

Anthony Madonna
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Act Title: The National Firearms Act of 1934

Congress: 73rd Congress (March 4, 1933 – January 3, 1935)

Session/Sessions: 2nd

Statute No:

Public Law No: 73 P.L. 474

Bill: HR 9741

Sponsor: Rep. Robert Lee Doughton (D-NC)

Committees: House Committee on Ways and Means, Senate Committee on Finance

Companion Bill: None

Related Bills: HR 1608, HR 1659, S 885, S 1301, S 2258, S 2840, S 2844, S 3860, S 3795

House Rules: None

Past Bills: HR 9066, SCRes 24, S 5, HR 6028, HR 9972, HR 10492, HR 12589, S 5702 (72nd Congress)

Introduced Date- Law Date: May 23, 1934 - June 18, 1934

House Floor Days: 2 (June 13, 18)

Senate Floor Days: 1 (June 18)

Roll Call Votes: 0

Tags:

Summary:

The National Firearms Act of 1934 (“NFA”) provided for “the taxation of manufacturers, importers, and dealers in certain firearms and machine guns, to tax the sale or other disposal of such weapons, and to restrict importation and regulate interstate transportation thereof (*Congressional Record*, 73rd Congress, June 13, 1934, 11398).” It was the first piece of legislation passed by the U.S. Congress to regulate traffic and possession of machineguns and automatic weapons (Schrader 1995). Attorney General Homer Stille Cummings called on Congress to enact stronger regulations on firearms in response to a high crime rate and cheap access to high powered weapons by criminals.¹ Opponents objected to the measure on the grounds that it represented too much government intrusion, that it would ultimately aid criminals and that it was too far reaching and severe.²

¹ See e.g. “Stronger U.S. Grip on Crime, Cummings Plea,” *The Washington Post*, January 6, 1934; “Criminals Buy Weapons Easily, Evidence Shows,” *Christian Science Monitor*, May 9, 1934. Additional commentary suggested the killing of John Dillinger in January 1934 played a role in galvanizing public support for the bill (“Recent Successes against Criminals Strengthen Drive: Dillinger and Hauptmann Cases Do Much to Weld Public Sentiment,” *Christian Science Monitor*, September 24, 1934.)

² See e.g. “Objections Made to Firearms Act”, *New York Times*, June 3, 1934; “Federal Firearm Monopoly”, *Washington Post*, May 12, 1934; Stout, Richard L. “Law to Disarm Gangsters Opposed by Men Who Want Free Right to Buy Pistols,” *Christian Science Monitor*, May 15, 1934; “Anti-Arms Groups Wins Its Battle on Machine Guns,” *Christian Science Monitor*, May 10, 1934.

The National Firearms Act of 1934 was not listed as landmark by Stathis (2003) or Petersen (2001) and was rated the 140th most important enactment of the 58th Congress by Clinton and Lapinski (2006). The act was reenacted as Title II of the Gun Control Act of 1968 (60 PL 618) (Schrader 1995). The only relevant Supreme Court case in relation to this act was *United States v. Miller*, 307 U.S. 174 (1939). In it, a unanimous court decided the NFA was constitutional and that the second amendment provided no right to own a sawed off shotgun (Chu 2013; Schrader 1995).

Background:

The NFA was enacted in the second session of the 73rd Congress, which met from March 4, 1933 to January 3, 1935. The country was devastated with the effects of the Great Depression, which included the stock market crash, a 25% unemployment rate, and land foreclosures on farmland (Cohen 2009). Democrat Franklin Delano Roosevelt won the 1932 presidential election against incumbent Republican Herbert Hoover. The first 100 days of Roosevelt's term, dubbed the Hundred Days Congress, was an effort to pass emergency legislation to combat the economic chaos of the Great Depression.³ The Democrats held a 313-117 seat advantage in the House⁴ and a 59-36 advantage in the Senate.⁵

Legislation to curb and tax firearms sales had been introduced in previous congresses, though they received scant attention.⁶ Pressure from lobbyists, the Roosevelt administration and the press had grown throughout 1933 and 1934. Early in the second session, there were five bills in the Senate on the issue,⁷ one in the House and the *Washington Post* noted that Senator Royal Copeland (D-NY) had introduced fourteen more measures himself.⁸ The bill that seemed to generate the most attention was HR 9066, a measure introduced by the House Judiciary Committee Chairman, Representative Hatton William Sumners (D-TX).

Sumners' bill included a \$5,000 a year tax on importers or manufactures of firearms, a \$200 a year tax on dealers, a \$200 fee for each machine gun sold and one dollar on any other firearm. Additionally, the measure defined "firearms" broadly, including both pistols and revolvers, in addition to machine guns, sawed off shot guns and rifles and guns with barrels less than 18 inches in length, mufflers and silencers. The inclusion of pistols and revolvers was hotly contested. The National Rifle Association lobbied hard against the measure, with a particular

³ <http://history.house.gov/Congressional-Overview/Profiles/73rd/>

⁴ <http://history.house.gov/Institution/Party-Divisions/Party-Divisions/>

⁵ <http://www.senate.gov/history/partydiv.htm>

⁶ For example, S 5, HR 6028, HR 9972, HR 10492, HR 12589 were all introduced in the first session of the 72nd Congress. S 5702 was introduced in the second session of the 72nd Congress. HR 1608, HR 1659, S 885, S 1301 were all firearm regulatory bills introduced in the first session of the 73rd Congress. None of these measures received floor consideration.

⁷ This included S 2258, S 2840, S 2844, S 3860, and S 3795. None of these measures received floor consideration.

