

112TH CONGRESS
1ST SESSION

S. 798

To provide an amnesty period during which veterans and their family members can register certain firearms in the National Firearms Registration and Transfer Record, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2011

Mr. TESTER (for himself, Mr. MCCAIN, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide an amnesty period during which veterans and their family members can register certain firearms in the National Firearms Registration and Transfer Record, 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 “Veterans’ Heritage
5 Firearms Act of 2011”.

6 **SEC. 2. AMNESTY PERIOD FOR VETERANS TO REGISTER**
7 **QUALIFYING FIREARMS.**

8 (a) **DEFINITIONS.**—In this section:

1 (1) AMNESTY PERIOD.—The term “amnesty pe-
2 riod” means the 90-day period beginning on the date
3 that is 90 days after the date of enactment of this
4 Act.

5 (2) APPLICABLE VETERAN.—The term “appli-
6 cable veteran” means, with respect to a firearm, the
7 veteran referred to in paragraph (7)(A) with respect
8 to the firearm.

9 (3) CONTINENTAL UNITED STATES.—The term
10 “continental United States”—

11 (A) means the several States and the Dis-
12 trict of Columbia; and

13 (B) does not include Alaska or Hawaii.

14 (4) FAMILY.—

15 (A) IN GENERAL.—The term “family”
16 means, with respect to a veteran—

17 (i) a grandparent of the veteran;

18 (ii) the spouse of the veteran;

19 (iii) a lineal descendant of a grand-
20 parent described in clause (i); and

21 (iv) the spouse of a lineal descendant
22 described in clause (iv).

23 (B) SPECIAL RULES.—For purposes of
24 subparagraph (A)—

1 (i) a spouse of an individual who is le-
 2 gally separated from the individual under a
 3 decree of divorce or separate maintenance
 4 shall be deemed to be the spouse of the in-
 5 dividual; and

6 (ii) an individual shall be deemed to
 7 be a lineal descendant of a grandparent of
 8 a veteran if the individual is—

9 (I) the biological child of an indi-
 10 vidual who is the spouse of a lineal
 11 descendant of the grandparent;

12 (II) adopted by a lineal descend-
 13 ant of the grandparent; or

14 (III) a lineal descendant of an in-
 15 dividual described in subclause (I) or
 16 (II).

17 (5) FIREARM.—The term “firearm”—

18 (A) has the meaning given the term in sec-
 19 tion 5845 of the Internal Revenue Code of
 20 1986; and

21 (B) does not include—

22 (i) any device described in section
 23 5845(f)(1) of the Internal Revenue Code of
 24 1986; or

25 (ii) any combination of parts—

1 (I) designed or intended for use
 2 in converting any device into a device
 3 described in clause (i); or

4 (II) from which a device de-
 5 scribed in clause (i) may be readily
 6 assembled.

7 (6) NATIONAL FIREARMS REGISTRATION AND
 8 TRANSFER RECORD.—The term “National Firearms
 9 Registration and Transfer Record” means the Na-
 10 tional Firearms Registration and Transfer Record
 11 established under section 5841 of the Internal Rev-
 12 enue Code of 1986.

13 (7) QUALIFYING FIREARM.—

14 (A) IN GENERAL.—The term “qualifying
 15 firearm” means any firearm that was ac-
 16 quired—

17 (i) before October 31, 1968; and

18 (ii) by a veteran, while the veteran
 19 was—

20 (I) a member of the Armed
 21 Forces; and

22 (II) stationed outside the conti-
 23 nental United States.

24 (B) PRESUMPTION OF VALIDITY.—In the
 25 absence of clear and convincing evidence to the

1 contrary, the Attorney General shall accept as
2 true and accurate any affidavit, document, or
3 other evidence submitted by an individual to es-
4 tablish that a firearm meets the requirements
5 of subparagraph (A).

6 (8) VETERAN.—The term “veteran” has the
7 meaning given that term in section 101(2) of title
8 38, United States Code.

