

113TH CONGRESS
1ST SESSION

H. R. 2361

To limit the authority of States and local governments to impose new taxes, or to increase rates of existing taxes, payable with respect to the sale of certain firearms or ammunition or payable for background checks incident to sales of firearms or ammunition.

IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2013

Mr. GRAVES of Missouri introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To limit the authority of States and local governments to impose new taxes, or to increase rates of existing taxes, payable with respect to the sale of certain firearms or ammunition or payable for background checks incident to sales of firearms or ammunition.

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 “Protecting Honest, Ev-
5 eryday Americans from Senseless And Needless Taxes
6 (PHEASANT) Act of 2013”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) The individual right to keep and bear arms
4 protected by the Second Amendment to the Con-
5 stitution includes the right to acquire firearms and
6 ammunition without undue burdens.

7 (2) Jurisdictions have imposed taxes or fees on
8 the acquisition of firearms and ammunition that in-
9 hibit the exercise of the Second Amendment, par-
10 ticularly among individuals of limited means.

11 (3) Local taxation of firearms and ammunition
12 suppresses lawful interstate commerce that is vital
13 to a robust Second Amendment to the Constitution.

14 (4) The Congress has the authority to regulate
15 interstate commerce in firearms and ammunition to
16 ensure that States are not suppressing access to
17 these lawful products.

18 (5) The singling out of firearms and ammuni-
19 tion for special taxation as a means to suppress
20 their acquisition is an infringement of the Second
21 Amendment and disproportionately affects those in
22 low income communities whose need for self-defense
23 may be especially acute.

24 (b) PURPOSE.—The purpose of this Act is to prevent
25 States or local jurisdictions from using their taxing power

1 to suppress lawful interstate commerce and protected con-
2 stitutional activity.

3 **SEC. 3. LIMITATION ON AUTHORITY TO IMPOSE STATE AND**
4 **LOCAL TAXES ON SALES OF CERTAIN FIRE-**
5 **ARMS AND AMMUNITION.**

6 No State or local government may—

7 (1) impose a new tax on the sale of firearms (or
8 of any certain type of firearms) that have moved in
9 or that otherwise affect interstate commerce, or on
10 the sale of ammunition (or of any certain type of
11 ammunition) that has moved in or that otherwise af-
12 fects interstate commerce, if the respective State or
13 local government does not have in effect on the date
14 of the enactment of this Act a tax on such sale of
15 firearms or ammunition, or

16 (2) increase the rate of a tax imposed on the
17 sale of firearms (or of any certain type of firearms)
18 that have moved in or that otherwise affect inter-
19 state commerce, or on the sale of ammunition (or of
20 any certain type of ammunition) that has moved in
21 or that otherwise affects interstate commerce, in ef-
22 fect on the date of the enactment of this Act ex-
23 pressly applicable to such sale of firearms or ammu-
24 nition.

1 **SEC. 4. LIMITATION ON AUTHORITY TO IMPOSE STATE AND**
2 **LOCAL TAXES PAYABLE FOR CONDUCTING**
3 **BACKGROUND CHECKS INCIDENT TO THE**
4 **SALE OF FIREARMS AND AMMUNITION.**

5 No State or local government may—

6 (1) impose a tax payable to conduct a back-
7 ground check incident to the sale of firearms (or any
8 certain type of firearms) that have moved in or that
9 otherwise affect interstate commerce, or to the sale
10 of ammunition (or any certain type of ammunition)
11 that has moved in or that otherwise affects inter-
12 state commerce, if the respective State or local gov-
13 ernment does not have in effect on the date of the
14 enactment of this Act a tax payable to conduct a
15 background check incident to the sale of firearms or
16 ammunition, or

17 (2) increase the rate of a tax imposed to con-
18 duct background checks incident to the sale of fire-
19 arms (or any certain type of firearms) that have
20 moved in or that otherwise affect interstate com-
21 merce, or to the sale of ammunition (or any certain
22 type of ammunition) that has moved in or that oth-
23 erwise affects interstate commerce, in effect on the
24 date of the enactment of this Act payable to conduct
25 such checks.

1 **SEC. 5. DEFINITIONS.**

2 For purposes of this Act:

3 (1) **AMMUNITION.**—The term “ammunition”
4 has the meaning given such term in section 921 of
5 title 18 of the United States Code.

6 (2) **BACKGROUND CHECK.**—The term “back-
7 ground check” means a check performed by the sys-
8 tem then in effect under section 103 of the Brady
9 Handgun Violence Prevention Act (18 U.S.C. 922
10 note) or pursuant to any State law that mandates
11 an inquiry into an individual’s criminal, mental
12 health, or other personal history as a prerequisite to
13 the transfer or acquisition of a firearm.

14 (3) **FIREARM.**—The term “firearm” has the
15 meaning given such term in section 921 of title 18
16 of the United States Code.

17 (4) **LOCAL GOVERNMENT.**—The term “local
18 government” means a political subdivision of a
19 State.

20 (5) **SALE.**—The term “sale” means transfer,
21 sell, trade, or give for value or otherwise.

22 (6) **STATE.**—The term “State” means any of
23 the several States, the District of Columbia, or any
24 commonwealth, territory, or possession of the United
25 States.

1 (7) TAX.—The term “tax” means a tax, fee, or
2 charge payable to the State or local government.

3 **SEC. 6. SEVERABILITY.**

4 If any provision of this Act, or the application of such
5 provision to any person, entity, or circumstance, is held
6 to be unconstitutional, the remaining provisions of this
7 Act, and the application of such provisions to any person,
8 entity, or circumstance, shall not be affected thereby.

9 **SEC. 7. EFFECTIVE DATE; APPLICATION OF ACT.**

10 (a) EFFECTIVE DATE.—Except as provided in sub-
11 section (b), this Act shall take effect on the date of the
12 enactment of this Act.

13 (b) APPLICATION OF ACT.—This Act shall not apply
14 with respect to any liability for taxes accrued and enforced
15 before the date of enactment of this Act or to ongoing
16 litigation relating to such taxes.

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