

What's REALLY in the National Carry Bill?

HR 38 (Carry) now includes HR 4477 (Fix NICS) and **SURPRISES**

Federal gun-free school-zones removal among others

Part 1: HEADLINES

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Gun Laws of America

<http://www.gunlaws.com/gloa.htm>

The Uninvited Ombudsman Report

<http://www.gunlaws.com/PageNineIndex.htm>

The House passed HR 38, National Carry on Dec. 7 (1,246 words).
It's good but with problems, described below.
(HR 4477, Fix NICS, was nailed on at the last minute, covered separately,
below.)

The Senate's carry-bill version (S 446) is vastly different, it sits idle since
Jan. 2017.
Reporters act like they're the same, just needs a vote, false (only 658
words).

The bills seem to say -- if you can carry concealed in your home state with a
permit, or if you don't need a permit to do so in your state -- you can carry
concealed nationwide. But not quite.

The House bill makes LOCAL PRIVATE "gun-free zones" official federally.

The House bill makes LOCAL STATE "gun-free zones" official federally.

Depending on what those two bans include, where you can carry could be
pretty small. Are local roads or rights-of-way "government property" and
hence subject to bans?

A state like New York, already on record ready to obstruct the law, could
conceivably ban guns on its roads, "government property," and foul up the
entire plan.

Your state can remove itself, you and the nation from the plan by repealing its permit law.

When the bills get combined (IF the Senate votes) we'll get something brand new.

Both parties will argue during conference committee, change things, that's standard.

Some changes are seriously needed, discussed below.

Handguns are redefined, so possession of an empty magazine is possession of a handgun (you read that right).

Possession of ammo for a handgun is also possession of a handgun. Both definitions (magazines, ammo) MUST be fixed.

A loaded ten-round magazine under the House bill would be 11 handguns.

Those parts are bound to be rewritten in committee, or we have trouble. What idiots write these things? I drafted corrective language below. 18 USC §926D(b)(1) and (2) (gun-free zones) should be deleted.

Some really good things are included in the House bill: Bogus gun arrests will get authorities sued, and they pay, with penalties.

Constitutional Carry is recognized nationwide (11 states so far)
<http://www.gunlaws.com/ConstitutionalCarryIndex.htm>

The Clinton-era gun-free-school-zones farce is eliminated for carrying. This has not been mentioned in "news," is bound to be a hot issue.

If I were skeptical I might wonder, if by keeping quiet about **eliminating the federal gun-free-zones ban**, the creation of countless local gun-free school-zone bans might not get noticed.

National land assets are unequivocally open to civil rights -- bearing arms.

Much more -- federal judges allow themselves to carry nationwide without training, permits or anything (leftists are silent about that), bump stocks are defined, the NICS system is evaluated for "results" which don't include

crime control (probably just names added to the list, fast), Indians get swept into the system, it's all explained below.

The most trusted name in news, and the fair and balanced news, carried almost none of this. That's covered as well.

When I get tired of watching the news, I just turn on CNN.

National Carry Part II

What the "news" media has been saying

Inventions, lies, some plain stupidity, astounding

Based on my own media observations and notes, basically, every deceptive complaint the public endured from anti-rights people and so-called "news" media about CCW permit laws as they passed in all 50 states we're hearing repeated for the national carry bill, HR 38. Astounding.

We have the BITS myth (Blood In The Streets) repeated, which never occurred when permits were issued. No apologies or corrections for the false 50-story set were ever issued, the mythology continues. <http://www.gunlaws.com/GunMyths-1.htm>

We were "informed" horrible criminals will suddenly start carrying firearms and shooting indiscriminately (the permits had no impact on armed criminality).

Good people traveling armed will suddenly turn bad, shoot slow waiters and people at stop lights (pure paranoia, never happened), but it is appearing in print, broadcast and online again. Psychologists have suggested it is projection, leftists projecting their own lack of stability, balance and control into the situations.

Studies are circulating how people with permits are an order of magnitude more law-abiding than the general population and even than the police, now thoroughly documented (and ignored by the media and bigots, who cling to their lies and innuendo).

The anti-gunners are complaining, irrationally, that criminal laws will cease to exist or stop operating, allowing criminals to carry, but that is simply silly. Any malfeasance committed with or without a firearm after national carry is enacted remains totally illegal and subject to punishment as it

always has been. It doesn't change based on this bill.

Legal carry will somehow make it harder for authorities to arrest armed criminals, but how or why is not explained, because it can't be. In fact, police authority to stop you on "reasonable suspicion" is reiterated for good measure. The parade of horrors pouring out of the anti-rights movement over HR 38 is predictably either paranoid or irrational. Decades of positive CCW permit experience fails to hold sway, illustrating the irrational nature of the objections.