9 (b) REGISTRATION.—Subject to such regulations as
10 the Attorney General may prescribe, during the amnesty
11 period an applicable veteran or a member of the family
12 of the applicable veteran who owns and possesses a quali-
13 fying firearm may register the qualifying firearm in the
14 National Firearms Registration and Transfer Record.

15 (c) HEARINGS.—If the Attorney General determines
16 that an individual may not register a firearm under sub-
17 section (b) during the amnesty period, the Attorney Gen-
18 eral, on the request of the individual, shall—

19 (1) provide the individual any evidence on which
20 the decision by the Attorney General is based; and

21 (2) promptly hold a hearing to review the deter-
22 mination.

23 (d) LIMITED IMMUNITY.—

1 (1) CRIMINAL LIABILITY UNDER TITLE 18.—An
2 individual who registers a qualifying firearm under
3 subsection (b)—

4 (A) shall be treated, for purposes of sub-
5 sections (a)(3) and (o) of section 922 of title
6 18, United States Code, as having lawfully ac-
7 quired and possessed the qualifying firearm be-
8 fore the date of the enactment of chapter 44 of
9 such title and of each provision of such chapter;
10 and

11 (B) shall not be liable for any violation of
12 such chapter that—

13 (i) is based solely on the ownership,
14 possession, transportation, importation, or
15 alteration of the qualifying firearm by the
16 individual; and

17 (ii) occurred at or before the time at
18 which the individual registered the quali-
19 fying firearm.

20 (2) CRIMINAL LIABILITY UNDER INTERNAL
21 REVENUE CODE.—Except as provided in paragraph
22 (3), an individual who registers a qualifying firearm
23 under subsection (b) shall not be liable for a viola-
24 tion of chapter 53 or 75 of the Internal Revenue
25 Code of 1986 with respect to the qualifying firearm

1 that occurred at or before the time at which the in-
2 dividual registered the qualifying firearm.

3 (3) TRANSFER TAX LIABILITY.—Paragraph (2)
4 shall not affect the liability of any individual for any
5 transfer tax imposed under section 5811 of the In-
6 ternal Revenue Code of 1986.

7 (4) ATTEMPTS TO REGISTER.—In the case of
8 an applicable veteran or a member of the family of
9 the applicable veteran who attempts to register a
10 qualifying firearm in the National Firearms Reg-
11 istration and Transfer Record at a time other than
12 during the amnesty period, paragraphs (1), (2), and
13 (3) shall apply with respect to the individual if the
14 individual surrenders the qualifying firearm to a law
15 enforcement agency not later than 30 days after no-
16 tification by the Attorney General of potential crimi-
17 nal liability for continued possession of the quali-
18 fying firearm.

19 (e) FORFEITURE.—A qualifying firearm registered
20 under subsection (b) shall not be subject to seizure or for-
21 feiture under chapter 53 or 75 of the Internal Revenue
22 Code of 1986 or chapter 44 of title 18, United States
23 Code, for a violation of any such chapter with respect to
24 the qualifying firearm that occurred at or before the time
25 at which the individual registered the firearm.

1 (f) NOTICE; FORMS; MAILBOX RULE.—

2 (1) NOTICE OF AMNESTY PERIOD.—The Attor-
3 ney General shall provide clear printed notices pro-
4 viding information regarding the amnesty period and
5 registering a qualifying firearm during the period.
6 To the extent feasible, the Attorney General shall
7 ensure that the notices are posted in post offices,
8 law enforcement buildings, buildings of the Depart-
9 ment of Veterans Affairs, and businesses of licensed
10 firearms dealers.

11 (2) FORMS.—The Attorney General shall make
12 available any forms necessary for registering a fire-
13 arm in the National Firearms Registration and
14 Transfer Record. To the extent feasible, the Attor-
15 ney General shall make such forms available in the
16 locations referred to in paragraph (1) and through
17 the website of the Bureau of Alcohol, Tobacco, Fire-
18 arms, and Explosives.

19 (3) MAILBOX RULE.—For purposes of this sec-
20 tion, the Attorney General shall treat any form that
21 is postmarked during the amnesty period as being
22 received during the amnesty period.

