Not later
19 than 180 days after the date of enactment of this Act,
20 the Director of the Bureau of Alcohol, Tobacco, Firearms
21 and Explosives and the Director of the Federal Bureau
22 of Investigation shall enter into a memorandum of under-
23 standing regarding the administration and processing of
24 NICS inquiries with respect to the transfer of firearms.

25 (d) DEFINITIONS.—In this section—

1 (1) FIREARM.—The term “firearm” has the
2 same meaning given such term under section
3 5845(a) of the Internal Revenue Code of 1986.

4 (2) NICS.—The term “NICS” means the na-
5 tional instant criminal background check system es-
6 tablished under section 103 of the Brady Handgun
7 Violence Prevention Act (34 U.S.C. 40901).

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