U.S. Attorney's Office, District of Maine

OCTOBER 2023

FEDERAL FIREARMS STATUTES

Elements for Federal Prosecution

INTRODUCTION

Fortunately, Maine has historically experienced a violent crime rate well below the national average. Nonetheless, every effort must be made to further reduce violence to ensure that all Mainers are safe in our neighborhoods, schools, places of business and employment, and in our homes. Because Solutions to the root causes of violence require a focused, collaborative national and local effort.

To that end, the Department of Justice and the U.S. Attorney's Office in Maine have instituted Project Safe Neighborhoods (*PSN Maine*), an initiative designed to prevent, disrupt, and reduce violence. Maine's PSN Team includes representatives from local and state law enforcement, domestic violence groups, schools, civic groups and business works to develop a comprehensive strategy to address this issue. Part of this strategy includes support for state and local law enforcement agencies with specialized teams that address violent crime throughout the state and an aggressive enforcement policy for the coordinated prosecution of all firearm crime.

This booklet is designed to offer a concise summary of some of the federal statutes which can be used to prosecute violent offenders in Maine. It is not exhaustive; however, it describes the principal available federal statutes. By distributing this information, we hope to generate referrals of cases to our office or the appropriate federal agency and hence assist state prosecutors and law enforcement personnel in their efforts to combat violent crime within Maine.

Thank you for your partnership and interest in keeping Maine safe. Please do not hesitate to contact my office if you have any questions about the applicability of any of these statutes to specific situations.

Darcie N. McElwee
United States Attorney

FREQUENTLY ENCOUNTERED FEDERAL FIREARM OFFENSES

Definition of a Firearm

For purposes of § 922 and § 924 violations 18 U.S.C. § 921(a)(3) defines a "firearm" as:

A. any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

B. the frame or receiver of any such weapon;

C. any firearm muffler or firearm silencer; or

D. any destructive device. Such term does not include an antique firearm.

This broad definition encompasses not only operable firearms but those that have been disassembled or dismantled or altered in such a way that they are inoperable at the time of the offense. For example, this definition has been found to include a firearm with the hammer filed down because it could be "readily converted" to expel a projectile. *United States v. Ruiz*, 986 F.2d 905 (5th Cir. 1993). This same justification applies for including starter guns within the definition of a firearm. "Firearm" is defined differently for violations of 26 U.S.C. § 5861. See 26 U.S.C. § 5845 (a) and Appendix.

Possession of Prohibited Firearms

While there are a number of exceptions, federal law prohibits the possession of firearms with obliterated serial numbers and machine guns manufactured after May 19, 1986. See 18 U.S.C. § 922 (k), (o). In addition, unless registered to the possessor in the National Firearms Registration and Transfer Record, it is generally unlawful to possess short-barreled shotguns (defined as one with a barrel length of less than 18" or overall length less than 26"), short-barreled rifles (defined as one with a barrel length of less than 16" or overall length less than 26"), machine guns, silencers, and destructive devices. See 26 U.S.C. §§ 5845, 5861.

Penalties for Possessing a Prohibited Firearm

The statutory maximum for knowingly possessing a firearm with an altered serial number is five years and/or $250,000. 18 U.S.C. § 924 (a)(1)(B). Under the sentencing guidelines, a defendant with no prior record and one gun would likely receive approximately 15-21 months for possessing a sawed-off shotgun or a firearm with an altered serial number. A defendant with a substantial record including at least one conviction for drug trafficking or a crime of violence is eligible for a sentence of approximately 70-87 months for the same offense. Possessing an unregistered silencer, short barreled rifle, short barreled shotgun, destructive device or a sawed-off shotgun is punishable by a fine of up to $10,000 and/or 10 years in prison. 26 U.S.C. § 5871. For the possession of a machine gun manufactured after May 19, 1986, the statutory maximum is 10 years and/or $250,000. 18 U.S.C. § 924(a)(2).

Possession of Firearms by Prohibited Person

Possession of a firearm by a "prohibited person" is illegal. Under 18 U.S.C. § 922 (g) there are nine categories of prohibited persons. Generally, they include:

- felons;
- fugitives;
- unlawful users of or addicts to a controlled substance;
- persons who have been adjudicated as mentally "defective" or who have been involuntarily committed to a mental institution;
- illegal aliens and non-immigrant aliens;
- persons dishonorably discharged from the armed forces;
- persons who have renounced their U.S. citizenship;
- persons who are the subject of a qualifying domestic protection order; and
- persons convicted of a misdemeanor crime of domestic violence.

