

Testimony

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Legislative Hearing on H.R. 3668, the Sportsmen’s Heritage and Recreational Enhancement Act (the SHARE Act)
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Committee on Natural Resources
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My name is David Chipman and I currently serve as a Senior Policy Advisor for Americans for Responsible Solutions, the gun violence prevention organization founded by former Congresswoman Gabrielle Giffords and retired U.S. Navy Captain and astronaut Mark Kelly. For the purposes of today’s testimony, I will rely heavily on my experiences during my 25-year career as a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) serving the Departments of Justice and Treasury.

I’ve been asked to testify about my concerns with H.R. 3668, the Sportsmen’s Heritage and Recreational Enhancement Act, or the SHARE Act. This is legislation that purports to help sportsmen and gun owners, like myself, but instead assaults the interests of our nation’s law enforcement officials and threatens our public safety and security. It is also worth noting that this legislation was originally scheduled to be heard before this committee on the very morning that a shooter targeted members of Congress at a baseball practice. Lives were spared that day because people recognized the unique sound of gunfire and were able to take cover. Now, Congress is promoting a bill that would make a situation like the one experienced in Alexandria potentially even more dangerous by putting silencers in the hands of criminals, and making it difficult for people— including law enforcement officers— to identify the sound of gunshots and locate an active shooter.

Throughout my career, I served on the front lines of our government’s efforts to prevent violent crime and effectively regulate the firearms industry, the core missions of ATF. In this capacity, I served on a SWAT team that conducted high-risk operations to arrest some of the worst offenders who were heavily armed with firearms. I also led complex firearms investigations that disrupted firearm and drug trafficking organizations operating along the Iron Pipeline from Tidewater, Virginia to points north. I successfully partnered with firearms industry groups such as the National Shooting Sports Foundation (NSSF) to deploy educational programs such as “Don’t Lie for the Other Guy,” an effort to prevent the straw purchase of firearms. As head of ATF’s Firearms Programs Division, I worked with the firearms industry to ensure that all ATF regulations served a fundamental law enforcement purpose critical

to ATF's mission to keep our neighborhoods safe. I was a trusted ATF partner who was asked to instruct our nation's firearms dealers as a member of the faculty at Shot University on more than one occasion.

The National Firearms Act (NFA) is one of the most effective pieces of gun safety legislation ever enacted into law. The law was passed over 80 years ago during a period of intense violence driven by organized crime. In 1930 alone, 307 law enforcement officials were killed in the line of duty— a year that stands to this day as the deadliest in U.S. history.¹ After President-elect Franklin Delano Roosevelt survived an attempted assassination that also resulted in the death of Chicago's mayor, the NFA was passed into law in 1934. For the first time in American history, firearms deemed particularly lethal such as machine guns, silencers, pipe bombs, and sawed-off shotguns became regulated under the purview of the federal government.

While the NFA does not ban any firearm, it subjects specific weapons to reasonable regulations that require the weapon to be registered to its owner. To obtain a silencer or other NFA weapon, an individual must provide ATF with a headshot and fingerprints, pay a \$200 transfer tax, pass a thorough background check, and register the silencer with the federal government. The transfer tax was created to give the Department of the Treasury the ability to regulate these weapons; at the time, it— approximately \$3,600 in today's money—was an effective way to ensure that only vetted owners obtained registered weapons. This \$200 tax has not changed in the NFA's 83-year lifespan.

Since 1934, NFA firearms have rarely been used in crime. Having been on the front lines of enforcing this law for 25 years, I believe that this regulation works because these weapons are registered in the name of the owner and there are no legal loopholes that allow for the purchase of NFA firearm without a background check. The cases of unlawful possession are easy to prosecute and result in a federal penalty of 10 years in jail.

However, proponents of these legislative proposals argue that because silencers are rarely used in crime, they no longer need heightened regulation. Law enforcement officers across the country know that this argument is a fallacy; the regulatory system has been effective in keeping silencers out of the hands of dangerous individuals who do not want them traced back to themselves. Should silencers be removed from the NFA, individuals unable to pass a background check would be able to obtain these dangerous weapons through unregulated private sales on the internet and at gun shows.

¹ <http://www.nleomf.org/assets/pdfs/facts-figures/officers-killed-year.pdf>

In the uncommon instances when silencers are used in crime, the results are particularly deadly. Silencers mask the sound of a gun, changing the sound into one not easily recognized as gunfire. As a result, assassination-style murders become easier, and bystanders may not know to alert first responders. Christopher Dorner, for example, was able to murder four people and wound several others using a silencer in February 2013. A former police and naval officer, Dorner targeted law enforcement officers in what the Police Foundation described as a bizarre act of vengeance— a “gang-style hit” on individuals while sitting in a car. Police were initially puzzled as to why no neighbors heard the 14 shots: it was because Dorner used a silencer. This proposal would pose an additional threat to law enforcement at a time where officer safety is already at increased risk.

