

117TH CONGRESS  
1ST SESSION

# S. 190

To amend chapter 44 of title 18, United States Code, to require the safe storage of firearms, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2021

Mr. BLUMENTHAL (for himself, Mr. MURPHY, Mr. MARKEY, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend chapter 44 of title 18, United States Code, to require the safe storage of firearms, 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 “Ethan’s Law”.

5       **SEC. 2. FINDINGS.**

6       Congress find the following:

7               (1) An estimated 4,600,000 minors in the  
8       United States live in homes with at least 1 unse-  
9       cured firearm.

1           (2) 73 percent of children under the age of 10  
2 living in homes with firearms reported knowing the  
3 location of their parents' firearms. 36 percent of  
4 those children reported handling their parents' unse-  
5 cured firearms.

6           (3) The presence of unsecured firearms in the  
7 home increases the risk of unintentional and inten-  
8 tional shootings. Over 75 percent of firearms used in  
9 youth suicide attempts and unintentional firearm in-  
10 juries were stored in the residence of the victim, a  
11 relative, or a friend.

12           (4) The United States Secret Service and the  
13 Department of Education report that in 65 percent  
14 of deadly school shootings the attacker obtained the  
15 firearm from his or her own home or that of a rel-  
16 ative.

17           (5) In the last decade nearly 2,000,000 fire-  
18 arms have been reported stolen. In 2016 alone,  
19 238,000 firearms were reported stolen in the United  
20 States. Between 2010 and 2016, police recovered  
21 more than 23,000 stolen firearms across jurisdic-  
22 tions that were used to commit kidnappings, armed  
23 robberies, sexual assaults, murders, and other vio-  
24 lent crimes.

1           (6) Higher levels of neighborhood gun violence  
 2           drive depopulation, discourages commercial activity,  
 3           and decreases property values, resulting in fewer  
 4           business establishments, fewer jobs, lower home val-  
 5           ues, and lower home ownership rates.

6           (7) The negative economic impact of gun vio-  
 7           lence in communities is tied directly to the national  
 8           economy and interstate commerce.

9           (8) Congress has the power under the interstate  
 10          commerce clause and other provisions of the Con-  
 11          stitution of the United States to enact measures en-  
 12          suring firearms are securely stored.

13 **SEC. 3. SECURE GUN STORAGE OR SAFETY DEVICE.**

14          Section 922(z) of title 18, United States Code, is  
 15          amended by adding at the end the following:

16                 “(4) SECURE GUN STORAGE BY OWNERS.—

17                         “(A) OFFENSE.—

18                                 “(i) IN GENERAL.—Except as pro-  
 19                                 vided in clause (ii), it shall be unlawful for  
 20                                 a person to store or keep any firearm that  
 21                                 has moved in, or that has otherwise af-  
 22                                 fected, interstate or foreign commerce on  
 23                                 the premises of a residence under the con-  
 24                                 trol of the person if the person knows, or  
 25                                 reasonably should know, that—

1           “(I) a minor is likely to gain ac-  
2           cess to the firearm without the per-  
3           mission of the parent or guardian of  
4           the minor; or

5           “(II) a resident of the residence  
6           is ineligible to possess a firearm under  
7           Federal, State, or local law.

8           “(ii) EXCEPTION.—Clause (i) shall  
9           not apply to a person if the person—

10           “(I) keeps the firearm—

11           “(aa) secure using a secure  
12           gun storage or safety device; or

13           “(bb) in a location which a  
14           reasonable person would believe  
15           to be secure; or

16           “(II) carries the firearm on his  
17           or her person or within such close  
18           proximity thereto that the person can  
19           readily retrieve and use the firearm as  
20           if the person carried the firearm on  
21           his or her person.

22           “(B) PENALTY.—

23           “(i) IN GENERAL.—Any person who  
24           violates subparagraph (A) shall be fined  
25           \$500 per violation.

1           “(ii) ENHANCED PENALTY.—If a per-  
 2           son violates subparagraph (A) and a minor  
 3           or a resident who is ineligible to possess a  
 4           firearm under Federal, State, or local law  
 5           obtains the firearm and causes injury or  
 6           death to such minor, resident, or any other  
 7           individual, the person shall be fined under  
 8           this title, imprisoned for not more than 5  
 9           years, or both.

10           “(iii) FORFEITURE OF IMPROPERLY  
 11           STORED FIREARM.—Any firearm stored in  
 12           violation of subparagraph (A) shall be sub-  
 13           ject to seizure and forfeiture in accordance  
 14           with the procedures described in section  
 15           924(d).

16           “(C) MINOR DEFINED.—In this paragraph,  
 17           the term ‘minor’ means an individual who is  
 18           less than 18 years of age.”.