A prohibited person cannot possess, ship, transport or receive a firearm or ammunition that has traveled in interstate commerce. While this booklet cannot cover every nuance of these categories, some clearly warrant further explanation.

Felon in possession - 18 U.S.C. § 922(g)(1)

Felon in possession charges are considered for all individuals in possession of firearms who have been previously convicted of a felony and special attention is given to individuals who have been convicted of crimes of violence or serious drug transactions. Under this category, generally anyone who has been convicted of a crime punishable by more than one year in prison is a prohibited person.

Similarly, a person under indictment for a crime punishable by more than a year is prohibited from receiving a firearm. 18 U.S.C. § 922 (n).

In federal court, it is not enough to merely introduce a prior conviction — you must show that the defendant is the individual convicted. This can be done through stipulation, fingerprint or signature cards, date of birth or social security number, and testimony of the arresting officer for the prior charge, or the testimony of the defendant's parole or probation officer.

Unlawful user of or addict to a controlled substance

18 U.S.C. § 922 (g) (3) and case law do not provide clear guidance on who is considered to be an unlawful user of or addict to a controlled substance. The Bureau of Alcohol, Tobacco, Firearms and Explosives regulations require that the use must have occurred "recently enough to indicate that the individual is actively engaged in such conduct." 27 C.F.R. pt 178.11.

This statute has survived constitutional void for vagueness challenges. *United States v. Edwards*, 540 f.3d 1156, 1162 (10th Cir. 2008). While courts do not require contemporaneous use, a temporal nexus is required between the drug use and the firearm possession. *United States v. Burchard*, 580 F.3d 341, 352 (6th Cir. 2009). Courts now examine the "pattern and recency" of the defendant's drug use in determining if there is a temporal nexus between the possession of the firearm and drug use.

Obviously, the easiest method of demonstrating drug use is to question the defendant regarding his or her drug use habits." Use" also may be demonstrated through drug tests and arrest records. If a defendant is found with a small quantity of drugs and a gun, good police work is essential in determining the most appropriate charge. If the defendant says that drugs are only for personal use, he or she may be charged under § 922(g)(3). If the defendant is a distributor, then § 924 (c) may apply.

Domestic violence prohibitions, 18 U.S.C. §§ 922(g)(8) and (g)(9)

Congress passed the domestic violence-related firearm prohibitions (18 U.S.C. §§ 922(g)(8) and (g)(9)) out of concern for the number of domestic violence assaults that can and do escalate into firearm homicides and out of a hope that keeping domestic violence perpetrators from possessing guns would save the lives of victims of domestic violence. The U.S. Attorney's Office is committed to prosecuting domestic violence-based federal gun violations, including violations of 18 U.S.C. § 922(g)(8) - possession of a firearm by a person under a qualifying protection order, and 18 U.S.C. § 922 (g)(9) - possession of a firearm by a person convicted of a misdemeanor crime of domestic violence. Recently, the First Circuit held in *United States v. Minor*, 63 F.4th 112, 118 n.4 (1st Cir. 2023) (en banc) that a conviction under § 922(g)(9) requires the government to prove that, (i) the defendant had been previously convicted of an offense that "is a misdemeanor under Federal, State, or Tribal law"; (ii) that his prior conviction required proof beyond a reasonable doubt that the defendant "use[d] or attempted [to] use . . . physical force"; and (iii) the victim of that offense was, at the time of the offense, in one of the statutorily defined domestic relationships with the defendant. 18 U.S.C. § 921(a)(33)(A). Physical force, in this context, tracks the Castleman definition: "intentionally, knowingly, or recklessly causing bodily injury or offensive physical contact to another person." *See U.S. v. Castleman*, 572 U.S. 157, 134, S. Ct., 188 L.Ed.2d 426 (2014).

Questions regarding the applicability of these provisions should be referred to an Assistant United States Attorney.

