

114TH CONGRESS
1ST SESSION

H. R. 1232

To amend title 10, United States Code, to direct the Secretary of Defense to make certain limitations on the transfer of personal property to Federal and State agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2015

Mr. JOHNSON of Georgia (for himself, Mr. ELLISON, Ms. NORTON, Mr. SCOTT of Virginia, Ms. CLARK of Massachusetts, Ms. CHU of California, Ms. SPEIER, Mr. CLAY, Mr. NADLER, Ms. LEE, Ms. EDWARDS, Mr. VAN HOLLEN, Mr. CONYERS, Mr. RANGEL, Mr. DAVID SCOTT of Georgia, Mr. AMASH, Mr. FARR, Mr. TONKO, Ms. LOFGREN, Mr. PERLMUTTER, Mr. CÁRDENAS, Mr. BLUMENAUER, Mr. LOWENTHAL, Ms. JACKSON LEE, Mr. O'ROURKE, Mr. PALLONE, Mr. SERRANO, Mr. GRIJALVA, Mr. HASTINGS, Mr. McDERMOTT, Ms. KAPTUR, Mr. LEWIS, Mr. RUSH, Mr. HONDA, Ms. DEGETTE, Mr. CUMMINGS, Mr. DEUTCH, Mr. DANNY K. DAVIS of Illinois, Mr. POCAN, Ms. MAXINE WATERS of California, Mr. McCLINTOCK, Mr. GRAYSON, and Mr. COHEN) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to direct the Secretary of Defense to make certain limitations on the transfer of personal property to Federal and State agencies, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Stop Militarizing Law
3 Enforcement Act”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) Under section 2576a of title 10, United
7 States Code, the Department of Defense is author-
8 ized to provide excess property to local law enforce-
9 ment agencies. The Defense Logistics Agency, ad-
10 ministers such section by operating the Law En-
11 forcement Support Office program.

12 (2) New and used material, including mine-re-
13 sistant ambush-protected vehicles and weapons de-
14 termined by the Department of Defense to be “mili-
15 tary grade” are transferred to local and Federal law
16 enforcement agencies through the program.

17 (3) As a result local law enforcement agencies,
18 including police and sheriff’s departments, are ac-
19 quiring this material for use in their normal oper-
20 ations.

21 (4) As a result of the wars in Iraq and Afghani-
22 stan, military equipment purchased for, and used in,
23 those wars has become excess property and has been
24 made available for transfer to local and Federal law
25 enforcement agencies.

1 (5) According to public reports, approximately
2 12,000 police organizations across the country were
3 able to procure nearly \$500,000,000 worth of excess
4 military merchandise including firearms, computers,
5 helicopters, clothing, and other products, at no
6 charge during fiscal year 2011 alone.

7 (6) More than \$4,000,000,000 worth of weap-
8 ons and equipment have been transferred to police
9 organizations in all 50 states and four territories
10 through the program.

11 (7) In May 2012, the Defense Logistics Agency
12 instituted a moratorium on weapons transfers
13 through the program after reports of missing equip-
14 ment and inappropriate weapons transfers.

15 (8) Though the moratorium was widely pub-
16 licized, it was lifted in October 2013 without ade-
17 quate safeguards.

18 (9) As a result, Federal, State, and local law
19 enforcement departments across the country are eli-
20 gible again to acquire free “military-grade” weapons
21 and equipment that could be used inappropriately
22 during policing efforts in which citizens and tax-
23 payers could be harmed.

24 (10) Pursuant to section III(J) of a Defense
25 Logistics Agency memorandum of understanding,

1 property obtained through the program must be
2 placed into use within one year of receipt, possibly
3 providing an incentive for the unnecessary and po-
4 tentially dangerous use of “military grade” equip-
5 ment by local law enforcement.

6 (11) The Department of Defense categorizes
7 equipment eligible for transfer under the 1033 pro-
8 gram as “controlled” and “un-controlled” equip-
9 ment. “Controlled equipment” includes weapons, ex-
10 plosives such as flash-bang grenades, mine resistant
11 ambush protected vehicles, long range acoustic de-
12 vices, aircraft capable of being modified to carry ar-
13 mament that are combat coded, and silencers,
14 among other military grade items.

