

119TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Internal Revenue Code of 1986 to require the Bureau of Alcohol, Tobacco, Firearms, and Explosives to establish an administrative relief process for individuals whose applications for transfer and registration of a firearm were denied, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. RISCH introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To amend the Internal Revenue Code of 1986 to require the Bureau of Alcohol, Tobacco, Firearms, and Explosives to establish an administrative relief process for individuals whose applications for transfer and registration of a firearm were denied, 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 “ATF Transparency  
5 Act”.

1 **SEC. 2. ADMINISTRATIVE RELIEF FOR DENIAL OF FIREARM**  
2 **TRANSFER APPLICATION.**

3 (a) IN GENERAL.—Section 5812 of the Internal Rev-  
4 enue Code of 1986 is amended by adding at the end the  
5 following new subsection:

6 “(c) ADMINISTRATIVE RELIEF.—

7 “(1) IN GENERAL.—With respect to any appli-  
8 cation described in subsection (a) for the transfer  
9 and registration of a firearm which is denied by the  
10 Secretary based on a determination that transferring  
11 the firearm to the transferee would violate sub-  
12 section (d) of section 922 of title 18, United States  
13 Code, or receipt of the firearm by the transferee  
14 would violate subsection (g) or (n) of that section or  
15 State, local, or tribal law, the Secretary shall—

16 “(A) provide the transferee with the rel-  
17 evant NICS transaction number with respect to  
18 such application,

19 “(B) permit such transferee to appeal such  
20 denial to the Secretary in a manner similar to  
21 the process for appeals provided under section  
22 25.10 of title 28, Code of Federal Regulations,  
23 and

24 “(C) permit such transferee to provide in-  
25 formation to the Secretary to prevent any sub-  
26 sequent erroneous denial or extended delay by

1 NICS pursuant to a program (as established by  
2 the Secretary) similar to the Voluntary Appeal  
3 File program described in section 25.10(g) of  
4 title 28, Code of Federal Regulations.

5 “(2) ATTORNEY FEES.—In the case of any suc-  
6 cessful appeal by the transferee pursuant to the  
7 process described in paragraph (1)(B), the Secretary  
8 shall reimburse the transferee for any reasonable  
9 and necessary attorney fees incurred with respect to  
10 such appeal.

11 “(3) NICS.—For purposes of this subsection,  
12 the term ‘NICS’ means the national instant criminal  
13 background check system established under section  
14 103 of the Brady Handgun Violence Prevention Act  
15 (34 U.S.C. 40901).”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to applications for the transfer and  
18 registration of a firearm which are filed or pending on or  
19 after the date of enactment of this Act.

20 **SEC. 3. TIMELY PROCESSING OF APPLICATIONS.**

21 (a) TRANSFER OF FIREARMS.—Section 5812 of the  
22 Internal Revenue Code of 1986, as amended by section  
23 2, is amended by adding at the end the following new sub-  
24 section:

25 “(d) PROCESSING OF APPLICATIONS.—

1           “(1) IN GENERAL.—Notwithstanding subsection  
2           (a), if an application described in such subsection  
3           with respect to the transfer and registration of a  
4           firearm has been filed with the Secretary and the  
5           Secretary fails to make a determination regarding  
6           whether to approve or deny such application prior to  
7           the date which is 3 business days after the date on  
8           which such application was originally filed by the  
9           transferor, the transfer and registration of such fire-  
10          arm to the transferee shall be deemed to have been  
11          approved by the Secretary for purposes of this sec-  
12          tion and such transfer may be made. The Secretary  
13          shall only deny an application described in sub-  
14          section (a) on the grounds that the applicable re-  
15          quirements under such subsection have not been sat-  
16          isfied, and may not deny an application solely on the  
17          grounds that a determination regarding whether to  
18          approve or deny such application could not be com-  
19          pleted by the Secretary during the period described  
20          in the preceding sentence.

21           “(2) SAFE HARBOR.—

22           “(A) IN GENERAL.—In the case of an ap-  
23          plication described in subsection (a) which, fol-  
24          lowing the expiration of the 3-day period under  
25          paragraph (1), has been deemed to have been

1 approved by the Secretary for purposes of this  
2 section and for which the transfer of the fire-  
3 arm has been made, if the Secretary subse-  
4 quently determines that the applicable require-  
5 ments under such subsection have not been sat-  
6 isfied and that such application should have  
7 been denied, the Secretary shall provide actual  
8 notice of such determination to the transferor  
9 and transferee of such firearm.

