

115TH CONGRESS  
1ST SESSION

# H. R. 1556

To amend title 10, United States Code, to direct the Secretary of Defense to make certain limitations on the transfer of personal property to Federal and State agencies, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2017

Mr. JOHNSON of Georgia (for himself, Mr. SCOTT of Virginia, Ms. SPEIER, Ms. NORTON, Mr. RUSH, Mr. SERRANO, Mr. HASTINGS, Mr. EVANS, Ms. MOORE, Ms. SLAUGHTER, Mr. GRIJALVA, Mr. RASKIN, Mr. BLUMENAUER, Mr. COHEN, Mr. NADLER, Ms. JAYAPAL, Mr. TAKANO, Ms. VELÁZQUEZ, Mr. AMASH, Mr. MCCLINTOCK, and Ms. CLARK of Massachusetts) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to direct the Secretary of Defense to make certain limitations on the transfer of personal property to Federal and State agencies, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Militarizing Law  
5 Enforcement Act”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Under section 2576a of title 10, United  
4 States Code, the Department of Defense is author-  
5 ized to provide excess property to local law enforce-  
6 ment agencies. The Defense Logistics Agency, ad-  
7 ministers such section by operating the Law En-  
8 forcement Support Office program.

9 (2) New and used material, including mine-re-  
10 sistant ambush-protected vehicles and weapons de-  
11 termined by the Department of Defense to be “mili-  
12 tary grade” are transferred to local and Federal law  
13 enforcement agencies through the program.

14 (3) As a result local law enforcement agencies,  
15 including police and sheriff’s departments, are ac-  
16 quiring this material for use in their normal oper-  
17 ations.

18 (4) As a result of the wars in Iraq and Afghani-  
19 stan, military equipment purchased for, and used in,  
20 those wars has become excess property and has been  
21 made available for transfer to local and Federal law  
22 enforcement agencies.

23 (5) According to public reports, approximately  
24 12,000 police organizations across the country were  
25 able to procure nearly \$500,000,000 worth of excess  
26 military merchandise including firearms, computers,

1 helicopters, clothing, and other products, at no  
2 charge during fiscal year 2011 alone.

3 (6) More than \$4,000,000,000 worth of weap-  
4 ons and equipment have been transferred to police  
5 organizations in all 50 states and four territories  
6 through the program.

7 (7) In May 2012, the Defense Logistics Agency  
8 instituted a moratorium on weapons transfers  
9 through the program after reports of missing equip-  
10 ment and inappropriate weapons transfers.

11 (8) Though the moratorium was widely pub-  
12 licized, it was lifted in October 2013 without ade-  
13 quate safeguards.

14 (9) As a result, Federal, State, and local law  
15 enforcement departments across the country are eli-  
16 gible again to acquire free “military-grade” weapons  
17 and equipment that could be used inappropriately  
18 during policing efforts in which citizens and tax-  
19 payers could be harmed.

20 (10) Pursuant to section III(J) of a Defense  
21 Logistics Agency memorandum of understanding,  
22 property obtained through the program must be  
23 placed into use within one year of receipt, possibly  
24 providing an incentive for the unnecessary and po-

1 tentially dangerous use of “military grade” equip-  
2 ment by local law enforcement.

3 (11) The Department of Defense categorizes  
4 equipment eligible for transfer under the 1033 pro-  
5 gram as “controlled” and “un-controlled” equip-  
6 ment. “Controlled equipment” includes weapons, ex-  
7 plosives such as flash-bang grenades, mine resistant  
8 ambush protected vehicles, long range acoustic de-  
9 vices, aircraft capable of being modified to carry ar-  
10 mament that are combat coded, and silencers,  
11 among other military grade items.

12 **SEC. 3. LIMITATION ON DEPARTMENT OF DEFENSE TRANS-**  
13 **FER OF PERSONAL PROPERTY TO LOCAL LAW**  
14 **ENFORCEMENT AGENCIES.**

15 (a) IN GENERAL.—Section 2576a of title 10, United  
16 States Code, is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1)(A), by striking  
19 “counterdrug, counterterrorism,” and inserting  
20 “counterterrorism”; and

21 (B) in paragraph (2), by striking “, the  
22 Director of National Drug Control Policy,”;

23 (2) in subsection (b)—

24 (A) in each of paragraphs (4) and (5), by  
25 striking “and” at the end;

1 (B) in paragraph (6), by striking the pe-  
2 riod and inserting a semicolon; and

3 (C) by adding at the end the following new  
4 paragraphs:

5 “(7) the recipient certifies to the Department of  
6 Defense that it has the personnel and technical ca-  
7 pacity, including training, to operate the property;

8 “(8) the recipient submits to the Department of  
9 Defense a description of how the recipient expects to  
10 use the property;