Existing loopholes already threaten the safety of law enforcement in our gun laws. Firearms-related incidents were the number one cause of death for law enforcement in 2016, when 64 officers were killed from gunfire. This represents a 56 percent rise over the 41 officers killed by gunfire in 2015. Of the 64 shooting deaths of officers in 2016, 21 were the result of ambush-style attacks— the highest total in more than two decades.² It is clear that guns in dangerous hands make law enforcement officers vulnerable: of the over 500 individuals who have killed police officers between 2006 and 2015, 83 percent had previous arrest records, 64 percent were previously convicted of a crime, 47 percent had previous arrests for crimes of violence, and 43 percent had been arrested for weapons offenses. 24 percent of those responsible for the murder of law enforcement had previously been arrested for assaulting an officer or resisting arrest.³

Current trends in gun violence have more in common with the 1930’s than any of us who have dedicated their lives to violent crime prevention would like. As an ATF agent, I often heard calls that I should focus on enforcing the laws on the books. I agree now more than ever. The National Firearms Act is an example of effective regulation that works and saves lives. Passing a new law that undermines the effectiveness of the NFA is a threat to public safety and is directly at odds with the gun lobby’s repeated insistence of enforcing the laws on the books. The NFA provides for people to purchase particularly dangerous firearms but balances this responsibility with reasonable steps that they must take to prevent these weapons from falling into criminal hands.

The popularity of silencers among gun enthusiasts has skyrocketed in recent years. More than 457,000 silencers were registered nationwide in the 14 months ending in April 2017; that amounts to over one-third of all silencers registered since 1934, when the NFA was implemented. Due to this significant uptick in the demand for silencers,

² <http://www.nleomf.org/newsroom/news-releases/2016-officer-fatalities-report-release.html>

³ https://ucr.fbi.gov/leoka/2015/tables/table_45_leos_fk_criminal_history_of_known_offender_2006-2015.xls

wait times are unnecessarily long for law-abiding individuals to purchase silencers. The taxes collected by ATF for the registration of NFA weapons were \$5.7 million in 2008, and increased to over \$62 million in 2016.⁴ However, these taxes are deposited directly into the U.S. Treasury, with no additional funding appropriated to ATF. The lack of resources at ATF to appropriately handle this increased demand has resulted in the agency's inability to approve NFA weapons applications in a reasonable timeframe. By providing additional funding to ATF to speed up the processing of silencer applications, we can enact a simple solution that enhances the ability of Americans to acquire silencers in a timely manner while maintaining a regulatory structure that has been instrumental in keeping our communities safe.

The SHARE Act includes language that goes beyond H.R. 367, the Hearing Protection Act. This language would further deregulate silencers by treating them just like shotguns, enabling silencers to be transferred across state lines and sold to individuals as young as 18 years of age. Additionally, multiple purchases of silencers could not be reported to ATF. Multiple sale reports are the primary intelligence tool that ATF uses to identify firearms trafficking organizations. Provisions in the SHARE Act would effectively aid and abet silencer traffickers who would employ straw purchasers to purchase silencers in states where they are legal, and then traffic them to states where they remain illegal under state law for a profit. This would enable silencers to be diverted into the illegal market and criminals ineligible to possess silencers to acquire them.

The SHARE Act also contains a number of other concerning firearms-related provisions. The language overrides state laws regarding how firearms must be stored in vehicles and hotel rooms while people are traveling across the country. Under current law, a person can transport firearms across the country if he or she properly locks the firearm in the trunk of a car. If a vehicle doesn't have a trunk, the firearm can be stored in a locked container. This bill would establish a much weaker nationwide standard. It would allow an out-of-state resident to walk down the street with an unloaded firearm as long as the firearm has a trigger lock on it, or drive a car with such a firearm in the passenger seat, regardless of the state's laws on carrying firearms in public. It would also allow firearms on trains and buses so long as they are unloaded and locked, regardless of state or local laws. This weaker standard would increase the risk that guns will be stolen and end up in the hands of criminals.

Most importantly, law enforcement officers would not be allowed to stop and question people transporting firearms unsecured in this manner even if they are suspected of illegally trafficking firearms across state lines. This bill would authorize lawsuits against law enforcement officers who detain interstate travelers transporting firearms,

⁴ <https://www.atf.gov/resource-center/docs/undefined/firearms-commerce-united-states-annual-statistical-update-2017/download>

thereby weakening law enforcement's ability to fight gun trafficking. This threat of personal litigation will undermine law enforcement officers' ability to effectively do their jobs.

This proposal would also enable loans and rentals of firearms between people who do not reside in the state for non-sporting purposes. While seemingly innocuous, this provision would make it more difficult to prosecute gun traffickers, who might claim that they were just borrowing a firearm for self-defense while away from home.

The language would also dramatically weaken the law regarding the importation of firearms, depriving federal authorities of the ability to prevent the importation of dangerous firearms not suitable for sporting purposes. It would thereby dramatically increase the types of military-style firearms that can be imported into the country from overseas. This provision could essentially flood the market with foreign guns.

Finally, the bill would dramatically weaken laws regarding armor-piercing ammunition. Ammunition that can pierce body armor and that can be used in handguns presents a serious threat to law enforcement officers when they approach the scene of a shooting. The firearms industry has introduced new handguns that can combine the firepower of a rifle with the ability to be concealed as a pistol by accepting ammunition originally designed for rifles. This bill would deprive federal law enforcement of their ability to address this threat, and would establish a subjective test, increasing the kinds of armor piercing ammunition that are publicly available based on a simple claim by a manufacturer or importer that they didn't intend the ammunition to be used in a handgun, or they intended it to be used for sport.

Thank you for considering my testimony today and for taking into account my concerns with the public safety implications of the SHARE Act.