

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3265

To restore Second Amendment rights in the District of Columbia.

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## IN THE SENATE OF THE UNITED STATES

APRIL 27, 2010

Mr. MCCAIN (for himself, Mr. TESTER, Mr. GRAHAM, Mr. BEGICH, Mr. BURR, Mr. CHAMBLISS, Mr. BROWNBACK, Mr. HATCH, Mr. BENNETT, Mr. WICKER, and Mr. ISAKSON) 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 restore Second Amendment rights in the District of  
Columbia.

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 title may be cited as the “Second Amendment  
5 Enforcement Act”.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7        Congress finds the following:

8            (1) The law-abiding citizens of the District of  
9        Columbia are deprived by local laws of handguns, ri-

1       fl es, and shotguns that are commonly kept by law-  
2       abiding persons throughout the United States for  
3       sporting use and for lawful defense of their persons,  
4       homes, businesses, and families.

5           (2) The District of Columbia has among the  
6       highest per capita murder rates in the Nation, which  
7       may be attributed in part to local laws prohibiting  
8       possession of firearms by law-abiding persons who  
9       would otherwise be able to defend themselves and  
10      their loved ones in their own homes and businesses.

11          (3) Officials of the District of Columbia have  
12      indicated their intention to continue to unduly re-  
13      strict lawful firearm possession and use by citizens  
14      of the District.

15          (4) Legislation is required to correct the Dis-  
16      trict of Columbia's law in order to restore the funda-  
17      mental rights of its citizens under the Second  
18      Amendment to the United States Constitution and  
19      thereby enhance public safety.

20   **SEC. 3. REFORM D.C. COUNCIL'S AUTHORITY TO RESTRICT**  
21                           **FIREARMS.**

22      Section 4 of the Act entitled "An Act to prohibit the  
23      killing of wild birds and wild animals in the District of  
24      Columbia", approved June 30, 1906 (34 Stat. 809; sec.  
25      1-303.43, D.C. Official Code), is amended by adding at

1 the end the following: “Nothing in this section or any  
 2 other provision of law shall authorize, or shall be con-  
 3 strued to permit, the Council, the Mayor, or any govern-  
 4 mental or regulatory authority of the District of Columbia  
 5 to prohibit, constructively prohibit, or unduly burden the  
 6 ability of persons not prohibited from possessing firearms  
 7 under Federal law from acquiring, possessing in their  
 8 homes or businesses, transporting for legitimate purposes,  
 9 or using for sporting, self-protection or other lawful pur-  
 10 poses, any firearm neither prohibited by Federal law nor  
 11 subject to the National Firearms Act. The District of Co-  
 12 lumbia shall not have authority to enact laws or regula-  
 13 tions that discourage or eliminate the private ownership  
 14 or use of firearms. Nothing in the previous two sentences  
 15 shall be construed to prohibit the District of Columbia  
 16 from regulating the carrying of firearms by a person, ei-  
 17 ther concealed or openly, other than at the person’s dwell-  
 18 ing place, place of business, or on other land possessed  
 19 by the person.”.

20 **SEC. 4. REPEAL D.C. SEMIAUTOMATIC BAN.**

21 Section 101(10) of the Firearms Control Regulations  
 22 Act of 1975 (sec. 7–2501.01(10), D.C. Official Code) is  
 23 amended to read as follows:

24 “(10) ‘Machine gun’ means any firearm which  
 25 shoots, is designed to shoot, or can be readily re-

1 stored to shoot, automatically more than one shot,  
 2 without manual reloading, by a single function of  
 3 the trigger. The term ‘machine gun’ shall also in-  
 4 clude the frame or receiver of any such firearm, any  
 5 part designed and intended solely and exclusively, or  
 6 combination of parts designed and intended, for use  
 7 in converting a firearm into a machine gun, and any  
 8 combination of parts from which a machine gun can  
 9 be assembled if such parts are in the possession or  
 10 under the control of a person.”.

