

118TH CONGRESS  
1ST SESSION

# S. 428

To amend title 41, United States Code, to prohibit the Federal Government from entering into contracts with an entity that discriminates against firearm or ammunition industries, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2023

Mr. DAINES (for himself, Mr. RISCH, Mrs. HYDE-SMITH, Mr. MARSHALL, Mr. SCOTT of Florida, Mr. CRAPO, Mr. CASSIDY, Mrs. FISCHER, Mr. WICKER, Mr. LANKFORD, Mrs. BRITT, Mr. SCHMITT, Mr. CRAMER, Mr. TILLIS, Mr. HOEVEN, and Mrs. BLACKBURN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend title 41, United States Code, to prohibit the Federal Government from entering into contracts with an entity that discriminates against firearm or ammunition industries, 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 “Firearm Industry Non-  
5 Discrimination Act” or the “FIND Act”.

1 **SEC. 2. PROHIBITION ON ENTERING INTO CONTRACTS**  
2 **WITH ENTITIES DISCRIMINATING AGAINST**  
3 **FIREARM OR AMMUNITION INDUSTRIES.**

4 (a) PROHIBITION.—Chapter 47 of title 41, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 **“§ 4715. Prohibition on entering into contracts with**  
8 **entities discriminating against firearm or**  
9 **ammunition industries.**

10 “(a) PROHIBITION.—

11 “(1) IN GENERAL.—The head of an executive  
12 agency shall include in each contract for the pro-  
13 curement of goods or services awarded by the execu-  
14 tive agency, a clause requiring the prime contractor  
15 to certify that the contractor—

16 “(A) has no policy, practice, guidance, or  
17 directive that discriminates against a firearm  
18 entity or firearm trade association; and

19 “(B) will not adopt a policy, practice, guid-  
20 ance, or directive that discriminates against a  
21 firearm entity or firearm trade association dur-  
22 ing the term of the contract.

23 “(2) SUBCONTRACTS.—The head of an execu-  
24 tive agency shall include in each contract for the  
25 procurement of goods or services awarded by the ex-

1 executive agency, a clause that prohibits the prime  
2 contractor on such contract from—

3 “(A) awarding a first-tier subcontract with  
4 a value greater than 10 percent of the total  
5 value of the prime contract to an entity that  
6 fails to certify in writing to the prime con-  
7 tractor that the entity—

8 “(i) has no policy, practice, guidance,  
9 or directive that discriminates against a  
10 firearm entity or firearm trade association;  
11 and

12 “(ii) will not adopt a policy, practice,  
13 guidance, or directive that discriminates  
14 against a firearm entity or firearm trade  
15 association during the term of the con-  
16 tract; and

17 “(B) structuring subcontract tiers in a  
18 manner designed to avoid violating subpara-  
19 graph (A) by enabling a subcontractor to per-  
20 form more than 10 percent of the total value of  
21 the prime contract as a lower-tier subcon-  
22 tractor.

23 “(3) PENALTIES.—The clause included in con-  
24 tracts pursuant to paragraph (1) or paragraph (2)

1 shall provide that, in the event that the prime con-  
2 tractor violates the clause—

3 “(A) the prime contract shall be termi-  
4 nated for default; and

5 “(B) a suspension or debarment pro-  
6 ceeding will be initiated for the contractor on  
7 the basis of the violation.

8 “(b) EXCEPTION.—Subsection (a) shall not apply to  
9 a contract for the procurement of goods or services that  
10 is a sole-source contract.

11 “(c) DEFINITIONS.—In this section:

12 “(1) DISCRIMINATE.—The term ‘discriminate’  
13 means to—

14 “(A) make a judgement about a policy,  
15 practice, guidance, or directive on the basis  
16 of—

17 “(i) partial criteria or a category-  
18 based assessment analysis, rather than—

19 “(I) on a case-by-case basis; or

20 “(II) using empirical data evalu-  
21 ated under quantifiable standards; or

22 “(ii) criteria other than criteria free  
23 from—

24 “(I) favoritism or prejudice  
25 against or dislike for the firearm enti-

1 ty or trade association or the products  
2 or services sold by the firearm entity  
3 or trade association; or

4 “(II) favoritism for market alter-  
5 natives to the business of the firearm  
6 entity or the trade association;

7 “(B) refuse to provide services, or deny,  
8 cancel, or limit services, to the firearm entity or  
9 trade association on the basis of criteria other  
10 than—

11 “(i) criteria free from—

12 “(I) favoritism or prejudice  
13 against or dislike for the firearm enti-  
14 ty or trade association or the products  
15 or services sold by the firearm entity  
16 or trade association; or

17 “(II) favoritism for market alter-  
18 natives to the business of the firearm  
19 entity or the trade association;

20 “(ii) criteria related to credit history  
21 and financial risk specific to a customer or  
22 potential customer; or

23 “(iii) criteria related to noncompliance  
24 with Federal, State, or local law; or

1           “(C) limit the operations of the firearm en-  
2           tity or trade association in manner not required  
3           by—

4                   “(i) Federal, State, or local law; or

5                   “(ii) Federal, State, or local regula-  
6           tion.

7           “(2) FIREARM ENTITY.—The term ‘firearm en-  
8           tity’ means any—

9                   “(A) person who is licensed under section  
10           923 of title 18 to import, manufacture, or deal  
11           in firearms;

12                   “(B) seller of ammunition, as defined in  
13           section 7903 of title 15;

14                   “(C) manufacturer or importer of, or deal-  
15           er in, a secure gun storage or safety device, as  
16           defined in section 921(a) of title 18; and

17                   “(D) manufacturer or importer of, or deal-  
18           er in, a component part or accessory of a fire-  
19           arm or ammunition.

20           “(3) FIREARM TRADE ASSOCIATION.—The term  
21           ‘firearm trade association’ has the meaning in sec-  
22           tion 7903 of title 15.

23           “(4) FIRST-TIER SUBCONTRACT.—The term  
24           ‘first-tier subcontract’ means a subcontract entered

1 into by a subcontractor with the prime contractor  
2 for the purposes of carrying out the prime contract.

3 “(5) LOWER-TIER SUBCONTRACTOR.—The term  
4 ‘lower-tier subcontractor’ means any person entering  
5 into a contract with a subcontractor of a prime con-  
6 tractor for the purposes of carrying out the prime  
7 contract.

8 “(6) PRIME CONTRACT; PRIME CONTRACTOR.—  
9 The terms ‘prime contract’ and ‘prime contractor’  
10 have the meaning given those terms in section 8701  
11 of title 41.”.

12 (b) APPLICATION.—Section 4715 of title 41, United  
13 States Code, as added by subsection (a), shall apply with  
14 respect to contracts awarded on or after the date of the  
15 enactment of this Act.

16 (c) CLERICAL AMENDMENT.—The table of sections  
17 for chapter 47 of title 41, United States Code, is amended  
18 by adding at the end the following:

“4715. Prohibition on entering into contracts with entities discriminating  
against firearm or ammunition industries.”.

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