Penalties for Possession by A Prohibited Person

Absent sentencing enhancements for armed career criminals, 18 U.S.C. § 924(a)(2) provides that the maximum penalty for most prohibited persons in possession of a firearm is 10 years and $250,000. The outcome in most cases will be determined by the sentencing guidelines. A prohibited person who is found in possession of one gun but who has no prior record will likely receive approximately 15-21 months. A prohibited person with a substantial record that includes one conviction for a crime of violence or drug trafficking is eligible for a sentence of approximately 70-87 months.

Armed career criminals receive enhanced penalties in the federal system. This office considers the prosecution of armed career criminals to be of the highest importance. An armed career criminal is a person who has three or more convictions for a serious drug offense or a felony crime of violence, which includes crimes that have, as an element, the use, attempted use or threatened use of physical force against the person of another. A defendant who falls into this category faces a mandatory minimum of 15 years imprisonment under 18 U.S.C. § 924(e).

The Commerce Clause and a Prohibited Person

In order to establish federal jurisdiction in § 922 cases, the gun involved must have traveled in interstate or foreign commerce. For firearms cases the prosecutor needs to show only that the firearm or ammunition crossed a state line at some point in its history. For example, if the firearm was manufactured in Michigan and is recovered in Maine, the interstate nexus requirement has been satisfied. If the firearm was made in Maine and recovered in Maine, but the prosecutor can demonstrate that it was used to commit a crime in Maryland 10 years ago, this too will suffice. The best way to establish that the gun has traveled in interstate commerce is to contact the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), which can trace crime guns to determine the location of manufacture and/or subsequent sale.

Use of a Firearm in Drug Trafficking or Violent Crimes

The prosecution of defendants who use a firearm in connection with a crime of violence or with a drug trafficking crime is a priority for this office. A person who "uses or carries" a firearm during or in relation to, or possesses a firearm "in furtherance of," drug trafficking or a crime of violence that can be prosecuted in federal court may receive enhanced penalties under 18 U.S.C. § 924(c). Most of the cases arising out of this statute have centered on the definitions of "use," carry," and "in furtherance of." In an unpublished First Circuit opinion (*United States v. Dolliver*, July 2007), the Court found that bartering drugs for firearms was sufficient to prove a violation of §924(c)(1)(A)(i).

Meaning of "Use" under § 924(c)

Courts have determined that "use" of a firearm requires something more than mere possession; it requires active employment of the weapon. *Bailey v. United States*, 516 U.S. 137, 149 (1995) defines active employment to include: "brandishing, displaying, battering, striking with, and most obviously, firing or attempting to fire a firearm." The *Bailey* court also notes that "use" can mean "to convert to one's service," "employ," "avail oneself of," and to make "reference to" if referring to the firearm is calculated to make the transaction easier.

For example, a drug dealer who keeps a firearm in the closet during a drug transaction cannot be said to have "used" the firearm unless he makes reference to the weapon during the transaction. However, this same section also prohibits possession of a firearm "in furtherance of " drug trafficking. Under the "fortress theory," if the defendant uses a firearm to protect the house in which drugs or the proceeds of drugs are kept, he could be guilty of possession in furtherance of drug trafficking.

Meaning of "Carry" under § 924(c)

The federal circuits have varying definitions of "carry." All circuits agree that carrying requires knowing possession and transportation of the firearm. *United States v. Mitchell*, 104 F.3d 494, 653 (4th Cir. 1997). However, the First, Second, Sixth and Ninth circuits also require that the firearm be readily accessible. *See United States v. Ramirez-Ferrer*, 82 F.3d 1149, 1153-4 (1st Cir. 1996); *United States v. Cruz-Rojas*, 101 F.3d 283 (2d Cir. 1996); *United States v. Riascos-Suarez*, 73 F.3d 616, 623 (6th Cir. 1996); *United States v. Hernandez*, 80 F.3d 1253, 1257-8 (9th Cir. 1996).
In a jurisdiction that requires that the firearm be accessible, transporting a gun in the trunk of a car will not qualify as carrying because the defendant does not have easy access to the weapon.

Meaning of "in furtherance of"

One of the principal cases in determining the definition and scope of "in furtherance of" is *United States v. Ceballos-Torres*, 218 F.3d 409 (5th Cir. 2002). Possession of a firearm is "in furtherance of" a drug trafficking crime "when it furthers, advances, or helps forward that offense." Id. at 411.