11 **SEC. 5. REPEAL REGISTRATION REQUIREMENT AND AU-**  
 12 **THORIZE AMMUNITION SALES.**

13 (a) REPEAL OF REQUIREMENT.—

14 (1) IN GENERAL.—Section 201(a) of the Fire-  
 15 arms Control Regulations Act of 1975 (sec. 7–  
 16 2502.01(a), D.C. Official Code) is amended by strik-  
 17 ing “any firearm, unless” and all that follows  
 18 through paragraph (3) and inserting the following:  
 19 “any firearm described in subsection (c).”.

20 (2) DESCRIPTION OF FIREARMS REMAINING IL-  
 21 LEGAL.—Section 201 of such Act (sec. 7–2502.01,  
 22 D.C. Official Code) is amended by adding at the end  
 23 the following new subsection:

24 “(c) A firearm described in this subsection is any of  
 25 the following:

1           “(1) A sawed-off shotgun.

2           “(2) A machine gun.

3           “(3) A short-barreled rifle.”.

4           (3) CONFORMING AMENDMENT.—The heading  
5 of section 201 of such Act (sec. 7–2502.01, D.C. Of-  
6 ficial Code) is amended by striking “Registration re-  
7 quirements” and inserting “Firearm Possession”.

8           (b) CONFORMING AMENDMENTS TO FIREARMS CON-  
9 TROL REGULATIONS ACT.—The Firearms Control Regu-  
10 lations Act of 1975 is amended as follows:

11           (1) Sections 202 through 211 (secs. 7–2502.02  
12 through 7–2502.11, D.C. Official Code) are re-  
13 pealed.

14           (2) Section 101 (sec. 7–2501.01, D.C. Official  
15 Code) is amended by striking paragraph (13).

16           (3) Section 401 (sec. 7–2504.01, D.C. Official  
17 Code) is amended—

18           (A) in subsection (a), by striking “the Dis-  
19 trict;” and all that follows and inserting the fol-  
20 lowing: “the District, except that a person may  
21 engage in hand loading, reloading, or custom  
22 loading of ammunition for firearms lawfully  
23 possessed under this Act.”; and

24           (B) in subsection (b), by striking “which  
25 are unregistrable under section 202” and in-

1           serting “which are prohibited under section  
2           201”.

3           (4) Section 402 (sec. 7–2504.02, D.C. Official  
4           Code) is amended—

5                   (A) in subsection (a), by striking “Any  
6                   person eligible to register a firearm” and all  
7                   that follows through “such business,” and in-  
8                   serting the following: “Any person not other-  
9                   wise prohibited from possessing or receiving a  
10                  firearm under Federal or District law, or from  
11                  being licensed under section 923 of title 18,  
12                  United States Code,”; and

13                   (B) in subsection (b), by amending para-  
14                   graph (1) to read as follows:

15                   “(1) The applicant’s name;”.

16           (5) Section 403(b) (sec. 7–2504.03(b), D.C. Of-  
17           ficial Code) is amended by striking “registration cer-  
18           tificate” and inserting “dealer’s license”.

19           (6) Section 404(a)(3) (sec. 7–2504.04(a)(3)),  
20           D.C. Official Code) is amended—

21                   (A) in subparagraph (B)(i), by striking  
22                   “registration certificate number (if any) of the  
23                   firearm,”;

1 (B) in subparagraph (B)(iv), by striking  
2 “holding the registration certificate” and insert-  
3 ing “from whom it was received for repair”;

4 (C) in subparagraph (C)(i), by striking  
5 “and registration certificate number (if any) of  
6 the firearm”;

7 (D) in subparagraph (C)(ii), by striking  
8 “registration certificate number or”;

9 (E) by striking subparagraphs (D) and  
10 (E).

11 (7) Section 406(c) (sec. 7-2504.06(c), D.C. Of-  
12 ficial Code) is amended to read as follows:

13 “(c) Within 45 days of a decision becoming effective  
14 which is unfavorable to a licensee or to an applicant for  
15 a dealer’s license, the licensee or application shall—

16 “(1) lawfully remove from the District all de-  
17 structive devices in his inventory, or peaceably sur-  
18 render to the Chief all destructive devices in his in-  
19 ventory in the manner provided in section 705; and

20 “(2) lawfully dispose, to himself or to another,  
21 any firearms and ammunition in his inventory.”.