15 **SEC. 3. LIMITATION ON DEPARTMENT OF DEFENSE TRANS-**
16 **FER OF PERSONAL PROPERTY TO LOCAL LAW**
17 **ENFORCEMENT AGENCIES.**

18 (a) IN GENERAL.—Section 2576a of title 10, United
19 States Code, is amended—

20 (1) in subsection (a)—

21 (A) in paragraph (1)(A), by striking
22 “counter-drug and”; and

23 (B) in paragraph (2), by striking “and the
24 Director of National Drug Control Policy”;

25 (2) in subsection (b)—

1 (A) in paragraph (3), by striking “and” at
2 the end;

3 (B) in paragraph (4), by striking the pe-
4 riod and inserting a semicolon; and

5 (C) by adding at the end the following new
6 paragraphs:

7 “(5) the recipient certifies to the Department of
8 Defense that it has the personnel and technical ca-
9 pacity, including training, to operate the property;

10 “(6) the recipient submits to the Department of
11 Defense a description of how the recipient expects to
12 use the property;

13 “(7) the recipient certifies to the Department of
14 Defense that if the recipient determines that the
15 property is surplus to the needs of the recipient, the
16 recipient will return the property to the Department
17 of Defense; and

18 “(8) with respect to a recipient that is not a
19 Federal agency, the recipient certifies to the Depart-
20 ment of Defense that the recipient notified the local
21 community of the request for personal property
22 under this section by—

23 “(A) publishing a notice of such request on
24 a publicly accessible Internet website;

1 “(B) posting such notice at several promi-
2 nent locations in the jurisdiction of the recipi-
3 ent; and

4 “(C) ensuring that such notices were avail-
5 able to the local community for a period of not
6 less than 30 days.”;

7 (3) by striking subsection (d); and

8 (4) by adding at the end the following new sub-
9 sections:

10 “(d) ANNUAL CERTIFICATION ACCOUNTING FOR
11 TRANSFERRED PROPERTY.—(1) For each fiscal year, the
12 Secretary shall submit to Congress certification in writing
13 that each Federal or State agency to which the Secretary
14 has transferred property under this section—

15 “(A) has provided to the Secretary documenta-
16 tion accounting for all controlled personal property,
17 including arms and ammunition, that the Secretary
18 has transferred to the agency, including any item de-
19 scribed in subsection (f) so transferred before the
20 date of the enactment of the Stop Militarizing Law
21 Enforcement Act; and

22 “(B) with respect to a non-Federal agency, car-
23 ried out each of paragraphs (5) through (8) of sub-
24 section (b).

1 “(2) If the Secretary cannot provide a certification
2 under paragraph (1) for a Federal or State agency, the
3 Secretary may not transfer additional property to that
4 agency under this section.

5 “(e) ANNUAL REPORT ON EXCESS PROPERTY.—Be-
6 fore making any property available for transfer under this
7 section, the Secretary shall annually submit to Congress
8 a description of the property to be transferred together
9 with a certification that the transfer of the property would
10 not violate this section or any other provision of law.

11 “(f) LIMITATIONS ON TRANSFERS.—(1) The Sec-
12 retary may not transfer the following personal property
13 of the Department of Defense under this section:

14 “(A) Controlled firearms, ammunition, grenades
15 (including stun and flash-bang) and explosives.

16 “(B) Controlled vehicles, highly mobile multi-
17 wheeled vehicles, mine-resistant ambush-protected
18 vehicles, trucks, truck dump, truck utility, and truck
19 carryall.

20 “(C) Drones that are armored, weaponized, or
21 both.

22 “(D) Controlled aircraft that—

23 “(i) are combat configured or combat
24 coded; or

1 “(ii) have no established commercial flight
2 application.

3 “(E) Silencers.

4 “(F) Long range acoustic devices.

5 “(G) Items in the Federal Supply Class of
6 banned items.

7 “(2) The Secretary may not require, as a condition
8 of a transfer under this section, that a Federal or State
9 agency demonstrate the use of any small arms or ammuni-
10 tion.

11 “(3) The limitations under this subsection shall also
12 apply with respect to the transfer of previously transferred
13 property of the Department of Defense from one Federal
14 or State agency to another such agency.

15 “(4)(A) The Secretary may waive the applicability of
16 paragraph (1) to a vehicle described in subparagraph (B)
17 of such paragraph (other than a mine-resistant ambush-
18 protected vehicle), if the Secretary determines that such
19 a waiver is necessary for disaster or rescue purposes or
20 for another purpose where life and public safety are at
21 risk, as demonstrated by the proposed recipient of the ve-
22 hicle.

23 “(B) If the Secretary issues a waiver under subpara-
24 graph (A), the Secretary shall—

1 “(i) submit to Congress notice of the waiver,
2 and post such notice on a public Internet website of
3 the Department, by not later than 30 days after the
4 date on which the waiver is issued; and

5 “(ii) require, as a condition of the waiver, that
6 the recipient of the vehicle for which the waiver is
7 issued provides public notice of the waiver and the
8 transfer, including the type of vehicle and the pur-
9 pose for which it is transferred, in the jurisdiction
10 where the recipient is located by not later than 30
11 days after the date on which the waiver is issued.

12 “(5) The Secretary may provide for an exemption to
13 the limitation under subparagraph (D) of paragraph (1)
14 in the case of parts for aircraft described in such subpara-
15 graph that are transferred as part of regular maintenance
16 of aircraft in an existing fleet.

