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Congressional Record S. 12283 - Modification of Record Keeping Requirements on Ammunition Records

Mike Mansfield 1903-2001

REMARKS

Amendment to Interest Equalization Tax Extension Act of 1969
re: modification of recordkeeping requirements on
ammunition records.

Mr. MANSFIELD. Mr. President, I have listened with interest to the speech just made by the distinguished Senator from Utah (Mr. BENNETT). I think that he has stated the case candidly, frankly, and honestly. Perhaps it should be made clear that it was in the interest of positive action with the least possible obstruction, and with consideration for the vitally needed interest equalization tax measure, that .22-caliber rimfire ammunition was removed by Senator BENNETT from the amendment as it was reported from the committee.

In its present form, Mr. President, the gun-law amendment added to this measure will remove what the vast majority of my constituents and I consider an unnecessary burden on the law-abiding gunowner—on the hunters and sportsmen, on those whose use of a weapon is accompanied largely by proper training and a great measure of responsibility.

I wish at this time to offer my sincere commendation to the distinguished senior Senator from Utah (Mr. BENNETT). May I say that he responded with quick dispatch to correct what is considered a

raw abuse of agency authority in administering the Gun Control Act of 1968. On February 4 of this year he introduced S. 845 charging that, contrary to the intentions of Congress, registration of ammunition was being compelled by regulation under the 1968 gun law. Registration, I might add, is precisely what the Congress expressly voted down on its merits. I joined as a cosponsor of S. 845 and, on February 17, expressed here in the Chamber my concern for such action by an agency that had no such authority.

For the most part, I agree with gun legislation; I agree especially in its stated objective: to assist Federal, State, and local law-enforcement agencies in their fight against crime and violence. At the same time, I do object when a Federal agency—when any Federal agency—misinterprets or misconstrues the law in the name of enforcement. That is why I joined as a cosponsor of S. 845 in the first place. In doing so, I sought to strike down regulations that, in my opinion, fall squarely beyond any authority granted by Congress under the law. As I said, Congress voted down registration; and registration, in my opinion, is precisely what the Treasury regulations call for.

Getting down to specifics, under section 922(b)(5) of the law, the gun dealer is required to record the name, age, and address of the buyer of ammunition. That is all that is required. Nothing more. Yet the regulations issued by the Secretary of the Treasury in my judgment go considerably beyond the Gun Control Act and, for that matter, the specific intent of Congress. They call for the following: First, date; second, manufacturer; third, caliber, gage, or type of component; fourth, quantity; fifth, name; sixth, address; seventh, date of birth; eighth, mode of identification, driver's license, and so forth.

It hardly needs saying that these requirements set forth on an extensive form go well beyond the "name, age, and address" of the law and cover a good deal more territory.

What is also clear is that insofar as these regulations affect ammunition and components used in rifles and shotguns, the burden imposed on the law-abiding gun owner is nothing short of onerous. In Montana, for example, the use of a shotgun or rifle by the criminal and unfit is a rarity indeed. I imagine that that is the story across most of the land.

What has resulted from the application of these ammunition regulations against rifles and shotguns has largely been counterproductive. Hunters and sportsmen have been compelled to wait inordinately long periods of time at great inconvenience. In turn, the agency involved has been compelled to process an overabundance of paperwork—which is in the vicinity of something like 300,000 pieces of paperwork every day of the year—devoting long manhours to a task that no one can say for sure has been of any assistance whatsoever in the fight against crime and violence. By adopting this amendment to the gun law we will provide for its more efficient administration. By adopting this amendment the hunter and sportsman will be relieved of an onerous burden. By adopting this amendment, the gun law of 1968, its implementation and administration, will be vastly improved.

Senator BENNETT is to be commended for his foresight and legislative skill, and especially for his diligence in attempting to correct a feature of the gun law that I think needs correcting.

