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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

# H. R.

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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

Mr. JOHNSON of Georgia introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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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”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

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

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

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

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

21           (5) According to public reports, approximately  
22 12,000 police organizations across the country were  
23 able to procure nearly \$500,000,000 worth of excess  
24 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 “counter-drug and”; and

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

22 (2) in subsection (b)—

23 (A) in paragraph (3), by striking “and” at  
24 the end;

1 (B) in paragraph (4), by striking the pe-  
2 riod and inserting a semicolon; and

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

5 “(5) 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 “(6) the recipient submits to the Department of  
9 Defense a description of how the recipient expects to  
10 use the property;

11 “(7) 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 “(8) 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); and

5           (4) by adding at the end the following new sub-  
6           sections:

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

12           “(A) has provided to the Secretary documenta-  
13          tion accounting for all controlled personal property,  
14          including arms and ammunition, that the Secretary  
15          has transferred to the agency, including any item de-  
16          scribed in subsection (f) so transferred before the  
17          date of the enactment of the Stop Militarizing Law  
18          Enforcement Act; and

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

22          “(2) If the Secretary cannot provide a certification  
23          under paragraph (1) for a Federal or State agency, the  
24          Secretary may not transfer additional property to that  
25          agency under this section.

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

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

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

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

16           “(C) Drones that are armored, weaponized, or  
17 both.

18           “(D) Controlled aircraft that—

19               “(i) are combat configured or combat  
20 coded; or

21               “(ii) have no established commercial flight  
22 application.

23           “(E) Silencers.

24           “(F) Long range acoustic devices.

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

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

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

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

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

21               “(i) submit to Congress notice of the waiver,  
22               and post such notice on a public Internet website of  
23               the Department, by not later than 30 days after the  
24               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          “(g) CONDITIONS FOR EXTENSION OF PROGRAM.—  
14          (1) Notwithstanding any other provision of law, amounts  
15          authorized to be appropriated or otherwise made available  
16          for any fiscal year may not be obligated or expended to  
17          carry out this section unless the Secretary submits to Con-  
18          gress certification that for the preceding fiscal year that—

19                 “(A) each Federal or State agency that has re-  
20                 ceived covered property transferred under this sec-  
21                 tion has—

22                         “(i) demonstrated 100 percent account-  
23                         ability for all such property, in accordance with  
24                         subparagraph (B) or (C), as applicable; or

1           “(ii) been suspended from the program  
2           pursuant to subparagraph (D);

3           “(B) with respect to each non-Federal agency  
4           that has received covered property under this sec-  
5           tion, the State coordinator responsible for each such  
6           agency has verified that the coordinator or an agent  
7           of the coordinator has conducted an in-person inven-  
8           tory of the property transferred to the agency and  
9           that 100 percent of such property was accounted for  
10          during the inventory or that the agency has been  
11          suspended from the program pursuant to subpara-  
12          graph (D);

13          “(C) with respect to each Federal agency that  
14          has received covered property under this section, the  
15          Secretary of Defense or an agent of the Secretary  
16          has conducted an in-person inventory of the property  
17          transferred to the agency and that 100 percent of  
18          such property was accounted for during the inven-  
19          tory or that the agency has been suspended from the  
20          program pursuant to subparagraph (D);

21          “(D) the eligibility of any agency that has re-  
22          ceived covered property under this section for which  
23          100 percent of the property was not accounted for  
24          during an inventory described in subparagraph (A)

1 or (B), as applicable, to receive any property trans-  
2 ferred under this section has been suspended; and

3 “(E) each State coordinator has certified, for  
4 each non-Federal agency located in the State for  
5 which the State coordinator is responsible that—

6 “(i) the agency has complied with all re-  
7 quirements under this section; or

8 “(ii) the eligibility of the agency to receive  
9 property transferred under this section has been  
10 suspended; and

11 “(F) the Secretary of Defense has certified, for  
12 each Federal agency that has received property  
13 under this section that—

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

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

19 “(2) In this subsection, the term ‘covered property’  
20 means property classified as controlled equipment.

21 “(h) PROHIBITION ON OWNERSHIP.—A Federal or  
22 State agency that receives property classified as controlled  
23 equipment under this section may never take ownership  
24 of the property.

1           “(i) WEBSITE.—The Defense Logistics Agency shall  
2 maintain an Internet website on which the following infor-  
3 mation shall be made publicly available:

4           “(1) A description of each transfer made under  
5 this section, including transfers made before and  
6 after the date of the enactment of the Stop Milita-  
7 rizing Law Enforcement Act, broken down by State,  
8 county, and recipient.

9           “(2) During the 30-day period preceding the  
10 date on which any property is transferred under this  
11 section, a description of the property to be trans-  
12 ferred and the recipient of the transferred items.

13           “(3) Notice of any use of controlled equipment  
14 by the recipient of property transferred under this  
15 section as provided under subsection (l).

16           “(j) NOTICE TO CONGRESS OF PROPERTY DOWN-  
17 GRADES.—Not later than 30 days before downgrading the  
18 classification of any item of personal property from con-  
19 trolled or Federal Supply Class, the Secretary shall submit  
20 to Congress notice of the proposed downgrade.

21           “(k) NOTICE TO CONGRESS OF PROPERTY CAN-  
22 NIBALIZATION.—Before the Defense Logistics Agency au-  
23 thorizes the recipient of property transferred under this  
24 section to cannibalize the property, the Secretary shall  
25 submit to Congress notice of such authorization, including

1 the name of the recipient requesting the authorization, the  
2 purpose of the proposed cannibalization, and the type of  
3 property proposed to be cannibalized.

4 “(l) QUARTERLY REPORTS ON USE OF CONTROLLED  
5 EQUIPMENT.—Not later than 30 days after the last day  
6 of a fiscal quarter, the Secretary shall submit to Congress  
7 a report on any uses of controlled equipment transferred  
8 under this section during that fiscal quarter.

9 “(m) REPORTS TO CONGRESS.—Not later than 30  
10 days after the last day of a fiscal year, the Secretary shall  
11 submit to Congress a report on the following for the pre-  
12 ceding fiscal year:

13 “(1) The percentage of equipment lost by re-  
14 cipients of property transferred under this section,  
15 including specific information about the type of  
16 property lost, the monetary value of such property,  
17 and the recipient that lost the property.

18 “(2) The transfer of any new (condition code  
19 A) property transferred under this section, including  
20 specific information about the type of property, the  
21 recipient of the property, the monetary value of each  
22 item of the property, and the total monetary value  
23 of all such property transferred during the fiscal  
24 year.”.

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