22 (8) Section 407(b) (sec. 7-2504.07(b), D.C. Of-  
23 ficial Code) is amended by striking “would not be el-  
24 ible” and all that follows and inserting “is prohib-

1       ited from possessing or receiving a firearm under  
2       Federal or District law.”.

3               (9) Section 502 (sec. 7–2505.02, D.C. Official  
4       Code) is amended—

5               (A) by amending subsection (a) to read as  
6       follows:

7       “(a) Any person or organization not prohibited from  
8       possessing or receiving a firearm under Federal or District  
9       law may sell or otherwise transfer ammunition or any fire-  
10      arm, except those which are prohibited under section 201,  
11      to a licensed dealer.”;

12              (B) in subsection (b), by adding at the end  
13      the following new paragraph:

14      “(3) Ammunition, excluding restricted pistol  
15      bullets, to any person not otherwise prohibited from  
16      possessing or receiving ammunition.”;

17              (C) by amending subsection (c) to read as  
18      follows:

19      “(c) Any dealer licensed under the provisions of this  
20      Act may sell or otherwise transfer a firearm to any person  
21      or organization not otherwise prohibited from possessing  
22      or receiving such firearm under Federal or District law.  
23      In the case of a sale or transfer of a handgun to a resident  
24      of the District of Columbia, a federally licensed importer,  
25      manufacturer, or dealer of firearms in Maryland or Vir-



1 ginia shall be treated as a dealer licensed under the provi-  
2 sions of this Act for purposes of the previous sentence,  
3 notwithstanding section 922(b)(3) of title 18, United  
4 States Code, if the transferee meets in person with the  
5 transferor to accomplish the transfer, and the sale, deliv-  
6 ery, and receipt fully comply with the legal conditions of  
7 sale in both the District of Columbia and the jurisdiction  
8 in which the transfer occurs.”;

9 (D) by striking subsection (d); and

10 (E) by striking subsection (e).

11 (10) Section 704 (sec. 7-2507.04, D.C. Official  
12 Code) is amended—

13 (A) in subsection (a), by striking “any reg-  
14 istration certificate or” and inserting “a”; and

15 (B) in subsection (b), by striking “reg-  
16 istration certificate,”.

17 (c) OTHER CONFORMING AMENDMENTS.—Section  
18 2(4) of the Illegal Firearm Sale and Distribution Strict  
19 Liability Act of 1992 (sec. 7-2531.01(4), D.C. Official  
20 Code) is amended—

21 (1) in subparagraph (A), by striking “or ignor-  
22 ing proof of the purchaser’s residence in the District  
23 of Columbia”; and

24 (2) in subparagraph (B), by striking “registra-  
25 tion and”.

1 **SEC. 6. REPEAL HANDGUN AMMUNITION BAN.**

2 Section 601(3) of the Firearms Control Regulations  
3 Act of 1975 (sec. 7–2506.01(3), D.C. Official Code) is  
4 amended by striking “is the holder of the valid registration  
5 certificate for” and inserting “owns”.

6 **SEC. 7. RESTORE RIGHT OF SELF DEFENSE IN THE HOME.**

7 Section 702 of the Firearms Control Regulations Act  
8 of 1975 (sec. 7–2507.02, D.C. Official Code) is amended  
9 to read as follows:

10 “PENALTIES FOR ALLOWING ACCESS OF MINORS TO  
11 LOADED FIREARMS IF INJURY RESULTS

12 “SEC. 702. (a) IN GENERAL.—A person in the Dis-  
13 trict of Columbia is guilty of unlawful storage of a firearm  
14 if—

15 “(1) the person knowingly stores or leaves a  
16 loaded firearm at any premises under the person’s  
17 control;

18 “(2) the person knows or reasonably should  
19 know that a minor is likely to gain access to the fire-  
20 arm without the permission of the minor’s parent or  
21 legal guardian; and

22 “(3) the minor kills or injures any person (in-  
23 cluding the minor) by discharging the firearm.

