

119TH CONGRESS
1ST SESSION

S. _____

To provide firearm licensees an opportunity to correct statutory and regulatory violations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. ERNST introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide firearm licensees an opportunity to correct statutory and regulatory violations, 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 “Fighting Irrational
5 Regulatory Enforcement to Avert Retailers’ Misfortune
6 Act” or the “FIREARM Act”.

7 **SEC. 2. FIREARM LICENSING REVOCATIONS AND DENIALS.**

8 (a) DEFINITIONS.—Section 921(a) of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

1 “(39) The term ‘self-reported violation’ means a vio-
2 lation by a licensee of any provision of this chapter or any
3 implementing regulation thereof that the licensee reports
4 to the Attorney General before the Attorney General dis-
5 covers the violation during an inspection of the licensee
6 under this chapter.

7 “(40) The term ‘willfully’ has the meaning given the
8 term in section 5336(h) of title 31, except that—

9 “(A) the term only includes conduct resulting
10 from or achieved through deliberate planning or spe-
11 cific intent;

12 “(B) willfulness shall not be inferred from pre-
13 vious conduct; and

14 “(C) minor, clerical, or curable conduct is pre-
15 sumptively not willful.

16 “(41) The term ‘uncorrectable violation’ means any
17 violation that, despite best efforts, cannot be corrected by
18 the licensee, including a violation in which the licensee
19 transferred a firearm to a prohibited person.”.

20 (b) SELF-REPORTED VIOLATIONS; OPPORTUNITY TO
21 CORRECT VIOLATIONS.—Section 923(e) of title 18,
22 United States Code, is amended—

23 (1) by inserting “(1)” after “(e)”; and

24 (2) by adding at the end the following:

1 “(2)(A) The Attorney General may not bring an en-
2 forcement action to revoke, or deny a renewal of, a license
3 for a violation of any provision of this chapter or any im-
4 plementing regulation thereof on the basis of a self-re-
5 ported violation, except in the case of a violation—

6 “(i) that is not correctable after the violation
7 occurred; or

8 “(ii) in which a firearm was transferred to a
9 person who is prohibited from possessing a firearm
10 pursuant to any provision of this chapter or any im-
11 plementing regulation thereof.

12 “(B) In the case of a self-reported violation, the At-
13 torney General shall—

14 “(i) assist the licensee to correct the self-re-
15 ported violation; and

16 “(ii) provide the licensee with instructions and
17 compliance training designed to assist the licensee in
18 avoiding repetition of the self-reported violation in
19 the future.

20 “(3)(A) Before initiating an enforcement action
21 under this subsection, the Attorney General shall provide
22 the licensee with actual notice of the violation giving rise
23 to the enforcement action, which shall include, at a min-
24 imum—

1 “(i) a detailed explanation of the substance of
2 the violation;

3 “(ii) all evidence or documentation in the pos-
4 session of the Attorney General regarding the en-
5 forcement action; and

6 “(iii) a statement that the Attorney General
7 will not initiate the enforcement action if the li-
8 censee corrects the violation by the date that is 30
9 business days after the date on which the licensee
10 first receives actual notice of the violation.

11 “(B) The Attorney General may bring an enforce-
12 ment action under this subsection against a licensee de-
13 scribed in subparagraph (A) if—

14 “(i) 30 business days have elapsed since the
15 date on which the licensee received the notice of the
16 violation required under that subparagraph; and

17 “(ii) the licensee has not corrected the violation.

18 “(C) If a self-reported violation is of a nature such
19 that it cannot be corrected within the grace period and
20 with the assistance provided pursuant to paragraph (2)
21 or (3), the Attorney General may deny a licensee the op-
22 portunity to correct.

23 “(4) The Attorney General may not bring an enforce-
24 ment action on the basis of any violation of any provision
25 of this chapter or any implementing regulation thereof

1 that has been corrected pursuant to paragraph (2) or (3)
2 unless the violation involves a prohibited transfer of a fire-
3 arm or another uncorrectable violation that creates a di-
4 rect and acute risk of death or serious bodily injury as
5 a result of the uncorrectable violation.”.

6 (c) DIRECT JUDICIAL REVIEW OF LICENSE REVOCATION.
7 TIONS.—Section 923(f) of title 18, United States Code,
8 is amended—

9 (1) in paragraph (2), by striking “If” and in-
10 serting “Except as provided in paragraph (3), if”;
11 and

12 (2) by amending paragraph (3) to read as fol-
13 lows:

14 “(3)(A) If after a hearing held under paragraph (2)
15 the Attorney General decides not to reverse his or her deci-
16 sion to deny an application or revoke a license, during the
17 15-business-day period beginning on the date on which a
18 license holder or applicant receives a written notice of rev-
19 ocation or denial, that aggrieved party may file a petition
20 with the United States district court for the district in
21 which the aggrieved party resides or has his or her prin-
22 cipal place of business for a judicial review of the revoca-
23 tion or denial.

24 “(B) If a license holder files a petition with a United
25 States district court under subparagraph (A), the Attor-

1 ney General shall stay the effective date of the revocation
2 until the court issues a judgment.

3 “(C) In a proceeding conducted under this para-
4 graph, the court may consider any evidence submitted by
5 the parties to the proceeding, shall review the Attorney
6 General’s decision de novo, and shall uphold any revoca-
7 tion decision only upon a finding, by a preponderance of
8 the evidence, that the license holder willfully violated the
9 statute under this title or any implementing regulation.

10 “(D) If the court decides that the Attorney General
11 did not have a sufficient basis to revoke or deny a license,
12 the court shall order the Attorney General to take such
13 action as may be necessary to comply with the judgment
14 of the court.”.

15 **SEC. 3. RETROACTIVE APPLICATION TO LICENSES RE-**
16 **VOKED UNDER ENHANCED REGULATORY EN-**
17 **FORCEMENT POLICY.**

18 (a) DEFINITION.—In this section, the term “En-
19 hanced Regulatory Enforcement Policy” means the En-
20 hanced Regulatory Enforcement Policy of the Bureau of
21 Alcohol, Tobacco, Firearms and Explosives announced on
22 June 23, 2021.

23 (b) RETROACTIVE APPLICATION.—Notwithstanding
24 any provision of law, the provisions of this Act shall apply
25 retroactively to any licensee whose license was revoked or

1 denied pursuant to the Enhanced Regulatory Enforcement
2 Policy.

3 (c) RESTORATION OF LICENSES.—In the case of any
4 licensee whose license was revoked or denied renewal pur-
5 suant to the Enhanced Regulatory Enforcement Policy, or
6 who surrendered the license of such licensee at the request
7 or suggestion of an industry operations investigator of the
8 Bureau of Alcohol, Tobacco, Firearms and Explosives dur-
9 ing the course of an inspection with respect to which an
10 Enhanced Regulatory Enforcement Policy-type violation
11 was cited or disclosed to the licensee, the Attorney General
12 shall provide the licensee an opportunity to reapply for a
13 license, and approve such application, provided the li-
14 censee—

15 (1) has not been convicted of a violation that
16 would otherwise prohibit the issuance of a license
17 under section 923(d) of title 18, United States Code;
18 and

19 (2) submits evidence to demonstrate compliance
20 with the relevant regulations, including corrective ac-
21 tion for previously cited violations.