Mr. President, I ask unanimous consent that certain past statements of mine on this and other features of gun legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the CONGRESSIONAL RECORD, Feb. 4, 1969]

S. 849—INTRODUCTION OF BILL—GUNS AND CRIMINALS

Mr. MANSFIELD. Mr. President, like so many others, I am alarmed with the increasing use of firearms by criminals in our society; I am appalled by the criminal's quick resort to a gun when deciding to commit his insidious acts. In this respect, the Congress saw fit last fall to make it more difficult for the lawless and untrained to obtain weapons. It is my belief that in its implementation this law—the Gun Control Act of 1968—will serve more effectively as time passes to cut down on the inordinate flow of firearms into the hands of the criminal and the incompetent, the drug addict, and the alcoholic. For the present, however, the ease with which any element of our society has been able to obtain weapons precludes the dramatic effects this legislation can expect to bring in the future.

But there remains another approach to curtailing gun crimes—an approach that says to the criminal in terms that are clear and simple that the use of a gun will be met with punishment that fits such an act of violence. This approach is contained in an amendment to the Gun Control Act of 1968 which would provide a mandatory additional prison sentence for criminals who choose to resort to firearms.

For a first offender the penalty would be 1 to 10 years in prison. For a subsequent offense—25 years. This proposal varies from the present law in two major respects. Under no circumstances can the sentence imposed against the criminal gun user be suspended or assessed concurrently with the sentence applied for the commission of the crime. In other words, the criminal will be compelled to serve additional time in prison solely for deciding to use a firearm. Second, under the provisions of this proposal, a subsequent offender will be compelled to serve 25 years to for his choosing to use a gun. It seems to me no leeway or discretion is needed in the case of a criminal gun user who employs this weapon of violence a second time.

I agree that in providing mandatory sentences on the congressional level, questions will be raised. But just as the ease of gun accessibility by the lawless reached national proportions justifying congressional action with the 1968 gun law so does the penalty for the criminal use of guns warrant equally close attention and careful consideration by the Congress. To put it frankly, gun crimes have become a national disgrace.

It is in this light that I offer this proposal for a mandatory prison sentence against perpetrators of violent gun crimes. It will serve, I hope, as a focal point. For ultimately it is up to the criminal. In the first instance, it is he who decides to resort to a gun. If he finds the penalty so severe as to deter its use, only then can society be protected from the viloence it produces.

AMENDMENT OF GUN CONTROL ACT OF 1968

Mr. President, I introduce, for appropriate reference, a bill to amend the Gun Control Act of 1968 and ask unanimous consent that its text be printed in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 849) to strengthen the penalty provisions of the Gun Control Act of 1968, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 924 of title 18, United States Code, is amended to read as follows:

"(a) Whoever—

"(1) uses a firearm to commit any felony which may be prosecuted in a court of the United States, or

"(2) carries a firearm unlawfully during the commission of any felony which may be prosecuted in a court of the United States, 'shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than one year nor more than 10 years.' In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than 25 years and, notwithstanding any other provision of law, the court shall not suspend the sentence of such person or give him a probationary sentence nor shall the term of imprisonment imposed under this subsection run concurrently with any term of imprisonment imposed for the commission of such felony."

GUN CONTROL LEGISLATION—ADDITIONAL COSPONSORS OF BILL

Mr. MANSFIELD. Mr. President, on February 4, the distinguished senior Senator from Utah (Mr. BENNETT) introduced S. 845. It seems to me to indicate that registration by another name is being required by a regulation of the Internal Revenue Service. This regulation covers ammunition for pistols, rifles, shotguns and some components, including primers, propellent powders, cartridge cases, and bullets.

Under sections 992(b)(5) and 923(g) the dealer is required to record the name, age, and address of the buyer of firearms or ammunition, while section 923(g) authorizes the Secretary of the Treasury to issue regulations relative to record keeping by dealers. The regulations issued by the Secretary of the Treasury call for far more than sections 922 and 923 require and, in my judgment, go considerably beyond the intent of Congress in passing the Gun Control Act of 1968.

