

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2037
OFFERED BY MR. STEARNS**

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protection of Lawful
3 Commerce in Arms Act”.

4 **SEC 2. AMENDMENT TO ORGANIC ACT.**

5 The Act entitled “An Act to establish the Department
6 of Commerce and Labor”, approved February 14, 1903
7 (15 U.S.C. 1501 et seq.), is amended by redesignating sec-
8 tion 13 as section 14 and by inserting after section 12
9 the following:

10 **“SEC. 13. RESTRICTION ON COMMERCE.**

11 “(a) SECRETARY OF COMMERCE LIST.—The Sec-
12 retary of Commerce shall establish and maintain a list
13 consisting of each person that notifies the Secretary under
14 subsection (b) that such person is a manufacturer of a
15 firearm or an ammunition product, a seller of a firearm,
16 a seller of an ammunition product, or a trade association
17 representing such manufacturers or sellers. The list shall
18 contain the name of the person, the chief executive officer
19 of the person, and the address and location of the head-



1 quarters of the person. The Secretary shall maintain and
2 update the list and may publish the list in the Federal
3 Register.

4 “(b) NOTIFICATION.—Each person that—

5 “(1) is a licensed manufacturer of a firearm or
6 an ammunition product,

7 “(2) is a licensed seller of a firearm,

8 “(3) is a licensed seller of an ammunition prod-
9 uct, or

10 “(4) is a trade association representing such
11 manufacturers or sellers,

12 may notify the Secretary of that person’s existence and
13 provide to the Secretary the information described in sub-
14 section (a).

15 “(c) FREEDOM FROM RESTRICTION.—Conduct
16 that—

17 “(1) is carried out by a licensed manufacturer
18 of a firearm or an ammunition product, involves
19 such firearm or ammunition product, and is de-
20 scribed in paragraph (5) of subsection (f),

21 “(2) is carried out by a licensed seller of a fire-
22 arm, involves such firearm, and is described in para-
23 graph (7) of subsection (f),

24 “(3) is carried out by a licensed seller of an am-
25 munition product, involves such ammunition prod-



1 uct, and is described in paragraph (8) of subsection
2 (f), or

3 “(4) is carried out by a trade association in the
4 course of organizing, advising, or representing its
5 members who are manufacturers of a firearm or an
6 ammunition product, sellers of a firearm, or sellers
7 of an ammunition product, with respect to conduct
8 of such manufacturers or sellers described in para-
9 graph (5), (7), or (8) of subsection (f), as the case
10 may be,

11 and that is lawful under applicable Federal, State, or local
12 law, shall not be a basis for imposing a restriction on
13 interstate or foreign commerce on a person on the list de-
14 scribed in subsection (a) as a result of harm caused by
15 the criminal, suicidal, negligent, or other unlawful misuse
16 of any such firearm or ammunition product by any other
17 person.

18 “(d) ABSENCE FROM LIST.—The absence from the
19 list maintained under this section of any person who is
20 a manufacturer of a firearm or an ammunition product,
21 a seller of a firearm, or a seller of an ammunition product
22 shall not be construed to create any cause of action or
23 to deprive such person of any lawful defense that might
24 otherwise be available to such person.



1 “(e) LIMITATION OF USE OF LIST.—No officer,
2 agency, or instrumentality of the United States may use
3 the list established and maintained under this section for
4 any purpose other than the enforcement of the provisions
5 of this section.

6 “(f) DEFINITIONS.—In this section:

7 “(1) AMMUNITION PRODUCT.—The term ‘am-
8 munition product’ means ‘ammunition’ as defined in
9 section 921(a)(17) of title 18, United States Code,
10 and includes a component part of such ammunition
11 product that has been shipped or transported in
12 interstate or foreign commerce.

13 “(2) ENGAGED IN THE BUSINESS.—The term
14 ‘engaged in the business’ has the meaning given that
15 term in section 921(a)(21) of title 18, United States
16 Code, and, as applied to a seller of an ammunition
17 product described in paragraph (8)(A)(ii), means a
18 person who devotes, time, attention, and labor to the
19 sale of ammunition products as a regular course of
20 trade or business with the principal objective of live-
21 lihood and profit through the sale or distribution of
22 the ammunition products.

23 “(3) FIREARM.—The term ‘firearm’ means
24 ‘firearm’ as defined in section 921(a)(3)(A) or (B)
25 of title 18, United States Code, and includes—



1 “(A) any ‘antique firearm’ as defined in
2 section 921(a)(16) of such title; and

3 “(B) a component part of any firearm de-
4 scribed in this paragraph that has been shipped
5 or transported in interstate or foreign com-
6 merce.