24 “(b) EXCEPTIONS.—This section does not apply if—

25 “(1) the firearm was stored in a securely locked  
26 container and the person did not inform the minor

1 of the location of the key to, or the combination of,  
2 the container's lock;

3 “(2) the firearm was secured by a trigger lock  
4 and the person did not inform the minor of the loca-  
5 tion of the key to, or the combination of, the trigger  
6 lock;

7 “(3) the firearm was stored on the person's  
8 body or in such proximity to the person that it could  
9 be used as quickly and as easily as if it were on the  
10 person's body;

11 “(4) the minor's access to the firearm was a re-  
12 sult of an unlawful entry;

13 “(5) when discharging the firearm, the minor  
14 was acting in lawful self-defense or in defense of an-  
15 other;

16 “(6) when discharging the firearm, the minor  
17 was engaged in hunting or target or sport shooting  
18 under the supervision of the minor's parent or  
19 guardian, or under the supervision of another person  
20 over the age of 18 with the parent's or guardian's  
21 consent; or

22 “(7) the firearm is in the possession or control  
23 of a law enforcement officer while the officer is en-  
24 gaged in official duties.

1       “(c) MINOR DEFINED.—In this section, the term  
2 ‘minor’ means an individual under 16 years of age.

3       “(d) PENALTY.—A person who violates this section  
4 shall be subject to a fine not exceeding \$1,000, a term  
5 of imprisonment not exceeding one year, or both.

6       “(e) SPECIAL RULE IF VICTIM OF SHOOTING IS  
7 CHILD OF PERSON COMMITTING VIOLATION.—If a viola-  
8 tion of this section leads to the accidental shooting of a  
9 minor who is the child of the person who committed the  
10 violation, the United States attorney shall consider both  
11 the extent of the minor’s injuries and the effect of the  
12 minor’s injury or death on both of the minor’s parents  
13 when deciding whether to file charges under this section.  
14 No prosecution shall be brought in such circumstances un-  
15 less the person who committed the violation behaved in  
16 a grossly negligent manner, or unless similarly egregious  
17 circumstances exist.”.

18 **SEC. 8. REMOVE CRIMINAL PENALTIES FOR POSSESSION**  
19 **OF UNREGISTERED FIREARMS.**

20       (a) IN GENERAL.—Section 706 of the Firearms Con-  
21 trol Regulations Act of 1975 (sec. 7–2507.06, D.C. Offi-  
22 cial Code) is amended by striking paragraph (2) and re-  
23 designating paragraph (3) as paragraph (2).

24       (b) EFFECTIVE DATE.—The amendment made by  
25 subsection (a) shall apply with respect to violations occur-

1 ring after the 60-day period which begins on the date of  
2 the enactment of this Act.

3 **SEC. 9. REGULATING INOPERABLE PISTOLS AND HARMO-**  
4 **NIZING DEFINITIONS FOR CERTAIN TYPES OF**  
5 **FIREARMS.**

6 Section 1 of the Act of July 8, 1932 (sec. 22-4501,  
7 D.C. Official Code), is amended as follows:

8 (1) Insert after paragraph (2) the following new  
9 paragraph:

10 “(2A) ‘Firearm’ means any weapon, regardless  
11 of operability, which will, or is designed or rede-  
12 signed, made or remade, readily converted, restored,  
13 or repaired, or is intended to, expel a projectile or  
14 projectiles by the action of an explosive. Such term  
15 does not include—

16 “(A) a destructive device, as defined in  
17 section 101(7) of the Firearms Control Regula-  
18 tions Act of 1975;

19 “(B) a device used exclusively for line  
20 throwing, signaling, or safety, and required or  
21 recommended by the Coast Guard or Interstate  
22 Commerce Commission; or

23 “(C) a device used exclusively for firing ex-  
24 plosive rivets, stud cartridges, or similar indus-

1           trial ammunition and incapable for use as a  
2           weapon.”.