First, an accessible gun provides defense against anyone who may attempt to rob the trafficker of his drugs or drug profits. Second, possession of a gun, and letting everyone know that you are armed, lessens the chance that a robbery will even be attempted. Third, having a gun accessible during a transaction provides protection in case a drug deal in the apartment turns sour. Fourth, the visible presence of a gun during the transaction may prevent the deal from turning sour in the first place. Fifth, having a gun may allow the drug trafficker to defend 'turf,' areas of the street from which lower level dealers operate for the trafficker. There may be other ways. *Id*. at 412.

§ 924 (c) Does Not Require The Gun to Have Traveled in Interstate Commerce

Because the underlying offense (drug trafficking or a crime of violence over which there is federal jurisdiction) is prosecutable in federal court, there is no interstate nexus requirement for the gun itself.

Offense	Penalty
Standard case	Not less than 5 years
Brandishing the firearm	Not less than 7 years
Discharging the firearm	Not less than 10 years
A short barreled rifle or shotgun	Not less than 10 years
A machine gun, destructive device or silencer	Not less than 30 years
Second or subsequent conviction	Not less than 25 years
Second or subsequent conviction and the gun is a machine gun, destructive device or silencer	LIFE

The Penalties for a Violation of § 924(c)

Penalties under this section vary depending on the type of firearm, how the firearm was used and whether the offense is the defendant's first violation. All sentences under this section must be served consecutively to any other sentence, and offenders are not eligible for probation. Under federal law, the second conviction does not have to be the result of a separate incident.

THE BRADY ACT

The Brady Act obligates law enforcement officials to conduct background checks before someone can purchase a handgun from a gun dealer. Under the Brady Act, it is unlawful for any licensed dealer to sell, deliver or transfer a handgun to an individual who is not licensed unless there is compliance with the Brady Act waiting period. Violation of this statute carries a penalty of not more than one year imprisonment, as well as a $1,000 fine. *See* 18 U.S.C. §§922(s)(1) and 924(a)(5).

Also, any person who makes a false statement to a licensed dealer in connection with the acquisition of a firearm shall be punished by imprisonment for no more than ten years. *See* 18 U.S.C. §§922(a)(6) and 924(a)(2). A false statement can include:

name, age, address, date of birth, identification number, and status as convicted felon, fugitive, unlawful user of or addict to controlled substance, prior commitment to a mental institution, illegal alien, dishonorable discharge from the military, status as U.S. citizen who has renounced citizenship, being subject to certain protection orders and having been convicted of a misdemeanor crime of domestic violence. False statements can also include the representation that the purchaser is the real intended owner of the firearm when the purchaser is actually making a "straw" purchase for someone else.

Although this is a crime separate and apart from the Brady Act, every time a Brady background check establishes that a handgun should not be sold to the prospective purchaser, the prospective purchaser has falsified the form and, accordingly, the false statement statute has been violated.

DRUG-RELATED HOME INVASIONS

Armed drug-related robberies, especially home invasion robberies, are appropriate cases for federal prosecution and will be prosecuted where federal jurisdiction exists and where acceptable sentencing criteria are present. Federal jurisdiction can be predicated on the commission of a drug offense as part of the robbery or on the armed defendant's felony record. For example, where two or more people agree to break into a home and steal a distributable quantity of drugs, they have committed a drug conspiracy. If a gun is carried in the execution of the plan, they have violated 18 U.S.C. §924(c), which carries a mandatory five-year sentence consecutive to any other sentence imposed. If the robber is a felon, the case is prosecutable as a firearm felon case.

Home invasion cases that are accepted for federal prosecution include those in which the defendant is an armed career criminal, a career offender or a major drug dealer. In addition, most cases in which there is a provable 924(c) case will be accepted for federal prosecution.

STRAW PURCHASE, 18 U.S.C. § 932

It is against federal law for any person to knowingly purchase a firearm on behalf of any other person, knowing or having reasonable cause to believe that such other person— meets the criteria of 1 or more paragraphs of section 922(d), intends to use, carry, possess, or sell or otherwise dispose of the firearm in furtherance of a felony, a Federal crime of terrorism, or a drug trafficking crime, or intends to sell or otherwise dispose of the firearm to a person described in paragraph (1) or (2).

