

117TH CONGRESS  
1ST SESSION

# H. R. 95

To amend the Internal Revenue Code of 1986 to remove silencers from the definition of firearms, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 2021

Mr. DUNCAN (for himself, Mr. BIGGS, Mr. CLOUD, Mr. PALMER, Mr. JOHNSON of Ohio, Mr. HICE of Georgia, Mr. YOUNG, Mr. FLEISCHMANN, Mr. RESCHENTHALER, Mr. BROOKS, Mr. MOONEY, Mr. GAETZ, Mr. RICE of South Carolina, Mr. TIFFANY, Mr. LAMBORN, Mr. GUTHRIE, Mr. MULLIN, Mr. TIMMONS, Mr. AUSTIN SCOTT of Georgia, Mr. BERGMAN, Mr. GRIFFITH, Mr. BARR, Mrs. GREENE of Georgia, Mr. JORDAN, Mr. COMER, Mr. GOSAR, Mr. FERGUSON, Mr. JOYCE of Pennsylvania, Mr. BUCK, Mr. STEUBE, Mr. BUDD, Mr. WEBER of Texas, Mr. NORMAN, Mr. WOMACK, Mr. WILLIAMS of Texas, Mr. EMMER, and Mr. KUSTOFF) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Internal Revenue Code of 1986 to remove silencers from the definition of firearms, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Hearing Protection  
3 Act”.

4 **SEC. 2. EQUAL TREATMENT OF SILENCERS AND FIREARMS.**

5 (a) IN GENERAL.—Section 5845(a) of the Internal  
6 Revenue Code of 1986 is amended by striking “(7) any  
7 silencer” and all that follows through “; and (8)” and in-  
8 serting “and (7)”.

9 (b) EFFECTIVE DATE.—The amendment made by  
10 this section shall apply to calendar quarters beginning  
11 more than 90 days after the date of the enactment of this  
12 Act.

13 **SEC. 3. TREATMENT OF CERTAIN SILENCERS.**

14 Section 5841 of the Internal Revenue Code of 1986  
15 is amended by adding at the end the following:

16 “(f) FIREARM SILENCERS.—A person acquiring or  
17 possessing a firearm silencer in accordance with chapter  
18 44 of title 18, United States Code, shall be treated as  
19 meeting any registration and licensing requirements of the  
20 National Firearms Act with respect to such silencer.”.

21 **SEC. 4. PREEMPTION OF CERTAIN STATE LAWS IN RELA-  
22 TION TO FIREARM SILENCERS.**

23 Section 927 of title 18, United States Code, is  
24 amended by adding at the end the following: “Notwith-  
25 standing the preceding sentence, a law of a State or a  
26 political subdivision of a State that imposes a tax, other

1 than a generally applicable sales or use tax, on making,  
2 transferring, using, possessing, or transporting a firearm  
3 silencer in or affecting interstate or foreign commerce, or  
4 imposes a marking, recordkeeping or registration require-  
5 ment with respect to such a firearm silencer, shall have  
6 no force or effect.”.

7 **SEC. 5. DESTRUCTION OF RECORDS.**

8 Not later than 365 days after the date of the enact-  
9 ment of this Act, the Attorney General shall destroy any  
10 registration of a silencer maintained in the National Fire-  
11 arms Registration and Transfer Record pursuant to sec-  
12 tion 5841 of the Internal Revenue Code of 1986, any ap-  
13 plication to transfer filed under section 5812 of the Inter-  
14 nal Revenue Code of 1986 that identifies the transferee  
15 of a silencer, and any application to make filed under sec-  
16 tion 5822 of the Internal Revenue Code of 1986 that iden-  
17 tifies the maker of a silencer.

18 **SEC. 6. AMENDMENTS TO TITLE 18, UNITED STATES CODE.**

19 Title 18, United States Code, is amended—

20 (1) in section 921(a), by striking paragraph  
21 (24) and inserting the following:

22 “(24)(A) The terms ‘firearm silencer’ and ‘fire-  
23 arm muffler’ mean any device for silencing, muf-  
24 fling, or diminishing the report of a portable fire-  
25 arm, including the ‘keystone part’ of such a device.