For example, the regulations issued by the Secretary of the Treasury call for the following: Date; manufacturer; caliber, gage, or type of component; quantity; name; address; date of birth; and mode of identification, driver's license, and so forth.

It seems to me that this goes far beyond "the name, age, and address" of the law and covers a good deal more territory which, in effect, amounts to registration.

If there is to be registration, let it be in the open and on the table, and let everyone be aware of it. Congress, in my opinion, opposed registration under the Gun Control Act of 1968, and this regulation, in my judgment, would go far beyond what Congress intended.

This is back-door registration and should be corrected. In my judgment, it is necessary to correct an unnecessary burden and a deceptive form of registration and to bring the regulations in line with the intent of Congress at the time the bill was passed.

I ask unanimous consent that I be registered as a cosponsor of Senator BENNETT's bill, S. 845.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that my name also be added as a cosponsor.

The VICE PRESIDENT. Without objection, it is so ordered.

TESTIMONY BEFORE THE JUVENILE DELINQUENCY SUBCOMMITTEE OF JUDICIARY COMMITTEE, STATEMENT OF SENATOR MIKE MANSFIELD, DEMOCRAT OF MONTANA, JULY 23, 1969

Let me first thank you for your invitation, Mr. Chairman. I appreciate having this opportunity to testify at the beginning of this series of hearings on firearms legislation and especially on my bill, S. 849.

The gun law thus far has asked a sacrifice on the part of the law-abiding gun owner in return for what hopefully will be a measure of control over the inordinate flow of weapons into the hands of the lawless and untrained, the addict, the incompetent and the criminal. Providing such legislation at the Federal level has provoked numerous questions and the debate still rages on.

What is clear so far is that the burden imposed by the present law on the law-abiding gun owner has not been distributed equally. We in Montana, for example, seldom experience the use of guns by the criminal and unfit. At the same time we Montanans pride ourselves in the responsible use of weapons for sport and even for self-defense. Unfortunately, that is not the case elsewhere in the land. Our large metropolitan centers have been wracked by crime and violence perpetrated by hoodlums having no notion of the responsible use of weapons. Yet we in Montana are asked to bear the full measure of the burden of gun legislation. What we stand to benefit from its hoped-for objective—a reduction in gun crime—is greatly disproportionate when viewed solely within the geographical confines of Montana. Nevertheless, may I say that in Montana the sacrifice asked by this law has been made. It has been made by Montanans though to some the whole notion of gun legislation may be repugnant. It has been made simply because Congress recognized that the ease with which guns are made available to the lawless has become not only a state and local problem, but a national problem as well.

And just as Congress recognized that the ease of gun accessibiity by the lawless has reached national proportions justifying Congressional action, so does the penalty for the criminal use of guns warrant equally close attention by the Congress. And that is just what my bill, S. 849, aims to do.

Gun crime is a national disgrace. And with this bill I offer another approach to curtailing the gun crime rate—an approach that says to the criminal in terms that are clear and simple that his resort to a gun will be met automatically with punishment that fits such an act of violence. In contrast to the present gun law, no burden is imposed on the law-abiding gun owner. No sacrifice is asked. The burden falls squarely where it belongs—on the criminal and the lawless; on those who roam the streets, gun in hand, ready and willing to perpetrate their acts of violence.

I am no expert in crime control. I am not even a lawyer. But I know there is something wrong when the FBI tells us that while our gun crime rate continues to spiral upward, our prison population shrinks proportionately. I hope this trend is reversed. I would think an assured prison sentence for criminals who choose to resort to firearms would help establish such a reversal or at least stem the tide. That is the purpose of my bill.

