

No. \_\_\_\_\_

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In The  
Supreme Court of the United States

CHARLES ELOYS JOHNSON,  
a/k/a Adam White,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

ON PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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APPENDIX TO  
PETITION FOR WRIT OF CERTIORARI

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**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 17-4220**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHARLES ELOY JOHNSON, a/k/a Adam White,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Charleston. Richard Mark Gergel, District Judge. (2:15-cr-00386-RMG-1)

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Submitted: September 11, 2020

Decided: September 21, 2020

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Before WILKINSON and MOTZ, Circuit Judges, and Kenneth D. BELL, United States District Judge for the Western District of North Carolina, sitting by designation.

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Affirmed by unpublished per curiam opinion.

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David Alan Brown, Sr., Rock Hill, South Carolina, for Appellant. Peter M. McCoy, Jr., United States Attorney, Columbia, South Carolina, Nathan S. Williams, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

**APPENDIX A**

PER CURIAM:

A jury convicted Charles Eloys Johnson of two counts of Hobbs Act robbery and one count of conspiracy to commit Hobbs Act robbery, in violation of 18 U.S.C. § 1951, and two counts of possession of a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c). Johnson appeals, and for the reasons that follow, we affirm.

I.

This case arises from the commission of a pair of jewelry store robberies in South Carolina — one in Columbia and another in Charleston. In each robbery, two masked men entered the store (one carrying and brandishing a gun and the other carrying a hammer), smashed glass display cases, and took Rolex watches; two additional men waited in a getaway car.

The Government contends that Johnson served as the ringleader in both robberies. At trial, security camera footage and witness testimony showed that Johnson purchased the getaway cars, and testimony from a cooperating witness and cell phone data indicated that Johnson recruited and communicated with his co-conspirators. Additionally, cell tower data showed that Johnson's cell phone travelled to and from Charleston and Columbia consistent with the timing of the robberies. Although no evidence identified Johnson as one of the masked men who entered the stores, the Government maintained that Johnson was one of the individuals in the getaway cars.

At the conclusion of the evidence, the district court instructed the jury that both Hobbs Act robbery and conspiracy to commit Hobbs Act robbery constitute crimes of

violence under § 924(c). The court also instructed the jury that Johnson could be found guilty of violating § 924(c) under an aiding-and-abetting theory as long as he had “advance knowledge that a confederate would possess a firearm in furtherance of the robbery,” and that Johnson could be found guilty under a co-conspirator, or *Pinkerton*, theory as long as it was “reasonably foreseeable to [him] that a firearm would be used in furtherance of the conspiracy to commit robbery.” Johnson did not object to the jury instructions.

The jury returned a verdict of guilty on all counts. The general verdict form did not specify which predicate offense the jury relied on for the § 924(c) convictions, nor did it specify whether it found Johnson guilty of violating § 924(c) as a principal, aider and abettor, or co-conspirator. The district court sentenced Johnson to imprisonment for 384 months and one day. He noted this timely appeal.

## II.

Johnson principally argues that the district court committed reversible error in its jury instructions.\* He contends that the district court erred in instructing the jury that Hobbs Act conspiracy constitutes a crime of violence. For this reason, Johnson maintains

\* Johnson makes two additional claims. First, he raises an ineffective assistance of counsel claim. On direct appeal he must demonstrate that the record “conclusively shows ineffective assistance,” *United States v. Williams*, 977 F.2d 866, 871 (4th Cir. 1992), which he has failed to do. Second, Johnson argues that we must vacate his sentence in light of the First Step Act’s recent amendment of § 924(c). However, the First Step Act does not apply to Johnson’s sentence, which was imposed on April 10, 2017, more than a year before the enactment of the First Step Act on December 21, 2018. *See* Pub. L. No. 115-391 § 403(b), 132 Stat. 5194, 5222.

that his convictions for possessing a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c), are invalid.

Because Johnson did not object to the jury instructions, we review them for plain error. *See* Fed. R. Crim. P. 52(b); *United States v. Olano*, 507 U.S. 725, 731 (1993). To obtain reversal on plain error review, a defendant must show that “(1) an error was made; (2) the error is plain; (3) the error affects substantial rights; and (4) the error seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *United States v. Ramirez-Castillo*, 748 F.3d 205, 212 (4th Cir. 2014).