17 “(g) CONDITIONS FOR EXTENSION OF PROGRAM.—
18 (1) Notwithstanding any other provision of law, amounts
19 authorized to be appropriated or otherwise made available
20 for any fiscal year may not be obligated or expended to
21 carry out this section unless the Secretary submits to Con-
22 gress certification that for the preceding fiscal year that—

23 “(A) each Federal or State agency that has re-
24 ceived covered property transferred under this sec-
25 tion has—

1 “(i) demonstrated 100 percent account-
2 ability for all such property, in accordance with
3 subparagraph (B) or (C), as applicable; or

4 “(ii) been suspended from the program
5 pursuant to subparagraph (D);

6 “(B) with respect to each non-Federal agency
7 that has received covered property under this sec-
8 tion, the State coordinator responsible for each such
9 agency has verified that the coordinator or an agent
10 of the coordinator has conducted an in-person inven-
11 tory of the property transferred to the agency and
12 that 100 percent of such property was accounted for
13 during the inventory or that the agency has been
14 suspended from the program pursuant to subpara-
15 graph (D);

16 “(C) with respect to each Federal agency that
17 has received covered property under this section, the
18 Secretary of Defense or an agent of the Secretary
19 has conducted an in-person inventory of the property
20 transferred to the agency and that 100 percent of
21 such property was accounted for during the inven-
22 tory or that the agency has been suspended from the
23 program pursuant to subparagraph (D);

24 “(D) the eligibility of any agency that has re-
25 ceived covered property under this section for which

1 100 percent of the property was not accounted for
2 during an inventory described in subparagraph (A)
3 or (B), as applicable, to receive any property trans-
4 ferred under this section has been suspended; and

5 “(E) each State coordinator has certified, for
6 each non-Federal agency located in the State for
7 which the State coordinator is responsible that—

8 “(i) the agency has complied with all re-
9 quirements under this section; or

10 “(ii) the eligibility of the agency to receive
11 property transferred under this section has been
12 suspended; and

13 “(F) the Secretary of Defense has certified, for
14 each Federal agency that has received property
15 under this section that—

16 “(i) the agency has complied with all re-
17 quirements under this section; or

18 “(ii) the eligibility of the agency to receive
19 property transferred under this section has been
20 suspended.

21 “(2) In this subsection, the term ‘covered property’
22 means property classified as controlled equipment.

23 “(h) PROHIBITION ON OWNERSHIP.—A Federal or
24 State agency that receives property classified as controlled

1 equipment under this section may never take ownership
2 of the property.

3 “(i) WEBSITE.—The Defense Logistics Agency shall
4 maintain an Internet website on which the following infor-
5 mation shall be made publicly available:

6 “(1) A description of each transfer made under
7 this section, including transfers made before and
8 after the date of the enactment of the Stop Milita-
9 rizing Law Enforcement Act, broken down by State,
10 county, and recipient.

11 “(2) During the 30-day period preceding the
12 date on which any property is transferred under this
13 section, a description of the property to be trans-
14 ferred and the recipient of the transferred items.

15 “(3) Notice of any use of controlled equipment
16 by the recipient of property transferred under this
17 section as provided under subsection (l).

18 “(j) NOTICE TO CONGRESS OF PROPERTY DOWN-
19 GRADES.—Not later than 30 days before downgrading the
20 classification of any item of personal property from con-
21 trolled or Federal Supply Class, the Secretary shall submit
22 to Congress notice of the proposed downgrade.

23 “(k) NOTICE TO CONGRESS OF PROPERTY CAN-
24 NIBALIZATION.—Before the Defense Logistics Agency au-
25 thORIZES the recipient of property transferred under this

1 section to cannibalize the property, the Secretary shall
2 submit to Congress notice of such authorization, including
3 the name of the recipient requesting the authorization, the
4 purpose of the proposed cannibalization, and the type of
5 property proposed to be cannibalized.

6 “(l) QUARTERLY REPORTS ON USE OF CONTROLLED
7 EQUIPMENT.—Not later than 30 days after the last day
8 of a fiscal quarter, the Secretary shall submit to Congress
9 a report on any uses of controlled equipment transferred
10 under this section during that fiscal quarter.

11 “(m) REPORTS TO CONGRESS.—Not later than 30
12 days after the last day of a fiscal year, the Secretary shall
13 submit to Congress a report on the following for the pre-
14 ceding fiscal year:

15 “(1) The percentage of equipment lost by re-
16 cipients of property transferred under this section,
17 including specific information about the type of
18 property lost, the monetary value of such property,
19 and the recipient that lost the property.

20 “(2) The transfer of any new (condition code
21 A) property transferred under this section, including
22 specific information about the type of property, the
23 recipient of the property, the monetary value of each
24 item of the property, and the total monetary value

1 of all such property transferred during the fiscal
2 year.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) shall apply with respect to any transfer of
5 property made after the date of the enactment of this Act.

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