23 **SEC. 3. TRANSFER OF FIREARMS TO MUSEUMS.**

24 (a) TRANSFER OF FORFEITED CURIO OR RELIC
25 FIREARMS TO MUSEUMS.—

1 (1) DEFINITIONS.—In this subsection:

2 (A) CURIO OR RELIC FIREARM.—The term
3 “curio or relic firearm” means any firearm (as
4 defined in section 2(a)(5)) that is treated as a
5 curio or relic under chapter 44 of title 18,
6 United States Code.

7 (B) QUALIFIED MUSEUM.—The term
8 “qualified museum” means—

9 (i) any museum owned or operated by
10 the Federal Government or a State or local
11 government; and

12 (ii) any museum that—

13 (I) is open to the public;

14 (II) is incorporated as a non-
15 profit corporation under applicable
16 State law;

17 (III) may possess a firearm in
18 the collection of the museum under
19 the laws of the State in which the col-
20 lection is displayed;

21 (IV) holds a license under chap-
22 ter 44 of title 18, United States Code,
23 as a collector of curios or relics; and

24 (V) certifies to the Attorney Gen-
25 eral that—

1 (aa) the museum is not en-
2 gaged in the trade or business of
3 buying or selling curio or relic
4 firearms;

5 (bb) with respect to the
6 transfer of any curio or relic fire-
7 arm under paragraph (2), the
8 museum is not requesting the
9 transfer of the curio or relic fire-
10 arm for purpose of sale; and

11 (cc) the museum shall, not
12 later than 90 days after the mu-
13 seum ceases operations, file an
14 application pursuant to chapter
15 53 of the Internal Revenue Code
16 of 1986 to transfer any machine-
17 gun transferred to the museum
18 under paragraph (2) to an entity
19 or person who may lawfully pos-
20 sess the machinegun under sec-
21 tion 922(o) of title 18, United
22 States Code, or abandon the ma-
23 chinegun to Federal, State, or
24 local law enforcement authorities.

1 (2) TRANSFER.—The Attorney General shall
2 transfer each curio or relic firearm that is forfeited
3 to the United States to the first qualified museum
4 that submits a request for the curio or relic firearm
5 in such form and manner as the Attorney General
6 may specify.

7 (3) DESTRUCTION OF FORFEITED CURIO OR
8 RELIC FIREARMS PROHIBITED.—The Attorney Gen-
9 eral shall not destroy any curio or relic firearm that
10 is forfeited to the United States until the end of the
11 5-year period beginning on the date of the forfeiture.

12 (4) CATALOGUE OF CURIO OR RELIC FIRE-
13 ARMS.—With respect to each curio or relic firearm
14 that is available to be transferred to a qualified mu-
15 seum under paragraph (2), the Attorney General
16 shall, not later than 60 days after the date of the
17 forfeiture of the curio or relic firearm, publish infor-
18 mation which identifies the curio or relic firearm (in-
19 cluding a picture) on the website of the Bureau of
20 Alcohol, Tobacco, Firearms, and Explosives. The in-
21 formation shall be available to the public without
22 cost and without restriction.

23 (5) REGISTRATION OF CURIO OR RELIC FIRE-
24 ARMS.—Any curio or relic firearm transferred under
25 paragraph (2) to a qualified museum shall be reg-

1 istered to the transferee in the National Firearms
2 Registration and Transfer Record.

3 (b) TRANSFER OF MACHINEGUNS TO MUSEUMS.—
4 Section 922(o)(2) of title 18, United States Code, is
5 amended—

6 (1) in subparagraph (A), by striking “or” at
7 the end;

8 (2) by redesignating subparagraph (B) as sub-
9 paragraph (C); and

10 (3) by inserting after subparagraph (A) the fol-
11 lowing:

12 “(B) a transfer to or by, or possession by,
13 a museum that is open to the public and incor-
14 porated as a nonprofit corporation under appli-
15 cable State law; or”.

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