Johnson has met his burden of showing that the district court committed an “error” that is “plain.” An error is plain if, “at the time of appellate consideration, the settled law of the Supreme Court or this circuit establishes that an error has occurred.” *United States v. Walker*, 934 F.3d 375, 378 (4th Cir. 2019) (quotation marks omitted). In *United States v. Davis*, 139 S. Ct. 2319 (2019), the Supreme Court struck down the residual clause of § 924(c) as unconstitutionally vague. *Id.* at 2336. And in *United States v. Simms*, 914 F.3d 229 (4th Cir. 2019) (en banc), we held that conspiracy to commit Hobbs Act robbery does not constitute a crime of violence. *Id.* at 233. The district court thus plainly erred in its Hobbs Act conspiracy instruction.

Johnson, however, cannot establish that this error “affects [his] substantial rights,” *Ramirez-Castillo*, 748 F.3d at 212, because the jury could have based the firearms convictions not on conspiracy to commit robbery, but on Hobbs Act robbery charges, which do constitute valid § 924(c) predicates. *See United States v. Mathis*, 932 F.3d 242, 266 (4th Cir. 2019). Johnson argues that the latter convictions do not provide valid

predicates because the jury could have convicted him under a co-conspirator, or *Pinkerton*, theory, which he believes *Simms*, 914 F.3d 229, foreclosed. This argument confuses the offense of Hobbs Act conspiracy with the co-conspirator *theory of liability* for Hobbs Act robbery. Under the *Pinkerton* doctrine, “a defendant is liable for substantive offenses committed by a co-conspirator when their commission is reasonably foreseeable and in furtherance of the conspiracy.” *United States v. Blackman*, 746 F.3d 137, 141 (4th Cir. 2014) (quotation marks omitted). This theory of liability “merely represents an alternative form of vicarious liability,” *id.*, and we have long-held that “a co-conspirator’s § 924(c)(1) violation may be imputed to other members of the conspiracy . . . under the *Pinkerton* conspiracy doctrine.” *United States v. Cummings*, 937 F.2d 941, 944 (4th Cir. 1991); accord *United States v. Hare*, 820 F.3d 93, 105 (4th Cir. 2016). It is of no moment in this case that the offense of conspiracy to commit Hobbs Act robbery is an invalid § 924(c) predicate following *Simms*, because the *Pinkerton* theory of liability for Hobbs Act robbery remains a valid § 924(c) predicate.

Johnson also maintains that there was insufficient evidence to instruct the jury that he could be found guilty of violating § 924(c) as a principal or as an aider and abettor. Even if the Government did present insufficient evidence and the instruction were error (a question we do not reach), this argument also fails. This is so because the jury was “properly instructed on *Pinkerton* liability and the evidence amply demonstrate[d] that it was reasonably foreseeable to [Johnson] that a co-conspirator would possess a firearm” — which Johnson does not contest — and so “any error in the aiding and abetting instruction does not satisfy the plain error standard.” *Hare*, 820 F.3d at 105. By the same token, any

error in the principal instruction would also not satisfy the plain error standard. *United States v. Robinson*, 627 F.3d 941, 956 (4th Cir. 2010).

Accordingly, notwithstanding the district court's error in instructing the jury that Hobbs Act conspiracy is a crime of violence, the judgment of the district court is

*AFFIRMED.*



FILED: September 21, 2020

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 17-4220  
(2:15-cr-00386-RMG-1)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

CHARLES ELOY JOHNSON, a/k/a Adam White

Defendant - Appellant

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J U D G M E N T

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In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

**APPENDIX B**

FILED: October 19, 2020

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 17-4220  
(2:15-cr-00386-RMG-1)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

CHARLES ELOYS JOHNSON, a/k/a Adam White

Defendant - Appellant

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O R D E R

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The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wilkinson, Judge Motz, and Judge Bell.

For the Court

/s/ Patricia S. Connor, Clerk

APPENDIX C

**§ 924. Penalties**

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), (f), or (p) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (f), (k), or (q) of section 922;

(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l); or

(D) willfully violates any other provision of this chapter,

shall be fined under this title, imprisoned not more than five years, or both.