3           (2) Amend paragraph (4) to read as follows:

4           “(4) ‘Machine gun’ has the meaning given such  
5           term in section 101(10) of the Firearms Control  
6           Regulations Act of 1975.”.

7           (3) Amend paragraph (6) to read as follows:

8           “(6) ‘Pistol’ has the meaning given such term  
9           in section 101(12) of the Firearms Control Regula-  
10          tions Act of 1975.”.

11          (4) Insert after paragraph (6) the following new  
12          paragraph:

13          “(6A) ‘Place of business’ has the meaning given  
14          such term in section 101(12A) of the Firearms Con-  
15          trol Regulations Act of 1975.”.

16          (5) Amend paragraph (8) to read as follows:

17          “(8) ‘Sawed-off shotgun’ has the meaning given  
18          such term in section 101(15) of the Firearms Con-  
19          trol Regulations Act of 1975.”.

20          (6) Insert after paragraph (9) the following new  
21          paragraph:

22          “(9A) ‘Shotgun’ has the meaning given such  
23          term in section 101(16) of the Firearms Control  
24          Regulations Act of 1975.”.

1 **SEC. 10. PROHIBITIONS OF FIREARMS FROM PRIVATE AND**  
2 **SENSITIVE PUBLIC PROPERTY.**

3 The Act of July 8, 1932 (sec. 22–4501 et seq., D.C.  
4 Official Code), is amended by inserting after section 3 the  
5 following new section:

6 “PROHIBITIONS OF FIREARMS FROM PRIVATE AND  
7 SENSITIVE PUBLIC PROPERTY

8 “SEC. 3A. (a) Private persons or entities owning  
9 property in the District of Columbia may prohibit or re-  
10 strict the possession of firearms on their property by any  
11 persons, other than law enforcement personnel when law-  
12 fully authorized to enter onto the property or lessees occu-  
13 pying residential or business premises.

14 “(b) The District of Columbia may prohibit or re-  
15 strict the possession of firearms within any building or  
16 structure under its control, or in any area of such building  
17 or structure, which has implemented security measures  
18 (including but not limited to guard posts, metal detection  
19 devices, x-ray or other scanning devices, or card-based or  
20 biometric access devices) to identify and exclude unauthor-  
21 ized or hazardous persons or articles, except that no such  
22 prohibition or restriction may apply to lessees occupying  
23 residential or business premises.”.

24 **SEC. 11. REGULATING THE CARRYING OF FIREARMS.**

25 (a) CARRYING RIFLES OR SHOTGUNS.—Section 4 of  
26 the Act of July 8, 1932 (sec. 22–4504, D.C. Official

1 Code), is amended by inserting after subsection (a) the  
2 following new subsection:

3 “(a-1) Except as otherwise permitted by law, no per-  
4 son shall carry within the District of Columbia a rifle or  
5 shotgun. A person who violates this subsection shall be  
6 subject, as applicable, to the criminal penalties set forth  
7 in section 15 and paragraph (2) of subsection (a).”.

8 (b) AUTHORITY TO CARRY FIREARM IN CERTAIN  
9 PLACES AND FOR CERTAIN PURPOSES; LAWFUL TRANS-  
10 PORTATION OF FIREARMS.—The Act of July 8, 1932 (sec.  
11 22–4501 et seq., D.C. Official Code), is amended by in-  
12 serting after section 4 the following new sections:

13 “AUTHORITY TO CARRY FIREARM IN CERTAIN PLACES  
14 AND FOR CERTAIN PURPOSES

15 “SEC. 4A. Notwithstanding any other law, a person  
16 not otherwise prohibited by law from shipping, trans-  
17 porting, possessing, or receiving a firearm may carry such  
18 firearm, whether loaded or unloaded—

19 “(1) in the person’s dwelling house or place of  
20 business or on land owned or lawfully possessed by  
21 the person;

22 “(2) by invitation on land owned or lawfully  
23 possessed by another;

24 “(3) while it is being used for lawful rec-  
25 reational, sporting, educational, or training pur-  
26 poses; or



1           “(4) while it is being transported for a lawful  
2           purpose as expressly authorized by District or Fed-  
3           eral law and in accordance with the requirements of  
4           that law.