11 “(9) the recipient certifies to the Department of  
12 Defense that if the recipient determines that the  
13 property is surplus to the needs of the recipient, the  
14 recipient will return the property to the Department  
15 of Defense; and

16 “(10) with respect to a recipient that is not a  
17 Federal agency, the recipient certifies to the Depart-  
18 ment of Defense that the recipient notified the local  
19 community of the request for personal property  
20 under this section by—

21 “(A) publishing a notice of such request on  
22 a publicly accessible Internet website;

23 “(B) posting such notice at several promi-  
24 nent locations in the jurisdiction of the recipi-  
25 ent; and

1           “(C) ensuring that such notices were avail-  
2           able to the local community for a period of not  
3           less than 30 days.”;

4           (3) by striking subsection (d);

5           (4) by redesignating subsections (e) and (f) as  
6           subsections (m) and (n), respectively; and

7           (5) by inserting after subsection (c) the fol-  
8           lowing new subsections:

9           “(d) ANNUAL CERTIFICATION ACCOUNTING FOR  
10          TRANSFERRED PROPERTY.—(1) For each fiscal year, the  
11          Secretary shall submit to Congress certification in writing  
12          that each Federal or State agency to which the Secretary  
13          has transferred property under this section—

14                 “(A) has provided to the Secretary documenta-  
15                 tion accounting for all controlled property, including  
16                 arms and ammunition, that the Secretary has trans-  
17                 ferred to the agency, including any item described in  
18                 subsection (f) so transferred before the date of the  
19                 enactment of the Stop Militarizing Law Enforce-  
20                 ment Act; and

21                 “(B) with respect to a non-Federal agency, car-  
22                 ried out each of paragraphs (5) through (8) of sub-  
23                 section (b).

24           “(2) If the Secretary cannot provide a certification  
25          under paragraph (1) for a Federal or State agency, the

1 Secretary may not transfer additional property to that  
2 agency under this section.

3 “(e) ANNUAL REPORT ON EXCESS PROPERTY.—Be-  
4 fore making any property available for transfer under this  
5 section, the Secretary shall annually submit to Congress  
6 a description of the property to be transferred together  
7 with a certification that the transfer of the property would  
8 not violate this section or any other provision of law.

9 “(f) LIMITATIONS ON TRANSFERS.—(1) The Sec-  
10 retary may not transfer the following personal property  
11 of the Department of Defense under this section:

12 “(A) Controlled firearms, ammunition, grenades  
13 (including stun and flash-bang) and explosives.

14 “(B) Controlled vehicles, highly mobile multi-  
15 wheeled vehicles, mine-resistant ambush-protected  
16 vehicles, trucks, truck dump, truck utility, and truck  
17 carryall.

18 “(C) Drones that are armored, weaponized, or  
19 both.

20 “(D) Controlled aircraft that—

21 “(i) are combat configured or combat  
22 coded; or

23 “(ii) have no established commercial flight  
24 application.

25 “(E) Silencers.

1           “(F) Long-range acoustic devices.

2           “(G) Items in the Federal Supply Class of  
3       banned items.

4           “(2) The Secretary may not require, as a condition  
5 of a transfer under this section, that a Federal or State  
6 agency demonstrate the use of any small arms or ammuni-  
7 tion.

8           “(3) The limitations under this subsection shall also  
9 apply with respect to the transfer of previously transferred  
10 property of the Department of Defense from one Federal  
11 or State agency to another such agency.

12          “(4)(A) The Secretary may waive the applicability of  
13 paragraph (1) to a vehicle described in subparagraph (B)  
14 of such paragraph (other than a mine-resistant ambush-  
15 protected vehicle), if the Secretary determines that such  
16 a waiver is necessary for disaster or rescue purposes or  
17 for another purpose where life and public safety are at  
18 risk, as demonstrated by the proposed recipient of the ve-  
19 hicle.

20          “(B) If the Secretary issues a waiver under subpara-  
21 graph (A), the Secretary shall—

22               “(i) submit to Congress notice of the waiver,  
23       and post such notice on a public Internet website of  
24       the Department, by not later than 30 days after the  
25       date on which the waiver is issued; and



1           “(ii) require, as a condition of the waiver, that  
2           the recipient of the vehicle for which the waiver is  
3           issued provides public notice of the waiver and the  
4           transfer, including the type of vehicle and the pur-  
5           pose for which it is transferred, in the jurisdiction  
6           where the recipient is located by not later than 30  
7           days after the date on which the waiver is issued.

8           “(5) The Secretary may provide for an exemption to  
9           the limitation under subparagraph (D) of paragraph (1)  
10          in the case of parts for aircraft described in such subpara-  
11          graph that are transferred as part of regular maintenance  
12          of aircraft in an existing fleet.