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

(3) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(B) violates subsection (m) of section 922,

shall be fined under this title, imprisoned not more than one year, or both.

(4) Whoever violates section 922(q) shall be fined under this title, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.

(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined under this title, imprisoned for not more than 1 year, or both.

(6)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

(ii) A juvenile is described in this clause if—

(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if en-

gaged in by an adult would constitute an offense.

(B) A person other than a juvenile who knowingly violates section 922(x)—

(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.

(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined under this title, or imprisoned not more than ten years, or both.

(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

(i) be sentenced to a term of imprisonment of not less than 5 years;

(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

(B) If the firearm possessed by a person convicted of a violation of this subsection—

(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

(C) In the case of a violation of this subsection that occurs after a prior conviction under this subsection has become final, the person shall—

(i) be sentenced to a term of imprisonment of not less than 25 years; and

(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

(D) Notwithstanding any other provision of law—

(i) a court shall not place on probation any person convicted of a violation of this subsection; and

(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

(2) For purposes of this subsection, the term “drug trafficking crime” means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46.

(3) For purposes of this subsection the term “crime of violence” means an offense that is a felony and—

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(4) For purposes of this subsection, the term “brandish” means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.

(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

(A) be sentenced to a term of imprisonment of not less than 15 years; and

(B) if death results from the use of such ammunition—

(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, or willful violation of any other provision of this chapter

or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: *Provided*, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney’s fee, and the United States shall be liable therefor.

(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney’s fee, and the United States shall be liable therefor.

(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

(D) The United States shall be liable for attorneys’ fees under this paragraph only to the extent provided in advance by appropriation Acts.

(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

(A) any crime of violence, as that term is defined in section 924(c)(3) of this title;

(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(C) any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title;

(D) any offense described in section 922(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

(E) any offense described in section 922(i), 922(j), 922(l), 922(n), or 924(b) of this title; and

(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

(e)(1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall be fined under this title and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).

(2) As used in this subsection—

(A) the term “serious drug offense” means—

(i) an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46 for which a maximum term of imprisonment of ten years or more is prescribed by law; or

(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law;

(B) the term “violent felony” means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that—

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; and

(C) the term “conviction” includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.

(f) In the case of a person who knowingly violates section 922(p), such person shall be fined under this title, or imprisoned not more than 5 years, or both.

(g) Whoever, with the intent to engage in conduct which—

(1) constitutes an offense listed in section 1961(1),

(2) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46,

(3) violates any State law relating to any controlled substance (as defined in section

102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), or

(4) constitutes a crime of violence (as defined in subsection (c)(3)),

travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

(h) Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

(i)(1) A person who knowingly violates section 922(u) shall be fined under this title, imprisoned not more than 10 years, or both.

(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.

(j) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.

(k) A person who, with intent to engage in or to promote conduct that—

(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46;

(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.

(l) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.

(m) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined under this title, imprisoned not more than 10 years, or both.

(n) A person who, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other



State in furtherance of such purpose shall be imprisoned for not more than 10 years.

(o) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years, fined under this title, or both; and if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.

(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

(1) IN GENERAL.—

(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

(ii) subject the licensee to a civil penalty in an amount equal to not more than \$2,500.

(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.