10 “(B) CRIMINAL LIABILITY.—In the case of  
11 a determination described in subparagraph (A)  
12 that an application for transfer and registration  
13 of a firearm should have been denied—

14 “(i) the transferor may not be held  
15 liable for any violation of subsection (d) of  
16 section 922 of title 18, United States  
17 Code, and

18 “(ii) the transferee may not be held  
19 liable for any violation of subsection (g) or  
20 (n) of section 922 of title 18, United  
21 States Code, provided that the transferee  
22 returns the firearm to the Secretary within  
23 the 14-day period subsequent to the date  
24 on which the transferee received notice

1 from the Secretary regarding such deter-  
2 mination.”.

3 (b) MAKING OF FIREARMS.—Section 5822 of the In-  
4 ternal Revenue Code of 1986 is amended by adding at the  
5 end the following: “Notwithstanding the preceding sen-  
6 tences, if a person files an application to make and reg-  
7 ister a firearm with the Secretary and the Secretary fails  
8 to make a determination regarding whether to approve or  
9 deny such application prior to the date which is 3 business  
10 days after the date on which such application was origi-  
11 nally filed by such person, such application shall be  
12 deemed to have been approved by the Secretary for pur-  
13 poses of this section and such firearm may be made by  
14 such person. The Secretary shall only deny an application  
15 to make and register a firearm on the grounds that the  
16 applicable requirements under this section have not been  
17 satisfied, and may not deny an application solely on the  
18 grounds that a determination regarding whether to ap-  
19 prove or deny such application could not be completed by  
20 the Secretary during the period described in the preceding  
21 sentence.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to applications which are filed or  
24 pending on or after the date of enactment of this Act.

1 **SEC. 4. REPORTS AND AGREEMENTS.**

2 (a) UNRESOLVED NICS CHECKS.—Not later than  
3 180 days after the date of enactment of this Act, the  
4 Comptroller General of the United States, in conjunction  
5 with the Inspector General of the Department of Justice,  
6 shall submit a report to Congress—

7 (1) detailing the number of NICS inquiries re-  
8 ceived during the period of calendar years 2010  
9 through 2024 with respect to the transfer of a fire-  
10 arm which remained unresolved following the expira-  
11 tion of the 90-day period described in section  
12 25.9(b)(1) of title 28, Code of Federal Regulations;  
13 and

14 (2) providing recommendations for administra-  
15 tive actions to be adopted by the Bureau of Alcohol,  
16 Tobacco, Firearms, and Explosives to minimize the  
17 number of unresolved NICS inquiries described in  
18 paragraph (1).

19 (b) ADMINISTRATION OF NICS CHECKS.—Not later  
20 than 180 days after the date of enactment of this Act,  
21 the Inspector General of the Department of Justice shall  
22 submit a report to Congress regarding the percentage of  
23 NICS inquiries during the period of calendar years 2014  
24 through 2024 with respect to the transfer of a firearm  
25 which were administered by the Federal Bureau of Inves-

1 tigation on behalf of the Bureau of Alcohol, Tobacco, Fire-  
2 arms, and Explosives.

3 (c) MEMORANDUM OF UNDERSTANDING.—Not later  
4 than 180 days after the date of enactment of this Act,  
5 the Director of the Bureau of Alcohol, Tobacco, Firearms,  
6 and Explosives and the Director of the Federal Bureau  
7 of Investigation shall enter into a memorandum of under-  
8 standing regarding the administration and processing of  
9 NICS inquiries with respect to the transfer of firearms.

10 (d) DEFINITIONS.—In this section—

11 (1) FIREARM.—The term “firearm” has the  
12 same meaning given such term under section  
13 5845(a) of the Internal Revenue Code of 1986.

14 (2) NICS.—The term “NICS” means the na-  
15 tional instant criminal background check system es-  
16 tablished under section 103 of the Brady Handgun  
17 Violence Prevention Act (34 U.S.C. 40901).