What does change, omitted in reports, is that people who travel legally within their states and exercise their constitutional rights will be free to travel outside their states with the same legal protection, free from illegal arrest for possession of their private property.

Bigoted or corrupt law-enforcement officers, who swear and then break their oath to uphold the Constitution, can no longer turn law-abiding people into revenue streams, and single them out for peacefully bearing arms. At least in theory.

Some states have already insisted they will disobey the law. For example, "We will fight any federal action that lets visitors bring guns to our streets," according to NYC police commissioner James O'Neill and Cyrus Vance, Manhattan D.A., in a self-righteous and self-contradictory guest editorial *The Wall Street Journal* gave them on 3/23/17. They complained that if the bill passes, "a person could be armed in public without ever having a background check."

Surely they know -- they've described every criminal roaming their streets right now! Maybe they don't know? Can they truly believe this law will invent that? The only change, Messrs. O'Neill and Vance, is that you'll no longer be able to arrest an armed person who *can* pass a background check -- whether they've had one or not! Mere possession of property will no longer be a crime under a boot, Jack. And anyone who tries try it, even without the smug anti-civil-rights attitude flaunted in the Journal, will be subject to penalties (see below).

Falsely harassing a person, or arresting someone for legally peacefully bearing arms -- that would become an offense, and the agency committing this violation will be subject to lawsuits and penalties, lawyer bills paid by

the agency when it loses. This is good.

The corrupt agencies don't like this change. They want to continue making false unconstitutional arrests, and demands for your papers, which they refuse to recognize in the first place. That would end.

The police chief and D.A. gripe in their editorial that the burden is entirely on the state to prove your permit is valid. What can you say but tough noogies. Do your jobs. Innocent until proven guilty. It's a poignant condemnation of their terrible tactics and attitude -- self-imposed.

National Carry Part III

The Details

H.R. 38 -- ACTUAL BREAKDOWN OF THE BILL

You got none of this from either side

I had no idea until I studied the bill.

EXACT TITLE:

H.R. 38 "Concealed Carry Reciprocity Act of 2017"
(Rep. Hudson, Richard R-NC 8th District)

Introduced Jan 3, 2017, assigned to committee Jan. 12, 2017, passed in the House Dec. 7, 2017 with changes, additions, and a second bill H.R. 4477, Fix NICS, attached.

The Gist: If you can legally have a firearm, and you're carrying valid government-issued photo ID, and you have a valid concealed-carry license, or you are simply entitled to carry concealed in your state ("Constitutional Carry," a term coined in Arizona in 2010, an interesting story), you can have or carry a concealed handgun in any state that either makes a carry license available to its residents, or doesn't prohibit concealed carry for lawful purpose. That now includes all 50 states. The bill language uses multiple terms (e.g., possessing, transporting, shipping or receiving; license or permit, etc.) for precision, replaced here with single terms (e.g., "carrying") to get points across clearly. The bill itself in current form is ten pages long: <https://www.congress.gov/bill/115th-congress/house-bill/38/all-info>

The statute doesn't say it in so many words, but this is **full recognition of**

Constitutional Carry -- no government interference with the right to bear arms -- for people from states that have reached permitless Freedom To Carry (FTC; see also, Diplomatic Carry, the next step up: <http://www.gunlaws.com/DiplomaticCarry.htm>). America has 11 FTC states so far, with 22 actively working on it: <http://www.gunlaws.com/ConstitutionalCarryIndex.htm>.

The new law does this by referring to a person who, “is entitled to carry a concealed firearm in the State in which the person resides.” That’s everyone in FTC states. But watch this word entitled with care, it is a cornerstone of liberty or a brick in the wall against it.

Dangerous so-called “gun-free zones” get federal approval.

The law specifically recognizes state laws that allow private persons to create so-called (undefined) “gun-free zones.” The same goes for state or local governments to create make-believe “gun-free zones,” typically by posting signs, or designating punishment.

The direct result is that what you might think is Freedom to Carry under this National Reciprocity Act *excludes* “official” gun-free zones. Where you can carry might be pretty small. The federal government is authorizing, “We don’t want your kind here,” in a massive civil-rights denial plan, *delegated to localities*. The public, and the states, are being empowered to ban legal exercise of your civil and human rights. The media and ALL legislators failed to note this detail.

Warning!

The unenforceable Clinton-era school-zones gun ban is essentially repealed under HR 38. Also under this bill, **every locality in America could enact its own gun-free school-zones patchwork**, like a preemption-free trap for everyone, if the school is on government or private property. That’s pretty much all property. Am I the only one who noticed this, or did the Bloombergites figure this out and sneak it in there? I can’t see anything that would prevent it.

H.R. 38 The Details, cont'd.