(Added Pub. L. 90-351, title IV, §902, June 19, 1968, 82 Stat. 233; amended Pub. L. 90-618, title I, §102, Oct. 22, 1968, 82 Stat. 1223; Pub. L. 91-644, title II, §13, Jan. 2, 1971, 84 Stat. 1889; Pub. L. 98-473, title II, §§223(a), 1005(a), Oct. 12, 1984, 98 Stat. 2028, 2138; Pub. L. 99-308, §104(a), May 19, 1986, 100 Stat. 456; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-570, title I, §1402, Oct. 27, 1986, 100 Stat. 3207-39; Pub. L. 100-649, §2(b), (f)(2)(B), (D), Nov. 10, 1988, 102 Stat. 3817, 3818; Pub. L. 100-690, title VI, §§6211, 6212, 6451, 6460, 6462, title VII, §§7056, 7060(a), Nov. 18, 1988, 102 Stat. 4359, 4360, 4371, 4373, 4374, 4402, 4403; Pub. L. 101-647, title XI, §1101, title XVII, §1702(b)(3), title XXII, §§2203(d), 2204(c), title XXXV, §§3526-3529, Nov. 29, 1990, 104 Stat. 4829, 4845, 4857, 4924; Pub. L. 103-159, title I, §102(c), title III, §302(d), Nov. 30, 1993, 107 Stat. 1541, 1545; Pub. L. 103-322, title VI, §60013, title XI, §§110102(c), 110103(c), 110105(2), 110201(b), 110401(e), 110503, 110504(a), 110507, 110510, 110515(a), 110517, 110518(a), title XXXIII, §§330002(h), 330003(f)(2), 330011(i), (j), 330016(l)(H), (K), (L), Sept. 13, 1994, 108 Stat. 1973, 1998-2000, 2011, 2015, 2016, 2018-2020, 2140, 2141, 2145, 2147; Pub. L. 104-294, title VI, §603(m)(1), (n)-(p)(1), (q)-(s), Oct. 11, 1996, 110 Stat. 3505; Pub. L. 105-386, §1(a), Nov. 13, 1998, 112 Stat. 3469; Pub. L. 107-273, div. B, title IV, §4002(d)(1)(E), div. C, title I, §11009(e)(3), Nov. 2, 2002, 116 Stat. 1809, 1821; Pub. L. 108-174, §1(2), (3), Dec. 9, 2003, 117 Stat. 2481; Pub. L. 109-92, §§5(c)(2), 6(b), Oct. 26, 2005, 119 Stat. 2100, 2102; Pub. L. 109-304, §17(d)(3), Oct. 6, 2006, 120 Stat. 1707; Pub. L. 115-391, title IV, §403(a), Dec. 21, 2018, 132 Stat. 5221.)

#### AMENDMENT OF SECTION

*Pub. L. 100-649, §2(f)(2)(B), (D), Nov. 10, 1988, 102 Stat. 3818, as amended by Pub. L. 101-647, title XXXV, §3526(b), Nov. 29, 1990, 104 Stat. 4924; Pub. L. 105-277, div. A, §101(h) [title VI, §649], Oct. 21, 1998, 112 Stat. 2681-480, 2681-528; Pub. L. 108-174, §1, Dec. 9, 2003, 117 Stat. 2481; Pub. L. 113-57, §1, Dec. 9, 2013, 127 Stat. 656, provided that, effective 35 years after the 30th day beginning after Nov. 10, 1988, subsection (a)(1) of this section is amended by striking “this subsection, subsection (b), (c), or (f) of this section, or in section 929” and inserting “this chapter”, subsection (f) of this section is repealed, and subsections (g) through (o) of this section are redesignated as subsections (f) through (n), respectively, of this section.*

#### REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (d)(1), is set out as Title 26, Internal Revenue Code. Section 5845(a) of that Code, referred to in subsec. (d)(1), is classified to section 5845(a) of Title 26.

The Controlled Substances Act, referred to in subsecs. (c)(2), (d)(3)(B), (e)(2)(A)(i), (g)(2), and (k)(1), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsecs. (c)(2), (d)(3)(B), (e)(2)(A)(i), (g)(2), and (k)(1), is title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21. For complete classification of this Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

#### CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, as added by section 1402(b) of Pub. L. 99-570, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

#### AMENDMENTS

2018—Subsec. (c)(1)(C). Pub. L. 115-391 substituted “violation of this subsection that occurs after a prior conviction under this subsection has become final” for “second or subsequent conviction under this subsection” in introductory provisions.

2006—Subsecs. (c)(2), (e)(2)(A)(i). Pub. L. 109-304, §17(d)(3)(A), substituted “chapter 705 of title 46” for “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”.

Subsec. (g)(2). Pub. L. 109-304, §17(d)(3), substituted “801 et seq.” for “802 et seq.” and “chapter 705 of title 46” for “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”.

Subsec. (k)(1). Pub. L. 109-304, §17(d)(3)(A), substituted “chapter 705 of title 46” for “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”.

2005—Subsec. (a)(1). Pub. L. 109-92, §5(c)(2)(A), substituted “(f), or (p)” for “or (f)” in introductory provisions.

Subsec. (c)(5). Pub. L. 109-92, §6(b), added par. (5).