1           “(B) The term ‘keystone part’ means, with re-  
2           spect to a firearm silencer or firearm muffler, an ex-  
3           ternally visible part of a firearm silencer or firearm  
4           muffler, without which a device capable of silencing,  
5           muffling, or diminishing the report of a portable  
6           firearm cannot be assembled, but the term does not  
7           include any interchangeable parts designed to mount  
8           a firearm silencer or firearm muffler to a portable  
9           firearm.”;

10           (2) in section 922(b)—

11           (A) in paragraph (1), by striking “shotgun  
12           or rifle” the first place it appears and inserting  
13           “shotgun, rifle, firearm silencer or firearm muf-  
14           fler”; and

15           (B) in paragraph (3), by striking “rifle or  
16           shotgun” and inserting “shotgun, rifle, firearm  
17           silencer or firearm muffler”; and

18           (3) in section 923(i)—

19           (A) by striking “Licensed” and inserting  
20           the following:

21           “(1) In the case of a firearm other than a fire-  
22           arm silencer or firearm muffler, licensed”; and

23           (B) by adding at the end the following:

24           “(2) In the case of a firearm silencer or firearm  
25           muffler, licensed importers and licensed manufactur-

1       ers shall identify by means of a serial number en-  
2       graved or cast on the keystone part of the firearm  
3       silencer or firearm muffler, in such manner as the  
4       Attorney General shall by regulations prescribe, each  
5       firearm silencer or firearm muffler imported or man-  
6       ufactured by such importer or manufacturer, except  
7       that, if a firearm silencer or firearm muffler does  
8       not have a clearly identifiable keystone part or has  
9       multiple keystone parts, licensed importers or li-  
10      censed manufacturers shall submit a request for a  
11      marking variance to the Attorney General. The At-  
12      torney General shall grant such a request except on  
13      showing good cause that marking the firearm si-  
14      lencer or firearm muffler as requested would not  
15      further the purposes of this chapter.”.

16 **SEC. 7. IMPOSITION OF TAX ON FIREARM SILENCERS OR**  
17 **FIREARM MUFFLERS.**

18       (a) IN GENERAL.—Section 4181 of the Internal Rev-  
19      enue Code of 1986 is amended by adding at the end of  
20      the list relating to “Articles taxable at 10 percent” the  
21      following:

22       “Firearm silencers or firearm mufflers.”.

23       (b) FIREARM SILENCERS; FIREARM MUFFLERS.—  
24      Section 4181 of such Code is amended by adding at the  
25      end the following:

1       “For purposes of this part, the terms ‘firearm si-  
2 lencer’ and ‘firearm muffler’ mean any device for silene-  
3 ing, muffling, or diminishing the report of a portable fire-  
4 arm.”.

5       (c) CONFORMING AMENDMENTS.—

6           (1) Section 4181 of such Code is amended by  
7 striking “other than pistols and revolvers” and in-  
8 sserting “other than articles taxable at 10 percent  
9 under this section”.

10          (2) Section 4182(b) of such Code is amended  
11 by striking “firearms, pistols, revolvers, shells, and  
12 cartridges” and inserting “articles described in sec-  
13 tion 4181 and”.

14          (3) Section 4182(c)(1) of such Code is amended  
15 by striking “or firearm” and inserting “firearm,  
16 firearm silencer, or firearm muffler,”.

17       (d) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to articles sold by the manufac-  
19 turer, producer, or importer in any calendar quarter be-  
20 ginning more than 90 days after the date of the enactment  
21 of this Act.

22       (e) IN GENERAL.—Section 4181 of the Internal Rev-  
23 enue Code of 1986 is amended by adding at the end of  
24 the list relating to “Articles taxable at 10 percent” the  
25 following:

1 “Firearm silencers or firearm mufflers.”.

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