

.....  
(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

# H. R.

---

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.

---

## IN THE HOUSE OF REPRESENTATIVES

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

---

# 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 Federal, Tribal,  
11 State, and local law enforcement agencies through  
12 the program.

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

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

22           (5) In Fiscal Year 2017, \$504,000,000 worth  
23 of property was transferred to law enforcement  
24 agencies.

1           (6) More than \$6,800,000,000 worth of weap-  
2           ons and equipment have been transferred to police  
3           organizations in all 50 States and four territories  
4           through the program.

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

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

12          (9) On January 16, 2015, President Barack  
13          Obama issued Executive Order 13688 to better co-  
14          ordinate and regulate the federal transfer of military  
15          weapons and equipment to State, local, and Tribal  
16          law enforcement agencies.

17          (10) In July, 2017, the Government Account-  
18          ability Office reported that the program's internal  
19          controls were inadequate to prevent fraudulent appli-  
20          cants' access to the program.

21          (11) On August, 28, 2017, President Donald  
22          Trump rescinded Executive Order 13688 despite a  
23          July 2017 Government Accountability Office report  
24          finding deficiencies with the administration of the  
25          1033 program.

1           (12) As a result, Federal, State, and local law  
2 enforcement departments across the country are eli-  
3 gible again to acquire free “military-grade” weapons  
4 and equipment that could be used inappropriately  
5 during policing efforts in which people and taxpayers  
6 could be harmed.

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

16 **SEC. 3. LIMITATION ON DEPARTMENT OF DEFENSE TRANS-**  
17 **FER OF PERSONAL PROPERTY TO LOCAL LAW**  
18 **ENFORCEMENT AGENCIES.**

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

21           (1) in subsection (a)—

22           (A) in paragraph (1)(A), by striking  
23 “counterdrug, counterterrorism, `disaster-re-  
24 lated emergency preparedness, and border secu-

1           rity activities” and inserting “counterter-  
2           rorism”; and

3                   (B) in paragraph (2), by striking “, the  
4           Director of National Drug Control Policy,”;  
5           (2) in subsection (b)—

6                   (A) in paragraph (5), by striking “and” at  
7           the end;

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

10                   (C) by adding at the end the following new  
11           paragraphs:

12                   “(7) the recipient submits to the Department of  
13           Defense a description of how the recipient expects to  
14           use the property;

15                   “(8) the recipient certifies to the Department of  
16           Defense that if the recipient determines that the  
17           property is surplus to the needs of the recipient, the  
18           recipient will return the property to the Department  
19           of Defense;

20                   “(9) with respect to a recipient that is not a  
21           Federal agency, the recipient certifies to the Depart-  
22           ment of Defense that the recipient notified the local  
23           community of the request for personal property  
24           under this section by—

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

3           “(B) posting such notice at several promi-  
4           nent locations in the jurisdiction of the recipi-  
5           ent; and

6           “(C) ensuring that such notices were avail-  
7           able to the local community for a period of not  
8           less than 30 days; and

9           “(10) the recipient has received the approval of  
10          the city council or other local governing body to ac-  
11          quire the personal property sought under this sec-  
12          tion.”;

13          (3) by striking subsections (d) and (e);

14          (4) by redesignating subsections (f) and (g) as  
15          subsections (o) and (p), respectively; and

16          (5) by inserting after subsection (c) the fol-  
17          lowing new subsections:

18          “(d) ANNUAL CERTIFICATION ACCOUNTING FOR  
19          TRANSFERRED PROPERTY.—(1) For each fiscal year, the  
20          Secretary shall submit to Congress certification in writing  
21          that each Federal or State agency to which the Secretary  
22          has transferred property under this section—

23                 “(A) has provided to the Secretary documenta-  
24                 tion accounting for all controlled property, including  
25                 arms and ammunition, that the Secretary has trans-

1       ferred to the agency, including any item described in  
2       subsection (f) so transferred before the date of the  
3       enactment of the Stop Militarizing Law Enforce-  
4       ment Act; and

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

8       “(2) If the Secretary cannot provide a certification  
9       under paragraph (1) for a Federal or State agency, the  
10      Secretary may not transfer additional property to that  
11      agency under this section.

12      “(e) ANNUAL REPORT ON EXCESS PROPERTY.—Be-  
13      fore making any property available for transfer under this  
14      section, the Secretary shall annually submit to Congress  
15      a description of the property to be transferred together  
16      with a certification that the transfer of the property would  
17      not violate this section or any other provision of law.

