

INSTITUTE FOR LEGISLATIVE ACTION

11250 WAPLES MILL ROAD

FAIRFAX, VIRGINIA 22030



NRA

February 25, 2021

Chairman Luke Clippinger
90 State Cir
Annapolis, Maryland, 21401

Dear Chairman Clippinger:

On behalf of our members in Maryland, I would like to communicate our opposition to House Bill 175.

At present, Maryland and federal law require firearms retailers (Federal Firearms Licensees or FFLs) to perform a background check on prospective firearm transferees. HB 175 attempts to require ammunition retailers to submit prospective purchasers to the same background check. Moreover, under this legislation ammunition sellers would be required to retain the private information of ammunition purchasers.

Given the frequency and nature of ammunition purchases, HB 175 presents an even greater threat and burden to law-abiding gun owners than similar legislation directed at firearms. The firearms trade association, the National Shooting Sports Foundation, estimated that there were 13.1 million firearm sales in 2018 while there were an estimated 8.7 billion rounds of ammunition produced for the U.S. market that same year.

HB 175 is unworkable

Under federal law, the FBI's National Instant Criminal Background Check System may only be accessed to facilitate a firearm transfer. The Code of Federal Regulations, 28 C.F.R. § 25.6, makes clear,

FFLs may initiate a NICS background check only in connection with a proposed firearm transfer as required by the Brady Act. FFLs are strictly prohibited from initiating a NICS background check for any other purpose.

Therefore, an ammunition retailer would not be able to access the NICS in order to perform a background check on a prospective ammunition purchaser.

Ammunition restrictions and recordkeeping have been proven ineffective

The Gun Control Act of 1968 required federal licensing for all ammunition dealers, and required that a record be kept on all handgun ammunition sales by retailers—including the popular .22 rimfire cartridges. The requirements proved to be such a heavy burden on retailers that in 1982, Congress removed .22 caliber rimfire ammunition from the record-keeping requirement.

Even with that change, the value of ammunition sales licensing and record keeping was doubted by many, including the nation's top firearms law enforcement officials. In 1984, the U.S. Senate Judiciary Committee concluded that ammunition dealer licensing "was not necessary to facilitate legitimate Federal law enforcement interests." In 1986, the director of the Bureau of Alcohol, Tobacco and Firearms supported eliminating the record keeping requirement: "The Bureau and the [Treasury] Department have

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recognized that current recordkeeping requirements for ammunition have no substantial law enforcement value." As a result, the Firearms Owners Protection Act of 1986 repealed the ammunition restrictions, with little opposition despite heated debate over other provisions of the bill.

Ammunition background checks place an unnecessary burden on gun owners

HB 175 would force gun owners to go through a NICS background check each time they purchase ammunition. Despite being labelled "instant," for many law-abiding individuals a NICS background check is anything but.

Law-abiding individuals experience NICS background check delays through no fault of their own. Lawful transferees can be delayed for merely sharing a personal characteristic similar to that of someone with a potentially prohibiting record. FBI notes that "A delay response from the NICS Section indicates the subject of the background check has been matched with either a state or federal potentially prohibiting record containing a similar name and/or similar descriptive features (name, sex, race, date of birth, state of residence, social security number, height, weight, or place of birth).

According to the 2019 NICS Operations Report only 70 percent of NICS checks that year resulted in an "instant determination," with the remaining 30 percent requiring some analysis or additional research.

The problem is so severe that the FBI was forced to create the Voluntary Appeal File. If oft-delayed individuals are willing to forego their personal privacy and anonymity, they can register themselves with the federal government in order to avoid delays.

Gun owners who engage in routine ammunition purchases should not be forced to undergo types of onerous delays or intrusions on their privacy.

For the foregoing reasons NRA opposes HB175 and encourages an unfavorable report.

Sincerely,

D.J. Spiker
Maryland State Director
NRA-ILA

CC: Delegate Vanessa E. Atterbeary
Delegate Lauren Arikan
Delegate J. Sandy Bartlett
Delegate Jon S. Cardin

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