Under its provisions, for a first offender the penalty would be 1 to 10 years in prison; for a subsequent offense—a mandatory 25 years. The proposal varies from present Federal law in two major respects. Under no circumstances can the sentence for using a firearm be suspended or assessed concurrently with the sentence for the commission of the crime itself. The criminal gun user will be sentenced solely for his choice to use a gun. Moreover, the subsequent offender will be compelled to serve 25 years for making such a choice. In this regard, it just seems to me that no leeway or discretion is necessary when it is found that a criminal has chosen a second time to use a firearm lawlessly.

I would add that for the most part I agree with gun legislation; especially in its stated objective; to assist Federal, State and local law enforcement agencies in their fight against crime and violence. At the same time I do object when a Federal agency—when any Federal agency—misinterprets or misconstrues the law in the name of enforcement. That is why I joined as a co-sponsor of the bill, S. 845, offered by the distinguished Senator from Utah, Mr. Bennett, to strike down the ammunition regulations issued by the Secretary of the Treasury pursuant to the Gun Control Act of 1968. In my opinion those regulations fall squarely beyond any authority granted by Congress under the law. Indeed, Congress voted down registration; and registration, in my opinion, is precisely what the Treasury regulations call for.

On February 4, the distinguished senior Senator from Utah (Mr. Bennett) introduced S. 845. It seems to me to indicate that registration by another name is being required by a regulation of the Internal Revenue Service. This regulation covers ammunition for pistols, rifles, shotguns and some components, including primers, propellent powders, cartridge cases, and bullets.

Under sections 992(b)(5) and 923(g) the dealer is required to record the name, age, and address of the buyer of firearms or ammunition, while section 923(g) authorizes the Secretary of the Treasury to issue regulations relative to record keeping by dealers. The regulations issued by the Secretary of the Treasury call for far more than sections 922 and 923 require and, in my judgment, go considerably beyond the intent of Congress in passing the Gun Control Act of 1968.

For example, the regulations issued by the Secretary of the Treasury call for the following: Date; manufacturer; caliber, gage, or type of component; quantity; name; address; date of birth; and mode of identification, driver's license, and so forth.

It seems to me that this goes far beyond "the name, age, and address" of the law and covers a good deal more territory which, in effect, amounts to registration.

If there is to be registration, let it be in the open and on the table, and let everyone be aware of it. Congress, in my opinion, opposed registration under the Gun Control Act of 1968, and this regulation, in my judgment, would go far beyond what Congress intended.

This is back-door registration and should be corrected. In my judgment, it is necessary to correct an unnecessary burden and a deceptive form of registration and to bring the regulations in line with the intent of Congress at the time the bill was passed.

With that said, let me again reiterate that I think the objectives sought by the 1968 law are wholly correct. I hope they are met; though it is premature now to make a judgment on that score.

And it is only to complement the objectives of the existing law that I offer my proposal for mandatory jail sentences against perpetrators of violent gun crimes. The message it brings to the criminal gun user is clear. For ultimately the decision to resort to a firearm is up to him. If he finds the penalty so severe as to deter his use of this deadly weapon, only then can society be protected from the violence it produces. The State of Alaska I understand has already adopted such an approach. Other states are in the process of joining the effort. Mr. Chairman, I urge you and your subcommittee—already so distinguished for your leadership in this area—to steer this proposal through the full Judiciary Committee and on through the Senate.

By offering mandatory jail terms in return for gun violence at the Federal level, the Congress will provide, I believe, a splendid model for all fifty states to follow.

Mr. BENNETT. Mr. President, yesterday, when I opened the debate on H.R. 12829, I indicated I would include in the RECORD a summary of the minor and technical changes made in the interest equalization tax bill. Inadvertently, this summary was not included in the RECORD. Therefore, I ask unanimous consent that the summary be included in today's RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF OTHER INTEREST EQUALIZATION TAX AMENDMENTS

In addition to the two major provisions, the House bill contained a series of minor modifications of the existing provisions of the interest equalization tax. These modifications were accepted by the committee with a few technical amendments. In addition, the committee adopted technical amendments regarding the treatment of certain lease obligations for purposes of the tax.