Loads of components no one has mentioned

Qualified Freedom from Arrest

The statute provides that, if you are carrying and in compliance, you “may not be arrested or detained” for anything related to the firearm. Some dangerous wiggle room would be eliminated if that said “shall not” instead of “may not.” It’s a small point. You do remain subject to arrest while carrying if, “there is probable cause to believe that the person is doing so in a manner not provided for by this section.” That’s a bigger point. It’s not clear what this might encompass, though it seems to say you must be in compliance to be protected. Proper ID is “facially valid” and “prima facie evidence” you are correctly licensed under the law. The protection does not seem to extend to any other violations or offenses (jaywalking while armed?).

They pay your legal bills

To discourage state and local governments from acting against you, first, the prosecution has the explicit burden of proving beyond a reasonable doubt, the highest standard, that you were out of compliance. Next, if you use this law as a defense and the government loses, they must pay your legal bills, a big deterrent to false charges.

You can sue

For extra measure, the statute includes a guarantee similar to 42 USC §1983, a right to a private lawsuit against the state, including damages, other relief and legal bills. If you are deprived of any “right, privilege or immunity” secured by this law, using any “statute, ordinance, regulation, custom or usage” of any state, you can sue. This seems to set up a conflict with authorized no-guns signs in section (b)(2): No-gun-zones can be set up, yet you can sue if your rights are denied. The right to sue is only against the government, private zones in section (b)(1) are not mentioned.

Handguns redefined

A new definition of handgun is introduced, only for the purpose of this statute. Redefining terms is always a cause for concern, unexpected results frequently lurk, and this one has several dark corners. Nothing prevents authorities from taking definitions from one place once enacted and using them in other places, “as matters of settled law.”

The statute says: “The term ‘handgun’ includes any magazine for use in a handgun and any ammunition loaded into the handgun or its magazine.” It seems the bill seeks to protect a traveler in an unfriendly jurisdiction, who might be cited just for the magazines or ammo, because in some states, magazines matter, as can ammo type. The gun includes its ammo, but this doesn’t quite say that.

If this passes, a magazine is now a handgun. Possession of a handgun introduces all sorts of complexity, that now starts applying to empty or loaded magazines, complexity skyrockets, rights shrink. The bill says “any magazine for use in a handgun” so any magazine is affected.

Ammo Redefined

Regarding ammo, only ammo loaded into “the handgun” is a handgun for the purpose of this law (loose ammo remains plain old ammo). The implication is ammo loaded into the gun the person carries. And next, ammo loaded into magazines for that handgun, though not necessarily in it, are handguns. If you have a loaded or empty magazine you have a handgun. If you then acquire a matching pistol, do you have two handguns? Is a six-shooter seven guns? Those are the easy problems. Walking past a school zone with an empty magazine would almost violate state versions of the next law.

The Clinton-era imaginary gun-free-school-zone is quashed

A person who carries a firearm discreetly under the terms of this statute -- with a state permit or in a state that doesn’t require one -- is not subject to 18 USC §922q, the gun-free-school-zone law. Open carry is not included. The possible combinations leave unresolved questions. For example, is a person with a carry permit from a state without Constitutional Carry, who goes to a Con-Car state, immune to the gun-free-school-zones, or does the bill fail to protect a permittee outside their state of origin? Other conditions exist, no need to think it further, since the language will likely change in conference.

National land assets are open to armed citizens

A person carrying under the terms of this statute may do so in any public areas of the National Parks, a National Wildlife Refuge, public Bureau of Land Management lands, Army Corps of Engineers land, and Bureau of Reclamation land.

Just added, federal officials protect themselves

They frequently do this, include themselves as a special category instead of being under the same law we are. Without notice or discussion, qualified off-duty and retired law-enforcement officers (QLEOs) rewrite the existing laws to include themselves with special carry privileges, including discharge in school zones (Section 103).

"Dangerously" armed judges

In Section 104, federal judges, with no concern for permits, checks, training, ability or anything, as long as they're not prohibitees, without showing proof, can carry sidearms concealed nationally. These are the very conditions every anti-gun-rights activist is screaming about, for which judges have now given themselves a pass.

Fix NICS (formerly H.R. 4477)

National Carry (HR 38) now includes "Fix NICS"

It doesn't really fix anything, if "fix" means reduce crime.

Maybe just, "the fix is in" since it guarantees an increase in infringements.

H.R. 38, TITLE II -- Fix NICS Act*

Added to the bill, page after page establishes conditions that must be met by federal agencies and authorities, to pour names into the NICS system, so agencies can avoid punishment. The rapid growth of NICS becomes another holy grail of the gun-ban movement, an ongoing infringement steamroller with no stop in sight.

