

## 18 U.S. Code § 922 - Unlawful acts

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**(g)** It shall be unlawful for any person—

- (1)** who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;
- (2)** who is a fugitive from justice;
- (3)** who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- (4)** who has been adjudicated as a mental defective or who has been committed to a mental institution;
- (5)** who, being an alien—
  - (A)** is illegally or unlawfully in the United States; or
  - (B)** except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(26)));
  - (6)** who has been discharged from the Armed Forces under dishonorable conditions;
  - (7)** who, having been a citizen of the United States, has renounced his citizenship;
  - (8)** who is subject to a court order that—
    - (A)** was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
    - (B)** restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and
    - (C)**
      - (i)** includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
      - (ii)** by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or
    - (9)** who has been convicted in any court of a misdemeanor crime of domestic violence, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

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**(t)**

- (1)** Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—
  - (A)** before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;
  - (B)**
    - (i)** the system provides the licensee with a unique identification number; or
    - (ii)** 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

**(C)** the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028 (d) of this title) of the transferee containing a photograph of the transferee.

**(2)** If receipt of a firearm would not violate subsection (g) or (n) or State law, the system shall—

**(A)** assign a unique identification number to the transfer;

**(B)** provide the licensee with the number; and

**(C)** destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

**(3)** Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

**(A)**

**(i)** such other person has presented to the licensee a permit that—

**(I)** allows such other person to possess or acquire a firearm; and

**(II)** was issued not more than 5 years earlier by the State in which the transfer is to take place; and

**(ii)** the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

**(B)** the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

**(C)** on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because—

**(i)** the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

**(ii)** the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

**(iii)** there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

**(4)** If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

**(5)** If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than \$5,000.

**(6)** Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

**(A)** for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

**(B)** for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

## 18 U.S. Code § 921 - Definitions

(a) As used in this chapter—

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**(20)** The term “crime punishable by imprisonment for a term exceeding one year” does not include—

- (A)** any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or
- (B)** any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

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**(33)**

**(A)** Except as provided in subparagraph (C), <sup>[2]</sup> the term “misdemeanor crime of domestic violence” means an offense that—

- (i)** is a misdemeanor under Federal, State, or Tribal <sup>[3]</sup> law; and
- (ii)** has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

**(B)**

**(i)** A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

**(I)** the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

**(II)** in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

**(aa)** the case was tried by a jury, or

**(bb)** the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

**(ii)** A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

**(21)** The term “engaged in the business” means—

**(C)** as applied to a dealer in firearms, as defined in section 921 (a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;