Any person who violates section 932 shall be imprisoned for not more than 15 years, or both. If a violation of subsection (b) is committed knowing or with reasonable cause to believe that any firearm involved will be used to commit a felony, a Federal crime of terrorism, or a drug trafficking crime, the person shall be sentenced to a term of imprisonment of not more than 25 years.

COMMERCIAL ROBBERIES - HOBBS ACT, 18 U.S.C. § 1951

It is against federal law to interfere with interstate commerce by means of extortion or robbery. The Hobbs Act, 18 U.S.C. §1951, is a traditional tool in combating organized crime. However, prosecution under the Hobbs Act is also available where the defendant interferes with commerce by means of a robbery. If a person robs a business that is engaged in interstate commerce, then it is possible to charge that individual with a violation of the Hobbs Act. Of course, if the robber in any particular situation carries or uses a firearm in the commission of the offense, we also have the traditional firearms statutes which can be used to prosecute the violator federally. To the extent permissible, our office will vigorously prosecute anyone who uses a firearm in the commission of a robbery.

JUVENILES

Youth Handgun Safety, 18 U.S.C. § 922(x)

The Violent Crime Control Act makes it a federal offense for a juvenile under 18 years of age to knowingly possess a handgun or handgun ammunition. The Act also makes it unlawful to transfer a handgun or handgun ammunition to a person the transferor knows or has reasonable cause to believe is under 18 years of age.

These provisions are subject to a number of exceptions, such as for the armed forces, ranching, farming, hunting and other specified uses. Some exceptions require the juvenile to be in possession of the prior written consent of his or her parent or guardian. The penalty for possession of a handgun or handgun ammunition by a juvenile is probation if the juvenile has never been convicted of an offense or adjudicated a juvenile delinquent for an offense. Otherwise, the maximum penalty for a juvenile is one year of imprisonment.

The penalty for an adult who transfers a handgun or handgun ammunition to a juvenile is ordinarily a maximum of one year of imprisonment. However, if the violator knew or had reasonable cause to know that the juvenile intended to possess or use a handgun or ammunition in a crime of violence, the maximum penalty is 10 years imprisonment.

Guns In School, 18 U.S. C. § 922(q)(2)(A)

The reduction of gun violence and gun possession in schools is also a priority of this Office. Accordingly, any individual who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone (on school grounds or public property within 1,000 feet of school grounds) violates 18 U.S. C. § 922(q)(2)(A) and faces a maximum of five years imprisonment. See enumerated exceptions listed in § 922(q)(2)(A).

CONTACTS

Our office telephone numbers and the names of supervisory attorneys and staff who handle violent crime are as follows:

U.S. Attorney's Office
Portland: (207) 780-3257

Darcie McElwee, United States Attorney
Craig Wolff, First Assistant U.S. Attorney
Todd Lowell, Chief, Criminal Division
Counties: *Androscoggin, Cumberland, Knox, Lincoln, Oxford, Sagadahoc, York*
Johnathan Nathans, AUSA, *Project Safe Neighborhoods* Coordinator
Nicholas Heimbach, AUSA, VAWA Coordinator
Heather Putnam, Strategic Engagement & Law Enforcement Coordinator
Rachel Leonard, Victim Witness Specialist

Bangor: (207) 945-0373

Joel Casey, Supervisory AUSA
Counties: *Aroostook, Franklin, Hancock, Kennebec, Penobscot, Piscataquis, Somerset, Waldo, Washington*
Karan Wotton, Victim Witness Specialist

Federal Agencies

ATF:	(207) 780-3324 (Portland) (207) 262-6046 (Bangor)	DEA:	(207) 780-3331 (Portland) (207) 262-4666 (Bangor)
FBI:	(207) 541-0700 (Portland) (207) 947-6670 (Bangor) (207) 622-2902 (Augusta)	USMS:	(207) 780-3355 (Portland) (207) 945-0416 (Bangor)

As we have noted throughout, any questions regarding the applicability of any of these statutes to specific situations should be referred to the Criminal Chief or an Assistant U.S. Attorney. By distributing this information, we hope to generate referrals of appropriate cases to our office, the violent crime task forces or the appropriate federal agency, and, through the imposition of significant federal sentences, assist state prosecutors and law enforcement personnel in their efforts to combat violent crime within our state.

