

114TH CONGRESS  
2D SESSION

# H. R. 5080

To prevent gun trafficking.

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IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2016

Ms. CLARKE of New York introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To prevent gun trafficking.

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 “Hadiya Pendleton and  
5 Nyasia Pryear-Yard Gun Trafficking and Crime Preven-  
6 tion Act of 2016”.

7 **SEC. 2. FIREARMS TRAFFICKING.**

8 (a) IN GENERAL.—Chapter 44 of title 18, United  
9 States Code, is amended by adding at the end the fol-  
10 lowing:

1 **“§ 932. Trafficking in firearms**

2 “(a) OFFENSES.—It shall be unlawful for any person,  
3 regardless of whether anything of value is exchanged—

4 “(1) to ship, transport, transfer, or otherwise  
5 dispose to a person, 2 or more firearms in or affect-  
6 ing interstate or foreign commerce, if the transferor  
7 knows or has reasonable cause to believe that such  
8 use, carry, possession, or disposition of the firearm  
9 would be in violation of, or would result in a viola-  
10 tion of any Federal, State, or local law punishable  
11 by a term of imprisonment exceeding 1 year;

12 “(2) to receive from a person, 2 or more fire-  
13 arms in or affecting interstate or foreign commerce,  
14 if the recipient knows or has reasonable cause to be-  
15 lieve that such receipt would be in violation of, or  
16 would result in a violation of any Federal, State, or  
17 local law punishable by a term of imprisonment ex-  
18 ceeding 1 year;

19 “(3) to make a statement to a licensed im-  
20 porter, licensed manufacturer, or licensed dealer re-  
21 lating to the purchase, receipt, or acquisition from  
22 a licensed importer, licensed manufacturer, or li-  
23 censed dealer of 2 or more firearms that have moved  
24 in or affected interstate or foreign commerce that—

25 “(A) is material to—

1                   “(i) the identity of the actual buyer of  
2                   the firearms; or

3                   “(ii) the intended trafficking of the  
4                   firearms; and

5                   “(B) the person knows or has reasonable  
6                   cause to believe is false; or

7                   “(4) to direct, promote, or facilitate conduct  
8                   specified in paragraph (1), (2), or (3).

9                   “(b) PENALTIES.—

10                   “(1) IN GENERAL.—Any person who violates, or  
11                   conspires to violate, subsection (a) shall be fined  
12                   under this title, imprisoned for not more than 20  
13                   years, or both.

14                   “(2) ORGANIZER ENHANCEMENT.—If a viola-  
15                   tion of subsection (a) is committed by a person in  
16                   concert with 5 or more other persons with respect to  
17                   whom such person occupies a position of organizer,  
18                   a supervisory position, or any other position of man-  
19                   agement, such person may be sentenced to an addi-  
20                   tional term of imprisonment of not more than 5 con-  
21                   secutive years.

22                   “(c) DEFINITIONS.—In this section—

23                   “(1) the term ‘actual buyer’ means the indi-  
24                   vidual for whom a firearm is being purchased, re-  
25                   ceived, or acquired; and

1           “(2) the term ‘term of imprisonment exceeding  
2           1 year’ does not include any offense classified by the  
3           applicable jurisdiction as a misdemeanor and punish-  
4           able by a term of imprisonment of 2 years or less.”.

5           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
6           The table of sections for chapter 44 of title 18, United  
7           States Code, is amended by adding at the end the fol-  
8           lowing:

          “932. Trafficking in firearms.”.

9           (c) DIRECTIVE TO THE SENTENCING COMMISSION.—  
10           (1) IN GENERAL.—Pursuant to its authority  
11           under section 994(p) of title 28, United States Code,  
12           the United States Sentencing Commission shall re-  
13           view and, if appropriate, amend the Federal sen-  
14           tencing guidelines and policy statements applicable  
15           to persons convicted of offenses under section 932 of  
16           title 18, United States Code (as added by subsection  
17           (a)).

18           (2) REQUIREMENTS.—In carrying out this sec-  
19           tion, the Commission shall—

20           (A) review the penalty structure that the  
21           guidelines currently provide based on the num-  
22           ber of firearms involved in the offense and de-  
23           termine whether any changes to that penalty  
24           structure are appropriate in order to reflect the

1 intent of Congress that such penalties reflect  
2 the gravity of the offense; and

3 (B) review and amend, if appropriate, the  
4 guidelines and policy statements to reflect the  
5 intent of Congress that guideline penalties for  
6 violations of section 932 of title 18, United  
7 States Code, and similar offenses be increased  
8 substantially when committed by a person who  
9 is a member of a gang, cartel, organized crime  
10 ring, or other such enterprise or in concert with  
11 another person who is a member of a gang, car-  
12 tel, organized crime ring or other such enter-  
13 prise.

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