Subsec. (p). Pub. L. 109-92, §5(c)(2)(B), added subsec. (p).

2002—Subsec. (a)(7). Pub. L. 107-273, §11009(e)(3), added par. (7).

Subsec. (e)(1). Pub. L. 107-273, §4002(d)(1)(E), substituted “under this title” for “not more than \$25,000”.

1998—Subsec. (c)(1). Pub. L. 105-386, §1(a)(1), added par. (1) and struck out former par. (1) which read as follows: “Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years, and if the firearm is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, to imprisonment for ten years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to imprisonment for thirty years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for twenty years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried.”

Subsec. (c)(4). Pub. L. 105-386, §1(a)(2), added par. (4). 1996—Subsec. (a)(1)(B). Pub. L. 104-294, §603(n), repealed Pub. L. 103-322, §330002(h). See 1994 Amendment note below.

Pub. L. 104-294, §603(m)(1)(A), amended directory language of Pub. L. 103-322, §110507. See 1994 Amendment note below.

Subsec. (a)(2). Pub. L. 104-294, §603(m)(1)(B), amended directory language of Pub. L. 103-322, §110507(2). See 1994 Amendment note below.

Subsec. (a)(5), (6). Pub. L. 104-294, §603(o), redesignated par. (5), relating to punishment for juveniles, as (6).

Subsec. (c)(1). Pub. L. 104-294, §603(p)(1), amended directory language of Pub. L. 103-322, §110102(c)(2). See 1994 Amendment note below.

Subsec. (i). Pub. L. 104-294, §603(r), redesignated subsec. (i), relating to death penalty for gun murders, as (j).

Subsec. (j). Pub. L. 104-294, §603(r), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (j)(3). Pub. L. 104-294, §603(q), inserted closing parenthesis before comma at end.

Subsec. (k). Pub. L. 104-294, §603(r), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (l).

Subsec. (l). Pub. L. 104-294, §603(s), amended directory language of Pub. L. 103-322, §110504. See 1994 Amendment note below.

Pub. L. 104-294, §603(r), redesignated subsec. (k) as (l). Former subsec. (l) redesignated (m).

Subsecs. (m) to (o). Pub. L. 104-294, §603(r), redesignated subsecs. (l) to (n) as (m) to (o), respectively.

1994—Subsec. (a)(1). Pub. L. 103-322, §330016(1)(K), substituted “fined under this title” for “fined not more than \$5,000” in concluding provisions.

Pub. L. 103-322, §330011(i), amended directory language of Pub. L. 101-647, §3528. See 1990 Amendment note below.

Pub. L. 103-322, §110201(b)(1), which directed the striking of “paragraph (2) or (3) of” in subsec. (a)(1), could not be executed because of prior amendment by Pub. L. 103-159. See 1993 Amendment note below.

Subsec. (a)(1)(B). Pub. L. 103-322, §330002(h), which directed amendment of subpar. (B) by substituting “(r)” for “(q)”, was repealed by Pub. L. 104-294, §603(n), which provided that §330002(h) shall be considered never to have been enacted.

Pub. L. 103-322, §110507(1), as amended by Pub. L. 104-294, §603(m)(1)(A), struck out “(a)(6),” after “(a)(4),”.

Pub. L. 103-322, §110103(c), which substituted “(v), or (w)” for “or (v)”, was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Pub. L. 103-322, §110102(c)(1), which substituted “(r), or (v) of section 922” for “or (q) of section 922”, was repealed by Pub. L. 103-322, §110105(2). See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (a)(2). Pub. L. 103-322, §110507(2), as amended by Pub. L. 104-294, §603(m)(1)(B), inserted “(a)(6),” after “subsection”.

Subsec. (a)(3). Pub. L. 103-322, §330016(1)(H), substituted “fined under this title” for “fined not more than \$1,000”.

Subsec. (a)(4). Pub. L. 103-322, §330016(1)(K), substituted “fined under this title” for “fined not more than \$5,000”.

Subsec. (a)(5). Pub. L. 103-322, §330016(1)(H), substituted “fined under this title” for “fined not more than \$1,000” in par. (5) relating to knowing violations of subsec. (s) or (t) of section 922.