APPENDIX

18 U.S.C. § 842. Unlawful Acts: Explosives

(a) It shall be unlawful for any person -

(1) to engage in the business of importing, manufacturing, or dealing in explosive materials without a license issued under this chapter;

(2) knowingly to withhold information or to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the provisions of this chapter; and

(3) other than a licensee or permittee knowingly -

(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials, except that a person who lawfully purchases explosive materials from a licensee in a State contiguous to the State in which the purchaser resides may ship, transport, or cause to be transported such explosive materials to the State in which he resides and may receive such explosive materials in the State in which he resides, if such transportation, shipment, or receipt is permitted by the law of the State in which he resides; or

(B) to distribute explosive materials to any person (other than a licensee or permittee) who the distributor knows or has reasonable cause to believe does not reside in the State in which the distributor resides.

(b) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person except:

(1) a licensee;

(2) a permittee; or

(3)a resident of the State where distribution is made and in which the licensee is licensed to do business or a State contiguous thereto if permitted by the law of the State of the purchaser's residence.

(c) It shall be unlawful for any licensee to distribute explosive materials to any person who the licensee has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into it or to receive explosive materials in it.

(d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:

(1) is under twenty-one years of age;

(2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(3) is under indictment for a crime punishable by imprisonment for a term exceeding one

year;

(4) is a fugitive from justice;

(5) 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)); or

(6) has been adjudicated a mental defective.

(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

(f) It shall be unlawful for any licensee or permittee willfully to manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Secretary may by regulation require, including, but not limited to, a statement of intended use, the name, date, place of birth, social security number or taxpayer identification number, and place of residence of any natural person to whom explosive materials are distributed. If explosive materials are distributed to a corporation or other business entity, such records shall include the identity and principal and local places of business and the name, date, place of birth, and place of residence of the natural person acting as agent of the corporation or other business entity in arranging the distribution.

(g) It shall be unlawful for any licensee or permittee knowingly to make any false entry in any record which he is required to keep pursuant to this section or regulations promulgated under section 847 of this title.

(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.

(i) It shall be unlawful for any person -

(1) who is under indictment for, or 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)); or

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) to ship or transport any explosive in interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in interstate or foreign commerce.

(j) It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Secretary. In promulgating such regulations, the Secretary shall take into consideration the class, type, and quantity of explosive materials to be stored, as well

as the standards of safety and security recognized in the explosives industry.

(k) It shall be unlawful for any person who has knowledge of the theft or loss of any explosive materials from his stock, to fail to report such theft or loss within twenty-four hours of discovery thereof, to the Secretary and to appropriate local authorities.

(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

(m) (1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

(n) (1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

(2) This subsection does not apply to -

(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by any person during the period beginning on that date and ending 3 years after that date of enactment; or

(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of this subsection, to fail to report to the Secretary within 120 days after such date of enactment the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may prescribe by regulation.

(p) Distribution of Information Relating to Explosives, Destructive Devices, and Weapons of Mass Destruction. -

(1) Definitions. - In this subsection -

(A) the term "destructive device" has the same meaning as in section 921(a)(4);

(B) the term "explosive" has the same meaning as in section 844(j); and

(C) the term "weapon of mass destruction" has the same meaning as in section 2332a(c)(2).

(2) Prohibition. - It shall be unlawful for any person -

(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence; or

(B) o teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

18 U.S.C. § 921. Definitions

(a) As used in this chapter -

(3) The term "firearm" means -

(A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
(B) the frame or receiver of any such weapon;
(C) any firearm muffler or firearm silencer; or
(D) any destructive device. Such term does not include an antique firearm.

(4) The term "destructive device" means -

(A) any explosive, incendiary, or poison gas -

a. bomb,
b. grenade,

(iii) rocket having a propellant charge of more than four ounces,
(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,
(v) mine, or
(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from

which a destructive device may be readily assembled. The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Secretary of the Treasury finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(5) The term "shotgun" means a weapon designed or redesigned made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term "short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.

(7) The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term "short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty- six inches.

...

(14) The term "indictment" includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(15) The term "fugitive from justice" means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

...

(17) (A) The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

(B) The term "armor piercing ammunition" means -

(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

(C) The term "armor piercing ammunition" does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Secretary finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Secretary finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

...

(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.

...

(23) The term "machine gun" has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

(24) The terms "firearm silencer" and "firearm muffler" mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

...