19 **SEC. 4. FIREARM SAFE STORAGE PROGRAM.**

20           Title I of the Omnibus Crime Control and Safe  
 21           Streets Act of 1968 (34 U.S.C. 10101 et seq.) is amended  
 22           by adding at the end the following:

1 **“PART OO—FIREARM SAFE STORAGE PROGRAM**

2 **“SEC. 3051. FIREARM SAFE STORAGE PROGRAM.**

3 “(a) IN GENERAL.—The Assistant Attorney General  
4 shall make grants to an eligible State or Indian Tribe to  
5 assist the State or Indian Tribe in carrying out the provi-  
6 sions of any State or Tribal law that is functionally iden-  
7 tical to section 922(z)(4) of title 18, United States Code.

8 “(b) ELIGIBLE STATE OR INDIAN TRIBE.—

9 “(1) IN GENERAL.—Except as provided in para-  
10 graph (2), a State or Indian Tribe shall be eligible  
11 to receive grants under this section on and after the  
12 date on which the State or Indian Tribe—

13 “(A) enacts legislation functionally iden-  
14 tical to section 922(z)(4) of title 18, United  
15 States Code; and

16 “(B) the attorney general of the State (or  
17 comparable Tribal official) submits a written  
18 certification to the Assistant Attorney General  
19 stating that the law of the State or Indian  
20 Tribe reflects the sense of Congress in section  
21 922(z)(4)(D) of such title 18.

22 “(2) FIRST YEAR ELIGIBILITY EXCEPTION.—

23 “(A) IN GENERAL.—A covered State or In-  
24 dian Tribe shall be eligible to receive a grant  
25 under this section during the 1-year period be-  
26 ginning on the date of enactment of this part.

1           “(B) COVERED STATE OR INDIAN TRIBE.—

2           In this paragraph, the term ‘covered State or  
3           Indian Tribe’ means a State or Indian Tribe  
4           that, before the date of enactment of this part,  
5           enacted legislation—

6                   “(i) that is functionally identical to  
7                   section 922(z)(4) of title 18, United States  
8                   Code; and

9                   “(ii) for which the attorney general of  
10                  the State (or comparable Tribal official)  
11                  submits a written certification to the As-  
12                  sistant Attorney General stating that the  
13                  law of the State or Indian Tribe reflects  
14                  the sense of Congress in section  
15                  922(z)(4)(D) of such title 18.

16          “(c) USE OF FUNDS.—Funds awarded under this  
17          section may be used by a State or Indian Tribe to assist  
18          law enforcement agencies or the courts of the State or In-  
19          dian Tribe in enforcing and otherwise facilitating compli-  
20          ance with any State law functionally identical to section  
21          922(z)(4), of title 18, United States Code.

22          “(d) APPLICATION.—An eligible State or Indian  
23          Tribe desiring a grant under this section shall submit to  
24          the Assistant Attorney General an application at such  
25          time, in such manner, and containing or accompanied by

1 such information, as the Assistant Attorney General may  
2 reasonably require.

3 “(e) INCENTIVES.—For each of fiscal years 2021  
4 through 2025, the Attorney General shall give affirmative  
5 preference to all Bureau of Justice Assistance discre-  
6 tionary grant applications of a State or Indian Tribe that  
7 has enacted legislation—

8 “(1) functionally identical to section 922(z)(4)  
9 of title 18, United States Code; and

10 “(2) for which the attorney general of the State  
11 (or comparable Tribal official) submits a written cer-  
12 tification to the Assistant Attorney General stating  
13 that the law of the State or Indian Tribe reflects the  
14 sense of Congress in section 922(z)(4)(D) of such  
15 title 18.”.

16 **SEC. 5. SENSE OF CONGRESS.**

17 Paragraph (4) of section 922(z) of title 18, United  
18 States Code, as added by section 3, is amended by adding  
19 at the end the following:

20 “(D) SENSE OF CONGRESS RELATING TO  
21 LIABILITY.—It is the sense of Congress that—

22 “(i) failure to comply with subpara-  
23 graph (A) constitutes negligence under any  
24 relevant statute or common law rule; and

1                   “(ii) when a violation of subparagraph  
2                   (A) is the but-for cause of a harm caused  
3                   by the discharge of a firearm, such viola-  
4                   tion should be deemed to be the legal or  
5                   proximate cause of such harm, regardless  
6                   of whether such harm was also the result  
7                   of an intentional tort.”.

8 **SEC. 6. SEVERABILITY.**

9           If any provision of this Act, or an amendment made  
10 by this Act, or the application of such provision to any  
11 person or circumstance, is held to be invalid, the remain-  
12 der of this Act, or an amendment made by this Act, or  
13 the application of such provision to other persons or cir-  
14 cumstances, shall not be affected.

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