

What Would Happen If Congress Deregulates Silencers?



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For more than 80 years there's been a national consensus that silencers—the small devices that attach to gun barrels to muffle the volume of a gunshot—should be tightly regulated under federal law. It's been that way ever since 1934, when waves of mob violence led to the passage of the *National Firearms Act* (NFA), which cracked down on easy access to silencers, machine guns, pipe bombs, and short-barreled rifles.¹ Since its passage, the NFA has carefully balanced the need to keep silencers out of the wrong hands without preventing law-abiding Americans from buying, owning, or using them. Recently-introduced legislation, however, threatens to gut the commonsense rules regulating silencers and undo this balance, putting the public at risk.

What Does It Mean to Deregulate Silencers?

The *Hearing Protection Act*, introduced in both legislative chambers with the support of more than 120 Representatives and a dozen Senators, would eliminate the current rules regulating silencer ownership in the United

States.² Silencers have long been regulated more strictly than the guns they modify—intentionally. That’s because their purpose is to make guns quieter, which makes gun crimes easier to conceal and potentially more dangerous. As such, the NFA requires anyone purchasing a silencer to pass an FBI background check, register the silencer, and pay a \$200 tax—an amount that has not been adjusted for inflation since it was originally set in the 1930s.³ The buyer must submit his or her fingerprints and a photo to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), along with the serial number of the silencer. This screening process typically takes about nine months.⁴

While some claim that these restrictions are overly burdensome, for decades they have helped keep silencers away from criminals and mass shooters without barring ownership. In fact, sales of silencers have increased significantly in recent years. In 2016, SilencerCo, a leading silencer manufacturer, sold 120,000 silencers—up from 35,000 three years previously.⁵ And ATF records show that nearly 1.3 million silencers have already been successfully registered under the existing rules.⁶ So if those who want them and are qualified to buy them can get them, what’s the problem?

The *Hearing Protection Act* would remove silencers from the NFA, eliminating the additional screening, the need to register the silencer’s serial number, and the \$200 tax when buying a silencer. And the bill would go even further than just loosening federal rules—it would outright void any law in any state that enacts a tax on silencers or establishes any requirements regarding markings that must be visible on silencers, registration of purchases, or recordkeeping. Until now, federal law has acted as a floor, not a ceiling on silencers, establishing a minimal level of protection and allowing states to craft and implement any further safeguards they deem necessary. But the *Hearing Protection Act* would reverse that, imposing a strict ceiling on silencer regulation that outright prohibits states from establishing their own taxes, markings, recordkeeping, or registration rules.

What Would Happen If We Made Silencers Easier to Buy?

There are several reasons why passing the *Hearing Protection Act* would create a serious public safety concern.

Deregulating silencers would make it so that every person with a gun could get a silencer.

Removing silencers from the NFA would severely undercut the background check requirement for silencer purchasers. Under current law, anyone who wants to own a silencer has to pass an additional FBI background check. But under this bill, their sale would be treated just like the sale of a gun. So in the 31 states where people can buy guns without a background check at gun shows, over the internet, and via private sales, they would also be able to buy a silencer as well—without a background check and with no questions asked.⁷ Based on estimates by the National Law Enforcement Partnership to Prevent Gun Violence, that could mean nearly 200,000 silencers would change hands without any documentation or safety screening.⁸

Increasing access to silencers could make mass shootings more deadly.

Mass shootings—defined as those with at least four victims—are shockingly and increasingly common in the United States. Since the 2012 shooting at Sandy Hook Elementary School that claimed the lives of 20 first graders and six educators, there have been more than 1,300 mass shootings nationwide.⁹ And in many of those cases, survivors have reported that it was the sound of the gunshots that alerted them to what was happening.¹⁰ For instance, during the 2015 shooting at Umpqua Community College in Oregon that left nine dead and several wounded, students who were down the hall from the gunman ran outside when they heard gunshots.¹¹ They were able to flee the scene before the perpetrator reached them, only because they had that auditory warning. Making it easier for anyone to buy a

silencer and muffle the sound of their gunshots would mean that people would have less time to react and escape in these tragic circumstances.

More silencers on the streets—and potentially in the wrong hands—undermines law enforcement and puts police at risk.

Making it easier to decrease the sound a gun makes isn't just a problem for bystanders—it also puts our police officers at risk and gives them less time to react if they or a person nearby is targeted by a gunman. For example, in 2013 a gunman in California used a silencer to kill a couple in their car, and despite 14 shots being fired, the murder went undetected at first because no one reported hearing any gunfire.¹² The gunman escaped, and even when police finally tracked him down and engaged in a shootout, his silencer made it difficult for them to pinpoint his exact location. That gave him the opportunity to wound one police officer and kill another before he was killed in the gunfight.¹³ Incidents like this are why police officers throughout the country—including in Arizona, California, Georgia, Maine, Maryland, Massachusetts, Michigan, North Carolina, Oregon, Pennsylvania, Texas, and Washington—have publicly opposed efforts to deregulate silencer ownership.¹⁴

Moreover, at least 62 cities across the country have installed gunshot detectors, including in places like Birmingham, Alabama; Chicago, Illinois; Miami-Dade, Florida; and San Antonio, Texas.¹⁵ These devices can quickly identify the location of a gunman by detecting the soundwaves a gunshot makes and immediately alert law enforcement.¹⁶ ShotSpotter, a leading gunshot detection company, detected about 165,000 gunshots in 2016 alone.¹⁷ The use of gunshot detectors means that police officers don't have to wait for a neighbor to call them to report gunshots—which is critical when you consider that only 20% of gunfire is reported.¹⁸ This technology allows police to respond immediately, which can save lives by ending

a shooting sooner or allowing emergency medical responders to arrive more quickly. The faster response time also makes it more likely the perpetrator will be apprehended. Gunshot locaters provide law enforcement with vital data on crime patterns, helping police departments allocate their resources and assign their officers where they are most needed.¹⁹ But silencers weaken the soundwaves made by a gunshot, interfering with the gunshot detection technology and reducing the effectiveness of a tool on which many police departments rely.²⁰

Conclusion

For nearly a century, the current NFA regulations on silencers have worked—ensuring that only people who are following the laws and can pass an FBI background check are able to purchase a device that muffles and conceals the sound of gunshots. Yet the *Hearing Protection Act* threatens to undermine a system that protects Americans every day. Making it easier for silencers to end up in the wrong hands will make it harder for bystanders, ShotSpotters, and police to hear, pinpoint, and respond to shootings. And that’s a risk we simply cannot afford to take.

END NOTES

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