18      “(f) LIMITATIONS ON TRANSFERS.—(1) The Sec-  
19      retary may not transfer to Federal, Tribal, State, or local  
20      law enforcement agencies the following under this section:

21              “(A) Controlled firearms, ammunition, bayo-  
22      nets, grenade launchers, grenades (including stun  
23      and flash-bang) and explosives.

24              “(B) Controlled vehicles, highly mobile multi-  
25      wheeled vehicles, mine-resistant ambush-protected

1 vehicles, trucks, truck dump, truck utility, and truck  
2 carryall.

3 “(C) Drones that are armored, weaponized, or  
4 both.

5 “(D) Controlled aircraft that—

6 “(i) are combat configured or combat  
7 coded; or

8 “(ii) have no established commercial flight  
9 application.

10 “(E) Silencers.

11 “(F) Long-range acoustic devices.

12 “(G) Items in the Federal Supply Class of  
13 banned items.

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

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

22 “(4)(A) The Secretary may waive the applicability of  
23 paragraph (1) to a vehicle described in subparagraph (B)  
24 of such paragraph (other than a mine-resistant ambush-  
25 protected vehicle), if the Secretary determines that such



1 a waiver is necessary for disaster or rescue purposes or  
2 for another purpose where life and public safety are at  
3 risk, as demonstrated by the proposed recipient of the ve-  
4 hicle.

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

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

11 “(ii) require, as a condition of the waiver, that  
12 the recipient of the vehicle for which the waiver is  
13 issued provides public notice of the waiver and the  
14 transfer, including the type of vehicle and the pur-  
15 pose for which it is transferred, in the jurisdiction  
16 where the recipient is located by not later than 30  
17 days after the date on which the waiver is issued.

18 “(5) The Secretary may provide for an exemption to  
19 the limitation under subparagraph (D) of paragraph (1)  
20 in the case of parts for aircraft described in such subpara-  
21 graph that are transferred as part of regular maintenance  
22 of aircraft in an existing fleet.

23 “(6) The Secretary shall require, as a condition of  
24 any transfer of property under this section, that the Fed-

1 eral or State agency that receives the property shall return  
2 the property to the Secretary if the agency—

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

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

7 “(g) CONDITIONS FOR EXTENSION OF PROGRAM.—  
8 Notwithstanding any other provision of law, amounts au-  
9 thorized to be appropriated or otherwise made available  
10 for any fiscal year may not be obligated or expended to  
11 carry out this section unless the Secretary submits to Con-  
12 gress certification that for the preceding fiscal year that—

13 “(1) each Federal or State agency that has re-  
14 ceived controlled property transferred under this sec-  
15 tion has—

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

19 “(B) been suspended from the program  
20 pursuant to paragraph (4);

21 “(2) with respect to each non-Federal agency  
22 that has received controlled property under this sec-  
23 tion, the State coordinator responsible for each such  
24 agency has verified that the coordinator or an agent  
25 of the coordinator has conducted an in-person inven-

1 tory of the property transferred to the agency and  
2 that 100 percent of such property was accounted for  
3 during the inventory or that the agency has been  
4 suspended from the program pursuant to paragraph  
5 (4);

6 “(3) with respect to each Federal agency that  
7 has received controlled property under this section,  
8 the Secretary of Defense or an agent of the Sec-  
9 retary has conducted an in-person inventory of the  
10 property transferred to the agency and that 100 per-  
11 cent of such property was accounted for during the  
12 inventory or that the agency has been suspended  
13 from the program pursuant to paragraph (4);

14 “(4) the eligibility of any agency that has re-  
15 ceived controlled property under this section for  
16 which 100 percent of the property was not ac-  
17 counted for during an inventory described in para-  
18 graph (1) or (2), as applicable, to receive any prop-  
19 erty transferred under this section has been sus-  
20 pended; and

21 “(5) each State coordinator has certified, for  
22 each non-Federal agency located in the State for  
23 which the State coordinator is responsible that—

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

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

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

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

9           “(B) the eligibility of the agency to receive  
10          property transferred under this section has been  
11          suspended.

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

16          “(i) 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          “(j) NOTICE TO CONGRESS OF PROPERTY CANNIBAL-  
22          IZATION.—Before the Defense Logistics Agency author-  
23          izes the recipient of property transferred under this sec-  
24          tion to cannibalize the property, the Secretary shall submit  
25          to Congress notice of such authorization, including the

1 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 “(k) 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 property transferred  
8 under this section during that fiscal quarter.

9 “(l) 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.