5           “LAWFUL TRANSPORTATION OF FIREARMS

6           “SEC. 4B. (a) Any person who is not otherwise pro-  
7           hibited by law from shipping, transporting, possessing, or  
8           receiving a firearm shall be permitted to transport a fire-  
9           arm for any lawful purpose from any place where he may  
10          lawfully possess the firearm to any other place where he  
11          may lawfully possess the firearm if the firearm is trans-  
12          ported in accordance with this section.

13          “(b)(1) If the transportation of the firearm is by a  
14          vehicle, the firearm shall be unloaded, and neither the fire-  
15          arm nor any ammunition being transported shall be read-  
16          ily accessible or directly accessible from the passenger  
17          compartment of the transporting vehicle.

18          “(2) If the transporting vehicle does not have a com-  
19          partment separate from the driver’s compartment, the  
20          firearm or ammunition shall be contained in a locked con-  
21          tainer other than the glove compartment or console, and  
22          the firearm shall be unloaded.

23          “(c) If the transportation of the firearm is in a man-  
24          ner other than in a vehicle, the firearm shall be—

25                  “(1) unloaded;

26                  “(2) inside a locked container; and

1 “(3) separate from any ammunition.”.

2 (c) EXCEPTIONS TO RESTRICTIONS ON CARRYING  
3 CONCEALED WEAPONS.—Section 5 of such Act (sec. 22–  
4 4505, D.C. Official Code) is amended—

5 (1) in subsection (a), by striking “pistol un-  
6 loaded and in a secure wrapper from” and inserting  
7 “firearm, transported in accordance with section 4b,  
8 from”; and

9 (2) in subsection (a), by striking “pistol” each  
10 place it appears and inserting “firearm”.

11 **SEC. 12. INCLUDING TOY AND ANTIQUE PISTOLS IN PROHI-**  
12 **BITION AGAINST USING AN IMITATION FIRE-**  
13 **ARM TO COMMIT A VIOLENT OR DANGEROUS**  
14 **CRIME.**

15 Section 13 of the Act of July 8, 1932 (sec. 22–4513,  
16 D.C. Official Code), is amended by striking “section 2 and  
17 section 14(b)” and inserting “sections 2, 4(b), and 14(b)”.

18 **SEC. 13. PROVIDING JURISDICTION TO OFFICE OF ADMIN-**  
19 **ISTRATIVE HEARINGS TO HEAR CASES PER-**  
20 **TAINING TO DENIAL OR REVOCATION OF**  
21 **FIREARM DEALER LICENSES.**

22 Section 6 of the Office of Administrative Hearings  
23 Establishment Act of 2001 (D.C. Law 14–76; sec. 2–  
24 1831.03, D.C. Official Code) is amended by inserting after  
25 subsection (b-1) the following new subsection:

1       “(b-2) In addition to those adjudicated cases listed  
2 in subsections (a), (b), and (b-1), this Act shall apply to  
3 all adjudicated cases involving the denial or revocation of  
4 a dealer license pursuant to section 406 of the Firearms  
5 Control Regulations Act of 1975.”.

6 **SEC. 14. REPEALS OF DISTRICT OF COLUMBIA ACTS.**

7       Effective on the day before the date of the enactment  
8 of this Act, the Firearms Registration Amendment Act of  
9 2008 (D.C. Law 17–372) and the Inoperable Pistol  
10 Amendment Act of 2008 (D.C. Law 17–388) are repealed,  
11 and any provision of law amended or repealed by either  
12 of such Acts is restored or revived as if such Acts had  
13 not been enacted into law.

14 **SEC. 15. SEVERABILITY.**

15       Notwithstanding any other provision of this Act, if  
16 any provision of this Act, or any amendment made by this  
17 Act, or the application of such provision or amendment  
18 to any person or circumstance is held to be unconstitu-  
19 tional, the other provisions of this Act and any other  
20 amendments made by this Act, and the application of such  
21 provision or amendment to other persons or cir-  
22 cumstances, shall not be affected thereby.

○