(28) The term "semi-automatic rifle" means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(29) The term "handgun" means -

(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

...

(32) The term "intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the

person, and an individual who cohabitates or has cohabited with the person.

(33)(A) Except as provided in subparagraph (C), the term "misdemeanor crime of domestic violence" means an offense that -

(i) is a misdemeanor under Federal, State, Tribal, or local 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.

...

18 U.S.C. § 922. Unlawful acts

(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 non-immigrant 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.
...
(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.
...
(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o) (1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machine gun.
...
(q)(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm - (i) on private property not part of school grounds; (ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license; (iii) that is - (I) not loaded; and (II) in a locked container, or a locked firearms rack that is on a motor vehicle; (iv) by an individual for use in a program approved by a school in the school zone; (v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual; (vi) by a law enforcement officer acting in his or her official capacity; or (vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities. (3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone. (B) Subparagraph (A) does not apply to the discharge of a firearm - (i) on private property not part of school grounds; (ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program; (iii) by an individual in accordance with a contract entered into between a school in a school zone and the

individual or an employer of the individual; or (iv) by a law enforcement officer acting in his or her official capacity. (4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

...

(x) (1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile -

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess -

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

18 U.S.C. § 924. Penalties

(a) (1) Except as otherwise provided in this subsection, subsection (b), (c), or (f) of this section, or in section 929, whoever -

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (f), (k) or (r) of section 922;

(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l); or

(D) willfully violates any other provision of this chapter, shall be fined under this title, imprisoned not more than five years, or both.

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

...

(c) (1)

(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime -

(i) be sentenced to a term of imprisonment of not less than 5 years;

(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

(B) If the firearm possessed by a person convicted of a violation of this subsection -

(i) is a short-barreled rifle or short-barreled shotgun, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

(ii) is a machine gun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

(C) In the case of a second or subsequent conviction under this subsection, the person shall -

(i) be sentenced to a term of imprisonment of not less than 25 years; and

(ii) if the firearm involved is a machine gun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

(D) Notwithstanding any other provision of law -

(i) a court shall not place on probation any person convicted of a violation of this subsection; and

(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

(2) For purposes of this subsection, the term "drug trafficking crime" means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)

(3) For purposes of this subsection the term "crime of violence" means an offense that is a felony and -

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(4) For purposes of this subsection, the term "brandish" means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to

another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.

(e) (1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall be fined not more than $25,000 and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).

(2) As used in this subsection -

(A) the term "serious drug offense" means -

(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.) for which a maximum term of imprisonment of ten years or more is prescribed by law; or

(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law;

(B) the term "violent felony" means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that –

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; and

(C) the term "conviction" includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.

(f) In the case of a person who knowingly violates section 922(p), such person shall be fined under this title, or imprisoned not more than 5 years, or both.

(g) Whoever, with the intent to engage in conduct which -

(1) constitutes an offense listed in section 1961(1),

(2) is punishable under the Controlled Substances Act (21 U.S.C. 802 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.),

(3) violates any State law relating to any controlled substance (as defined in section 102(6)

of the controlled Substances Act (21 U.S.C. 802(6))), or

(4) constitutes a crime of violence (as defined in subsection (c)(3)), travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

...
(o) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both; and if the firearm is a machine gun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.

18 U.S.C. § 926B. Carrying of concealed firearms by qualified law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term `qualified law enforcement officer' means an employee of a governmental agency who--

(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

(2) is authorized by the agency to carry a firearm;

(3) is not the subject of any disciplinary action by the agency;

(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

(5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(6) is not prohibited by Federal law from receiving a firearm.

IDENTIFICATION REQUIRED

(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.

WEAPONS PROHIBITED

(e) As used in this section, the term `firearm' does not include--
(1) any machinegun (as defined in section 5845 of the National Firearms Act);
(2) any firearm silencer (as defined in section 921 of this title); and
(3) any destructive device (as defined in section 921 of this title).

18 U.S.C. § 926C. Carrying of concealed firearms by qualified retired law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that-
(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or
(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term `qualified retired law enforcement officer' means an individual who--
(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;
(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;
(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or
(3)(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;
(4) has a nonforfeitable right to benefits under the retirement plan of the agency;
(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;
(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
(7) is not prohibited by Federal law from receiving a firearm.