7 “(4) INTERSTATE OR FOREIGN COMMERCE.—
8 The term ‘interstate or foreign commerce’ has the
9 meaning given that term in section 921(a)(2) of title
10 18, United States Code.

11 “(5) MANUFACTURER; LICENSED MANUFAC-
12 Turer.—

13 “(A) MANUFACTURER.—The term ‘manu-
14 facturer of a firearm or an ammunition prod-
15 uct’ means a ‘manufacturer’ as defined in sec-
16 tion 921(a)(10) in title 18, United States Code,
17 who is engaged in the business of manufac-
18 turing a firearm or an ammunition product in
19 interstate or foreign commerce.

20 “(B) LICENSED MANUFACTURER.—The
21 term ‘licensed manufacturer of a firearm or an
22 ammunition product’ means any such person
23 who is licensed to engage in business as such
24 manufacturer under chapter 44 of title 18,
25 United States Code.



1 “(6) RESTRICTION ON INTERSTATE OR FOR-
2 EIGN COMMERCE.—The term ‘restriction on inter-
3 state or foreign commerce’—

4 “(A) means—

5 “(i) civil damages or equitable relief,
6 or

7 “(ii) any other limitation or condition,
8 awarded or ordered by a Federal, State, or local
9 court, that restricts the ability of a person list-
10 ed under subsection (a) to freely engage in
11 interstate or foreign commerce with respect to
12 firearms or ammunition products, or of a trade
13 association listed under subsection (a) to freely
14 engage in lawful activities on behalf of its mem-
15 bership; and

16 “(B) does not include any damages, equi-
17 table relief, or other limitation or condition aris-
18 ing from—

19 “(i) breach of contract or warranty in
20 connection with the purchase of a firearm
21 or an ammunition product;

22 “(ii) physical injuries or property
23 damage resulting directly from a defect in
24 design or manufacture of a firearm or an



1 ammunition product, when used as in-
2 tended; or

3 “(iii) the supplying of a firearm or an
4 ammunition product by a seller for use by
5 another person when the seller knows or
6 should know the person to whom the prod-
7 uct has been supplied is likely to use the
8 product, and in fact does use the product,
9 in a manner involving unreasonable risk of
10 physical injury to himself and others.

11 “(7) SELLER OF A FIREARM; LICENSED SELL-
12 ER.—

13 “(A) SELLER.—The term ‘seller of a fire-
14 arm’ means—

15 “(i) an importer as defined in section
16 921(a)(9) of title 18, United States Code,
17 with respect to firearms, or

18 “(ii) a dealer as defined in section
19 921(a)(11) of title 18, United States Code,
20 who is engaged in the business as such importer
21 or dealer in interstate or foreign commerce.

22 “(B) LICENSED SELLER.—The term ‘li-
23 censed seller of a firearm’ means any such per-
24 son who is licensed to engage in business as



1 such an importer or dealer under chapter 44 of
2 title 18, United States Code.

3 “(8) SELLER OF AMMUNITION PRODUCT; LI-
4 CENSED SELLER.—

5 “(A) SELLER.—The term ‘seller of an am-
6 munition product’ means—

7 “(i) an importer as defined in section
8 921(a)(9) of title 18, United States Code,
9 with respect to ammunition products, who
10 is engaged in the business as such im-
11 porter in interstate or foreign commerce;
12 or

13 “(ii) any other person who is engaged
14 in the business of selling ammunition prod-
15 ucts, including component parts of such
16 ammunition products, in interstate or for-
17 eign commerce at the wholesale or retail
18 level, consistent with Federal, State, and
19 local law.

20 “(B) LICENSED SELLER.—The term ‘li-
21 censed seller of an ammunition product’
22 means—

23 “(i) an importer described in subpara-
24 graph (A)(i) who is licensed to engage in
25 the business as such an importer under



1 chapter 44 of title 18, United States Code;
2 and

3 “(ii) any other person described in
4 subparagraph (A)(ii) who has met all ap-
5 plicable requirements under Federal, State,
6 or local law to be licensed to engage in the
7 business as a seller described in that sub-
8 paragraph.

9 “(9) STATE.—The term ‘State’ includes the
10 District of Columbia, the Commonwealth of Puerto
11 Rico, and any territory of possession of the United
12 States.

13 “(10) TRADE ASSOCIATION.—The term ‘trade
14 association’ means any association or business orga-
15 nization (whether or not incorporated under the laws
16 of any State) that is not operated for profit, and 2
17 or more members of which are manufacturers of a
18 firearm or an ammunition product, sellers of a fire-
19 arm, or sellers of an ammunition product.”.