13          “(6) The Secretary shall require, as a condition of  
14          any transfer of property under this section, that the Fed-  
15          eral or State agency that receives the property shall return  
16          the property to the Secretary if the agency—

17                 “(A) is investigated by the Department of Jus-  
18                 tice for any violation of civil liberties; or

19                 “(B) is otherwise found to have engaged in  
20                 widespread abuses of civil liberties.

21          “(g) CONDITIONS FOR EXTENSION OF PROGRAM.—  
22          Notwithstanding any other provision of law, amounts au-  
23          thorized to be appropriated or otherwise made available  
24          for any fiscal year may not be obligated or expended to

1 carry out this section unless the Secretary submits to Con-  
2 gress certification that for the preceding fiscal year that—

3 “(1) each Federal or State agency that has re-  
4 ceived controlled property transferred under this sec-  
5 tion has—

6 “(A) demonstrated 100 percent account-  
7 ability for all such property, in accordance with  
8 paragraph (2) or (3), as applicable; or

9 “(B) been suspended from the program  
10 pursuant to paragraph (4);

11 “(2) with respect to each non-Federal agency  
12 that has received controlled property under this sec-  
13 tion, the State coordinator responsible for each such  
14 agency has verified that the coordinator or an agent  
15 of the coordinator has conducted an in-person inven-  
16 tory of the property transferred to the agency and  
17 that 100 percent of such property was accounted for  
18 during the inventory or that the agency has been  
19 suspended from the program pursuant to paragraph  
20 (4);

21 “(3) with respect to each Federal agency that  
22 has received controlled property under this section,  
23 the Secretary of Defense or an agent of the Sec-  
24 retary has conducted an in-person inventory of the  
25 property transferred to the agency and that 100 per-

1 cent of such property was accounted for during the  
2 inventory or that the agency has been suspended  
3 from the program pursuant to paragraph (4);

4 “(4) the eligibility of any agency that has re-  
5 ceived controlled property under this section for  
6 which 100 percent of the property was not ac-  
7 counted for during an inventory described in para-  
8 graph (1) or (2), as applicable, to receive any prop-  
9 erty transferred under this section has been sus-  
10 pended; and

11 “(5) each State coordinator has certified, for  
12 each non-Federal agency located in the State for  
13 which the State coordinator is responsible that—

14 “(A) the agency has complied with all re-  
15 quirements under this section; or

16 “(B) the eligibility of the agency to receive  
17 property transferred under this section has been  
18 suspended; and

19 “(6) the Secretary of Defense has certified, for  
20 each Federal agency that has received property  
21 under this section that—

22 “(A) the agency has complied with all re-  
23 quirements under this section; or

1                   “(B) the eligibility of the agency to receive  
2                   property transferred under this section has been  
3                   suspended.

4                   “(h) PROHIBITION ON OWNERSHIP OF CONTROLLED  
5                   PROPERTY.—A Federal or State agency that receives con-  
6                   trolled property under this section may never take owner-  
7                   ship of the property.

8                   “(i) NOTICE TO CONGRESS OF PROPERTY DOWN-  
9                   GRADES.—Not later than 30 days before downgrading the  
10                  classification of any item of personal property from con-  
11                  trolled or Federal Supply Class, the Secretary shall submit  
12                  to Congress notice of the proposed downgrade.

13                  “(j) NOTICE TO CONGRESS OF PROPERTY CANNIBAL-  
14                  IZATION.—Before the Defense Logistics Agency author-  
15                  izes the recipient of property transferred under this sec-  
16                  tion to cannibalize the property, the Secretary shall submit  
17                  to Congress notice of such authorization, including the  
18                  name of the recipient requesting the authorization, the  
19                  purpose of the proposed cannibalization, and the type of  
20                  property proposed to be cannibalized.

21                  “(k) QUARTERLY REPORTS ON USE OF CONTROLLED  
22                  EQUIPMENT.—Not later than 30 days after the last day  
23                  of a fiscal quarter, the Secretary shall submit to Congress  
24                  a report on any uses of controlled property transferred  
25                  under this section during that fiscal quarter.

1       “(1) REPORTS TO CONGRESS.—Not later than 30  
2 days after the last day of a fiscal year, the Secretary shall  
3 submit to Congress a report on the following for the pre-  
4 ceding fiscal year:

5           “(1) The percentage of equipment lost by re-  
6 cipients of property transferred under this section,  
7 including specific information about the type of  
8 property lost, the monetary value of such property,  
9 and the recipient that lost the property.

10          “(2) The transfer of any new (condition code  
11 A) property transferred under this section, including  
12 specific information about the type of property, the  
13 recipient of the property, the monetary value of each  
14 item of the property, and the total monetary value  
15 of all such property transferred during the fiscal  
16 year.”.

17       (b) EFFECTIVE DATE.—The amendments made by  
18 subsection (a) shall apply with respect to any transfer of  
19 property made after the date of the enactment of this Act.

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