IDENTIFICATION REQUIRED

(d) The identification required by this subsection is--

(1) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or

(2)(A) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer; and

(2)(B) a certification issued by the State in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

WEAPONS PROHIBITED

(e) As used in this section, the term `firearm' does not include--

(1) any machinegun (as defined in section 5845 of the National Firearms Act);

(2) any firearm silencer (as defined in section 921 of this title); and

(3) a destructive device (as defined in section 921 of this title).

18 U.S.C. § 932. Straw Purchasing of Firearms

(b) Violation. It shall be unlawful for any person to knowingly purchase, or conspire to purchase, any firearm in or otherwise affecting interstate or foreign commerce for, on behalf of, or at the request or demand of any other person, knowing or having reasonable cause to believe that such other person—

(1) meets the criteria of 1 or more paragraphs of section 922(d) [18 USCS § 922(d)];

(2) intends to use, carry, possess, or sell or otherwise dispose of the firearm in furtherance of a felony, a Federal crime of terrorism, or a drug trafficking crime; or

(3) intends to sell or otherwise dispose of the firearm to a person described in paragraph (1) or (2).

c) Penalty.

(1) In general. Except as provided in paragraph (2), any person who violates subsection (b) shall be fined under this title, imprisoned for not more than 15 years, or both.

(2) Use in felonies, crimes of terrorism, or drug trafficking crimes. If a violation of subsection (b) is committed knowing or with reasonable cause to believe that any firearm involved will be used to commit a felony, a Federal crime of terrorism, or a drug trafficking crime, the person shall be sentenced to a term of imprisonment of not more than 25 years.

18 U.S.C. § 1951. Interference with commerce by threats or violence

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section -

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(c) This section shall not be construed to repeal, modify or affect section 17 of Title 15, sections 52, 101-115, 151-166 of Title 29 or sections 151-188 of Title 45.

26 U.S.C. § 5845. Definitions

For the purpose of this chapter -

(a) Firearm
The term ‘‘firearm" means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machine gun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term ‘‘firearm" shall not include an antique firearm or any device (other than a machine gun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

(b) Machine gun
The term ‘‘machine gun'' means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

(c) Rifle
The term ‘‘rifle'' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

(d) Shotgun
The term ‘‘shotgun'' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(e) Any other weapon
The term ‘‘any other weapon'' means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

(f) Destructive device
The term ‘‘destructive device'' means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term ‘‘destructive device'' shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section

4684(2), 4685, or 4686 of title 10 of the United States Code; or any other device which the Secretary finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.
...

26 U.S. C § 5861. Prohibited acts

It shall be unlawful for any person -

a) to engage in business as a manufacturer or importer of, or dealer in, firearms without having paid the special (occupational) tax required by section 5801 for his business or having registered as required by section 5802; or

b) to receive or possess a firearm transferred to him in violation of the provisions of this chapter; or

c) to receive or possess a firearm made in violation of the provisions of this chapter; or

d) to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record; or

e) to transfer a firearm in violation of the provisions of this chapter; or

f) to make a firearm in violation of the provisions of this chapter; or

g) to obliterate, remove, change, or alter the serial number or other identification of a firearm required by this chapter; or

h) to receive or possess a firearm having the serial number or other identification required by this chapter obliterated, removed, changed, or altered; or

i) to receive or possess a firearm which is not identified by a serial number as required by this chapter; or

j) to transport, deliver, or receive any firearm in interstate commerce which has not been registered as required by this chapter; or

k) to receive or possess a firearm which has been imported or brought into the United States in violation of section 5844; or

l) to make, or cause the making of, a false entry on any application, return, or record required by this chapter, knowing such entry to be false.

26 U.S.C. § 5871. Penalties

Any person who violates or fails to comply with any provisions of this chapter shall, upon conviction, be fined not more than $10,000, or be imprisoned not more than ten years, or both.

NOTES

Project Safe Neighborhoods Task Force

Bangor
(207) 262-4694

Portland
(207) 771-3294

psnmaine@usdoj.gov

Darcie N. McElwee
United States Attorney

Portland
100 Middle Street,
East Tower—6th Floor
Portland, ME 04101
(207) 780-3257

Bangor
202 Harlow Street, Room 111
Bangor, ME 04401
(207) 945-0373