

Antis cry foul as Congress passes NICS bill

By Dave Workman
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Over loud objections from some anti-gun organizations, Congress passed the NICS (National Instant Check System) Improvement Act of 2007, which contains some key provisions long sought by gun rights advocates.

After many improving amendments, both the senate and the House passed the bill originally filed as HR-2640 within a two-hour window. Passage was on a voice vote, precluding any record of how each member of Congress voted on the bill.

The Violence Policy Center (VPC), Legal Community Against Violence and Coalition to Stop Gun Violence were furious over the vote, issuing a press statement claiming the legislation had been “hijacked by the gun lobby.” On the other side, some hardcore gun rights activists claimed the National Rifle Association had “sold out” because the legislation was also supported by some of Congress’ most virulent anti-gunners including House Speaker Nancy Pelosi, Rep. Carolyn McCarthy (D-NY) and Sen. Charles Schumer (D-NY).

After the measure passed, Gun Owners of America—the most ardent group criticizing the NRA’s position—was silent. Over the months of negotiations, GOA had been congratulating Oklahoma Sen. Tom Coburn for putting a hold on the bill, which GOA had labeled the “Veterans Disarmament Act.”

But when Coburn removed his hold, he had this to say about the legislation: “It is a balance, a balance for protection, but it is also a balance to preserve rights, especially for our veterans--the very people who continue to protect our rights. They are going to be preserved.”

Neither Senators Hillary Clinton nor Barack Obama—both on the 2008 presidential campaign trail—were present for the vote.

The VPC’s reaction represents a significant split in the anti-gun community, because the Brady Campaign to Prevent Gun Violence hailed passage of the bill as a means of “strengthening” the original Brady Act of 1993 that created the NICS system.

Under provisions of the bill, the FBI is permanently barred from charging fees for NICS background checks. All federal agencies that impose some type of mental health adjudication or commitment must now provide for “relief from disabilities,” the first step toward restoring the gun rights of tens of thousands of American citizens.

Perhaps most important, the bill contains a provision that will cover costs for “relief from disabilities” investigations by awarding attorneys fees to applicants who successfully challenge a denial of relief in court. Earlier this year, when the original legislation was being debated in the House, the Citizens Committee for the Right to Keep and Bear Arms had urged that funding for these investigations be provided so that people filing appeals would not have to pay to have their rights restored when the disability had been wrongly imposed by a government agency.

CCRKBA Chairman Alan Gottlieb told *Gun Week* that getting the funding provision into the bill was a significant victory for the rights of American citizens, especially military veterans, who may have been wrongly disqualified by the NICS system from exercising their constitutional rights.

Meanwhile, VPC’s Kristen Rand asserted that the bill “will waste millions of taxpayer dollars restoring the gun privileges of persons previously determined to present a danger to themselves or others.”

Another critical element of the final legislation—and one that appears to have ignited anti-gun furor—is a requirement that if an agency handling a relief from disabilities appeal does not act upon that application within one year, regardless of the reason (including lack of funding), the appellant can then seek immediate review in federal court. The legislation goes even farther: if the appeal is successful the government agency would have to pay the plaintiff’s legal fees.

Additionally, the bill requires that incorrect records that cause a “disability” for someone purchasing a gun must be removed from the system within a month. Also under the bill, agencies such as the Department of Defense or Veterans Administration must not only notify a person who has been disqualified for mental health reasons, they must also notify that person when the disability has been removed.

Anti-gunners contended that this legislation would allow persons who had been adjudicated as mental defectives would now be able to have guns. Up to now, such a disability was a lifetime prohibition on firearms ownership. The VPC and other groups were furious because this relief measure is similar to investigations formerly conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives for relief from disabilities to people convicted of certain crimes.

Passage of the legislation brought some surprising remarks from Congressional anti-gunners.

Rep. McCarthy—who was elected to Congress on a gun control platform following the murder of her husband by Long Island commuter train gunman Colin Ferguson—declared, “Together, we have crafted a bill that will prevent gun violence, but maintain the Second Amendment rights of law-abiding citizens.”

“This bill will make America safer without affecting the rights of a single law-abiding citizen,” Schumer added.