Departments and entire agencies will be rated and scored based on how many records they add, why they did or did not add more records, written progress reports must be submitted by category of denials, including some new undefined ones. Efforts to monitor compliance and correct reporting failures are included. The AG must establish plans to "ensure maximum coordination and automated reporting," with benchmarks. Meeting the goals will consume vast resources and become more important than fighting crime or defending rights and due process.

Punishment

Literally using humiliation as a tool to achieve cooperation, the AG is required to publish the names of agencies that are out of compliance, fail to report adequately, don't meet goals, have reporting failures or inaccuracies, list their compliance costs and needs assessments, estimate compliance dates and more. Agencies will be hard pressed to comply, fudge reports or be ridiculed with multiple web postings by name and reports to congressional committees for multiple types of failures. Reasons for the failures with breakouts by department are included. **I haven't seen this tactic in any other federal gun law**, and it's applied against government, but its goal is to increase control over you.

Penalties include no eligibility for bonus pay for political appointees (staff gets paid). It's not clear if they get the money as back pay after they get back in line, a common and detestable practice that eviscerates the whole idea of penalty. It should be made explicit. Agencies also lose their priority for certain grant money. Vast sums remain available to help them get into compliance.

* **THIS IS IMPORTANT.** Every two years the AG must assess whether Fix NICS has "resulted in improvements in the system established under this section." Improvements measured how? It's not defined.

Based on history, government will rate "improvement" by the speed and growth of the NICS database, number of people denied firearm sales regardless of legitimacy (like now, 99% false positives), increased reasons for denial and similar. TRUE improvement would be decreases in crime, proven disarmament of criminals, arrests of hardened criminals attempting retail purchases, limited false denials, establishment of due process for denials and similar. The system is not set up to do this. It would typically fail by such measurement. There is no desire, funding or inclination to make NICS do these highly desirable things (fight crime). Real improvement, measured this way is not in the game plan. *Improvement should be defined as reducing crime and included.*

Dangerous new undefined term introduced

Domestic violence "records"

A new record collection, funded for and included in the agency humiliation and punishment guidelines, is "domestic violence records." This is not

“misdemeanor convictions for domestic violence” or anything similar, which creates a statutory ban on gun ownership (problematic on its own). Funding is provided to improve efforts to identify and upload such records. The records go to NARIP, the NICS Act Record Improvement Program. Look it up, let me know what it is, and see if it means these undefined files go directly to NICS or not.

Nearly three pages of mind-numbing cross-referenced spending and meddling with existing laws have not been checked by me. Who knows what that might include, such as “increased efforts to pre-validate the contents of those records to expedite eligibility determinations” and “measures and resources necessary to establish and achieve compliance with an implementation plan under section 107 of the NICS Improvement Amendments Act of 2007...” Or this one: “(A) by striking “the Crime Identification Technology Act of 1988 (42 U.S.C. 14601)” and inserting “section 102 of the Crime Identification Technology Act of 1998 (34 U.S.C. 40301)” Three pages worth. <https://www.congress.gov/bill/115th-congress/house-bill/38/all-info>

Fix NICS, Cont'd.

A few more items for good measure.

Like bump stocks.

Indian Tribal Governments get attention

A shortened version of the Fix NICS bill is attached as Section 205, under the misleading title “Improving information sharing with the States,” to add Indian tribal governments. It basically sweeps in Indians, under similar conditions described above. An effort to add as many people as possible to the NICS Index is the primary goal of the section. A required assessment to determine if this has “resulted in improvements,” without defining that, is included.

SEC. 205 also requires the NICS system to notify local law enforcement when NICS issues a denial, regardless of the validity of the denial. We know 25% are completely bogus (FBI stats), or false positives, or at least insufficient to bring charges or obtain convictions for anything. Local cops are not required to act -- lack of federal authority to require that is well established -- but it does tend to set a potential liability if local police get

advised of some miscreant and don't do anything about it. An avalanche of NICS rejects will flood local police and encumber their real work.

Bump stocks

Finally, SEC. 206 requires the AG to issue a report in 180 days on “bump stocks” used in crime, how often they’ve been used in crime, and attempts to define them. The last section, 207, assigns tens of millions of dollars and rennumbers things, again, without careful oversight by me, knowing these things will change, and hey, I have only so much tolerance for this. Did you even read this far?

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My Page Nine story on this -- National Carry -- nearly a month before this bill was even introduced in Jan. 2017, challenged the permission-slip approaches and outlined the very core of this attempt at good law. No federal permit, repeal restrictions, recognize Freedom To Carry states as well as permission-slip states, no taxes called fees, provide punishment for officials who disobey. Have a look: <http://www.gunlaws.com/Page9Folder100up/PageNine-162.htm> I can't say they acted because of that, but it sure is nice to see it all here!