

## COMMON-SENSE PROPOSAL: CLOSING THE GUN SHOW LOOPHOLE

- ❑ **WHAT IS THE GUN SHOW LOOPHOLE?** Federal law allows people who sell guns to avoid running background checks or keeping records by calling themselves occasional sellers, and these sellers often congregate at gun shows. The loophole provides criminals with easy access to firearms without having to worry about any background checks.
  - Current law requires licensed gun dealers to conduct background checks, because that is the only way to determine whether a person is eligible to buy a gun. Licensed dealers must also keep records about the buyer so ATF can trace the gun if it is recovered at a crime scene.<sup>1</sup>
  - The law does not, however, require so-called occasional sellers to do these checks – and there’s no clear definition of what qualifies as an occasional seller.<sup>2</sup>
  - Many sellers at gun shows abuse that loophole by calling themselves occasional sellers. Because they concentrate at gun shows, it is easy for felons and other prohibited possessors to find someone who will sell to them without a background check.
  
- ❑ **FACTS ABOUT THE GUN SHOW LOOPHOLE:**
  - **30% of trafficking:** One ATF study found gun shows involved with over 10,000 trafficked guns a year – about 30% of all criminal trafficking.
    - ATF concluded that “gun shows and flea markets are a major venue for illegal trafficking.”<sup>3</sup>
  - **Columbine:** All four guns used in the Columbine school massacre were bought at gun shows without background checks.
  - **Numerous violations:** The Treasury and Justice Departments issued a report in 1999 finding “a wide variety of violations occurring at gun shows and substantial numbers of firearms associated with gun shows being used in drug crimes and crimes of violence, as well as being passed illegally to juveniles.”<sup>4</sup>
    - Gun shows were tied to a broad range of violations, including straw purchases and the sale of kits to convert legal guns into illegal machine guns.
    - Their report reviewed 314 of those departments’ own investigations related to gun shows, involving over 54,000 guns, between 1991 and 1998.
  
- ❑ **SOLUTION:** Require occasional sellers to run instant background checks.
  - Legislation now pending in the Senate (**S. 843**, sponsored by Sen. Frank Lautenberg) would accomplish these goals.
    - It also toughens federal laws that apply to straw sales and other crimes by dealers.
  - Similar legislation is pending in the House (**H.R. 2324**, sponsored by Rep. Mike Castle).

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<sup>1</sup> 18 U.S.C. § 922(a)(1), (t), 923(g).

<sup>2</sup> 18 U.S.C. § 921(a)(21)(D), (22). These provisions exempt people who are not “engaged in the business” of dealing guns from the licensure requirement.

<sup>3</sup> Dep’t of the Treasury, Bureau of Alcohol, Tobacco & Firearms, “Following the Gun: Enforcing Federal Laws Against Firearms Traffickers” (June 2000), available at [http://www.atf.gov/pub/fire-explo\\_pub/pdf/followingthegun\\_internet.pdf](http://www.atf.gov/pub/fire-explo_pub/pdf/followingthegun_internet.pdf) (documents criminal investigations started July 1996 through December 1998).

<sup>4</sup> Joint report of DOJ, the Treasury Department, and ATF, “Gun Shows: Brady Checks and Crime Gun Traces,” (January 1999), available at [http://www.atf.gov/pub/treas\\_pub/gun\\_show.pdf](http://www.atf.gov/pub/treas_pub/gun_show.pdf).