

118th CONGRESS
1st Session

A BILL

To guarantee that no federal or state restriction on the right to keep and bear arms may be imposed without clear, timely, and transparent due process protections.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Second Amendment Due Process Act.”

SEC. 2. DEFINITIONS.

- (a) “Firearm restriction” means any prohibition, suspension, or limitation on the purchase, possession, transfer, or carrying of a firearm.
- (b) “Due process hearing” means a proceeding before a neutral judicial officer with notice, opportunity to be heard, right to counsel, and right to present and challenge evidence.
- (c) “Covered person” means any individual subject to a firearm restriction under federal or state law.

SEC. 3. DUE PROCESS REQUIREMENT.

- (a) No firearm restriction may be imposed on a covered person without a due process hearing conducted within 14 days of the restriction’s initiation.
- (b) Emergency restrictions may be imposed temporarily (not to exceed 14 days) only upon a sworn affidavit showing probable cause of imminent harm.
- (c) At the hearing, the government bears the burden of proof by clear and convincing evidence.

SEC. 4. TRANSPARENCY AND RECORDKEEPING.

- (a) All orders imposing firearm restrictions shall be published in a public registry, redacted for personal identifiers, within 7 days of issuance.
- (b) Aggregate data on firearm restrictions, hearings, and outcomes shall be reported quarterly by the Department of Justice.

SEC. 5. ENFORCEMENT.

- (a) Any restriction imposed without compliance with this Act shall be void.
- (b) Individuals subject to unlawful restrictions may seek immediate injunctive relief and damages, with attorney’s fees.
- (c) Federal courts shall have jurisdiction to enforce this Act against state and federal actors.

SEC. 6. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to alter the substantive eligibility criteria for firearm ownership under existing federal or state law; this Act governs only the process by which restrictions are imposed.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect 90 days after enactment.

SEC. 8. CONFORMING AMENDMENTS.

(a) Gun Control Act of 1968.—Chapter 44 of title 18, United States Code, is amended by inserting after section 922 the following new section:

“§ 922A. Due process requirement for firearm restrictions

(1) No prohibition, suspension, or limitation on the purchase, possession, transfer, or carrying of a firearm under this chapter shall be imposed without compliance with the Second Amendment Due Process Act.

(2) Any restriction imposed in violation of this section shall be void and unenforceable.”

(b) National Firearms Act.—Section 5812 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(d) Due process requirement.—No denial or restriction under this section shall be effective unless the applicant has been afforded a due process hearing consistent with the Second Amendment Due Process Act.”

(c) Preemption.—This Act shall apply notwithstanding any provision of State law to the contrary. States may provide additional protections consistent with this Act, but no State may impose firearm restrictions without the due process guarantees established herein.