⁸ See "14 Bills in Senate to Curb Gun Sales," *The New York Times*, January 12, 1934.

focus on the inclusion of pistols and revolvers. They argued the measure represented an unconstitutional violation of the second amendment to the Constitution, and suggested it would harm individual's abilities to protect themselves.⁹ In contrast, the provision was strongly supported for the General Federation of Women's Clubs lobbied aggressively for its inclusion.¹⁰

In late May, 1934, the House backed a new measure, introduced by Representative Robert Lee Doughton (D-NC), the Ways and Means Committee Chairman. This bill, HR 9741, dropped pistols and revolvers and lowered the tax on manufactures of firearms from \$5,000 to \$1,000. Assistant Attorney General Joseph B. Keenan referred to these changes as a "joke" and bill supporters were angry. Nonetheless, this measure moved quickly through the House. Introduced by Doughton on May 23, 1934, it was reported out of the Ways and Means Committee five days later on May 25th.¹¹

Initial House Consideration (June 13, 1934)

On June 13th, Doughton moved the House suspend the rules and pass the bill. He gave a short speech in its favor, noting that:

For some time this country has been at the mercy of the gangsters, racketeers, and professional criminals. The rapidity with which they can go across State lines has become a real menace to the law-abiding people of this country. When the bill was first proposed by the Department of Justice it affected pistols and revolvers, but that provision was eliminated from the bill, and it now only relates to machine guns and sawed-off shotguns and rifles, or guns with barrels less than 18 inches in length, and to mufflers, and to silencers (*Congressional Record*, 73rd Congress, June 13, 1934, 11400).

He also noted that pistols and revolvers had been removed from the measure, arguing that despite the protest of ladies groups the "majority of the committee were of the opinion, however, that the ordinary, law-abiding citizen who feels that a pistol or a revolver is essential in his home for the protection of himself and his family should not be classed with criminals, racketeers, and gangsters; should not be compelled to register his firearms and have his fingerprints taken and be placed in the same class with gangsters, racketeers, and those who are known as criminals (*Congressional Record*, 73rd Congress, June 13, 1934, 11400)." The motion to suspend the rules and pass HR 9741 was agreed to via voice vote.

Initial Senate Consideration (June 18, 1934)

HR 9741 was referred to the Senate Finance Committee on June 14th. It was reported out the following day. On June 16th, Senate Finance Committee Chairman Pat Harrison (D-MS) asked

⁹ See e.g. Stout, Richard L. "Law to Disarm Gangsters Opposed by Men Who Want Free Right to Buy Pistols," *Christian Science Monitor*, May 15, 1934; "Anti-Arms Groups Wins Its Battle on Machine Guns," *Christian Science Monitor*, May 10, 1934.

¹⁰ See e.g. "Club Women Join Battle to Block Firearms Sales," *The Christian Science Monitor*, May 25, 1934; "Club Women Insist on Anti-Pistol Bill," *The New York Times*, May 25, 1934.

¹¹ "Club Women Insist on Anti-Pistol Bill," *The New York Times*, May 25, 1934.

unanimous consent the bill be considered. This was objected to by the minority leader, Senator Charles McNary (R-OR). On June 18th, Harrison received unanimous consent the bill be considered. With no floor debate, a committee amendment that lowered the tax on importers and manufacturers of machine guns from 1000 to 500 dollars was adopted without objected. Another amendment, by Senator Thomas Prior Gore (D-OK), that dealt with tariff rates on alcohol was also adopted without objected. The bill was then passed by the Senate.

Secondary House Consideration (June 18, 1934)

The House debated the Senate bill later that day, with Representative Samuel B. Hill (D-WA) noting that “The National Rifle Association approves [of the bill] (*Congressional Record*, 73rd Congress, June 18, 1934, 12555).” They concurred in the Senate’s amendment lowering the tax on importers and exporters to 500 dollars by voice vote. They disagreed with Gore’s amendment, however, and asked for a conference.

Secondary Senate Consideration (June 18, 1934)

Instead of appointing conferees, the Senate receded from Gore’s amendment by voice vote. They passed S Con Res 24 by voice vote shortly afterwards, which authorized and directed the enrollment of HR 9741.

Aftermath:

The President signed HR 9741 (73 PL 474) into law on June 18th, 1934. There were no recorded votes in either chamber and just two amendments in the Senate. The Treasury Department announced the act would be effect on August 10th and the first taxes would be due August 31, 1934.¹² The *Washington Post* reported that tax records indicated no machine guns or sawed off shot guns were sold in 1934 after the act passed.¹³

¹² See “Firearms Act Effect August 10”, *The Wall Street Journal*, August 9, 1934; “Firearms Tax Due Aug 31,” *The New York Times*, August 17th, 1934.

¹³ “Machine Guns’ Sale Is Halted,” *The Washington Post*, December 25, 1934.

Citations:

Chu, Vivian S. 2013. "Congressional Authority to Regulate Firearms: A Legal Overview." *Congressional Research Report #R43033*, April 5th.

Clinton, Joshua and John Lapinski. 2006. "Measuring Legislative Accomplishment, 1877-1994," *American Journal of Political Science* 50(1): 232-249.

Cohen, Adam. 2009. "The First 100 Days." *Time Magazine*, June 24.

Petersen, R. Eric. 2001. "Is It Science Yet? Replicating and Validating the Divided We Govern List of Important Statutes." Paper presented at the Annual Meeting of the Midwest Political Science Association, Chicago, IL.

Stathis, Stephen W. 2003. *Landmark Legislation 1774-2002: Major U.S. Acts and Treaties*. Washington, D.C.: CQ Press.

Stathis, Stephen W. 2014. *Landmark Legislation, 1774-2012: Major U.S. Acts and Treaties, 2nd Edition*. Washington: CQ Press

Schrader, Dorothy. 1995. "The Assault Weapons Ban: Review of Federal Laws Controlling Possession of Certain Firearms." *Congressional Research Report #95-108*, December 1.