The minor modifications made by the House bill are as follows:

(1) Under present law the tax applies where an American transfers money to a foreign trust which then acquires otherwise taxable foreign stock or debt obligations. The bill strengthens this provision by presuming that upon a transfer of funds to a foreign trust, the trust made a taxable acquisition of foreign stock or debt obligations unless, and to the extent, the transferor proves to the Treasury that such an acquisition has not occurred.

(2) An exclusion is presently provided for loans by a U.S. person to a foreigner for the purpose of constructing a foreign mineral facility, where a substantial portion (35 percent) of the minerals or ores processed in the facility are extracted outside the United States by the U.S. person or by an affiliated company. The bill modifies this rule to provide that the exclusion will be applicable where the U.S. person's loan covers only part of the cost of constructing the facility, if more than 50 percent of the minerals processed in the proportionate part of the facility represented by the U.S. person's loan in relation to the total cost of the facility are extracted by him or an affiliated company.

(3) Under present law, an exclusion is provided for acquisitions of debt obligations arising in specified export credit transactions. The exclusion is lost, however, if the debt obligations are subsequently transferred other than to specified persons or in specified ways. The bill adds an affiliated company to the permitted transferees.

(4) U.S. dealers in foreign stock or debt obligations presently may acquire these securities without payment of tax (through a credit or refund) if they resell them to foreign persons within a prescribed time. A similar rule applies in the case of U.S. underwriters who resell to foreign persons. The

bill provides that certain foreign branches (engaged in the commercial banking business) of U.S. corporations which, in effect, are treated to a limited extent as foreign persons for purposes of the tax (they may acquire foreign stock or debt obligations free of the tax up to a specified amount) also are to be treated to the same extent as foreign persons for purposes of the dealer and underwriter resale exclusions.

(5) Present law provides that a domestic company engaged in the business of financing sales of products manufactured by affiliated companies in the United States or abroad may elect to be exempt from the tax on the foreign debt obligations it acquires as the result of its financing activities. The bill modifies or eliminates certain restrictions in this provilson which have made it unworkable, but retains the basic framework of the provision including the concept that the financing company must obtain the funds it uses in its business from foreign sources.

(6) Under present law, a transaction tax return must be filed prior to the sale of foreign stock or debt obligation which was subject to tax when acquired, if the sale occurs prior to the time for filing the regular quarterly interest equalization tax return. The bill clarifies the application of this requirement to U.S. dealers or underwriters by providing that they need not file a transaction tax return with respect to sales of foreign securities under the dealer or underwriter resale exemptions.

(7) The bill conforms the reporting and recordkeeping requirements for "nonparticipating firms" to the procedures established by the Interest Equalization Tax Extension Act of 1967 in connection with the exemption for prior American ownership and compliance. This amendment generally conforms the requirements imposed on these firms to those imposed on "participating firms" insofar as specified types of sales or acquisitions of foreign stock or debt obligations are concerned, and confirms that nonparticipating firms must continue to file quarterly information returns.

(8) The bill prescribes a $1,000 penalty for each failure to file (or inadequate filing) by a nonparticipating firm pursuant to the requirements imposed under the conforming amendment discussed above.

The committee adopted two minor amendments to the financing company provision (No. 5 above) to further implement the purpose of the changes made by the bill; namely, to increase the workability of this provision. One amendment provides that a financing company may loan out amounts represented by accrued foreign taxes which are payable within 3 years, rather than one year as under the House bill. The other amendment provides that a financing company may own debt obligations acquired in the course of carrying on its financing business (such as loans to employees) in addition to the other types of debt obligations the company is allowed to own under the House bill.

The committee also added technical amendments to the bill regarding the treatment of a lease obligation as a debt obligation for interest equalization tax purposes where the lease is entered into principally as a financing transaction. These amendments also provide that export leases are to be treated in a manner similar to export sales under the existing export credit exemption and under the financing company provision.