Pub. L. 103-322, §110201(b)(2), added par. (5) relating to punishment for juveniles.

Subsec. (b). Pub. L. 103-322, §330016(1)(L), substituted “fined under this title” for “fined not more than \$10,000”.

Subsec. (c)(1). Pub. L. 103-322, §330011(j), amended directory language of Pub. L. 101-647, §3527. See 1990 Amendment note below.

Pub. L. 103-322, §110510(b), which directed the amendment of subsec. (c)(1) by striking “No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed under this subsection.”, was executed by striking the last sentence, which read “No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.”, to reflect the probable intent of Congress.

Pub. L. 103-322, §§110102(c)(2), 110105(2), as amended by Pub. L. 104-294, §603(p)(1), temporarily amended subsec. (c)(1) by inserting “, or semiautomatic assault weapon,” after “short-barreled shotgun”. See Effective and Termination Dates of 1994 Amendment note below.

Subsec. (d)(1). Pub. L. 103-322, §110401(e), substituted “or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms” for “the seized firearms”.

Subsec. (e)(1). Pub. L. 103-322, §110510(a), struck out before period at end “, and such person shall not be eligible for parole with respect to the sentence imposed under this subsection”.

Subsec. (e)(2)(A)(i). Pub. L. 103-322, §330003(f)(2), substituted “the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)” for “the first section or section 3 of Public Law 96-350 (21 U.S.C. 955a et seq.)”.

Subsec. (i). Pub. L. 103-322, §60013, added subsec. (i) relating to death penalty for gun murders.

Subsec. (i)(1). Pub. L. 103-322, §330016(1)(L), substituted “fined under this title” for “fined not more than \$10,000” in par. (1) of subsec. (i) relating to knowing violations of section 922(u).

Subsec. (j). Pub. L. 103-322, §110503, added subsec. (j).

Subsec. (k). Pub. L. 103-322, §110504(a), as amended by Pub. L. 104-294, §603(s), added subsec. (k).

Subsec. (l). Pub. L. 103-322, §110515(a), added subsec. (l).

Subsec. (m). Pub. L. 103-322, §110517, added subsec. (m).

Subsec. (n). Pub. L. 103-322, §110518(a), added subsec. (n).

1993—Subsec. (a)(1). Pub. L. 103-159, §102(c)(1), struck out “paragraph (2) or (3) of” before “this subsection” in introductory provisions.

Subsec. (a)(5). Pub. L. 103-159, §102(c)(2), added par. (5).

Subsec. (i). Pub. L. 103-159, §302(d), added subsec. (i).

1990—Subsec. (a)(1). Pub. L. 101-647, §3528, as amended by Pub. L. 103-322, §330011(i), substituted “(3) of this subsection” for “3 of this subsection” in introductory provisions.

Pub. L. 101-647, § 2203(d), struck out “, and shall become eligible for parole as the Parole Commission shall determine” before period at end.

Subsec. (a)(1)(B). Pub. L. 101-647, § 2204(c), substituted “(k), or (q)” for “(or (k))”.

Subsec. (a)(2). Pub. L. 101-647, § 3529(1), substituted “subsection” for “subsections” and inserted a comma after “10 years”.

Subsec. (a)(3). Pub. L. 101-647, § 2203(d), struck out “, and shall become eligible for parole as the Parole Commission shall determine” before period at end.

Subsec. (a)(4). Pub. L. 101-647, § 1702(b)(3), added par. (4).

Subsec. (c)(1). Pub. L. 101-647, § 3527, as amended by Pub. L. 103-322, § 330011(j), struck out “imprisonment for” before “life imprisonment without release”.

Pub. L. 101-647, § 1101(2), which directed amendment of first sentence by “inserting ‘or a destructive device,’ after ‘a machinegun,’ wherever the term ‘machine gun’ appears, in section 924(c)(1)”, was executed by inserting the new language after “a machinegun,” once in the first sentence and once in the second sentence to reflect the probable intent of Congress.

Pub. L. 101-647, § 1101(1), inserted “and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for ten years,” after “sentenced to imprisonment for five years.”

Subsec. (e)(2). Pub. L. 101-647, § 3529(2), (3), struck out “and” at end of subpar. (A)(ii) and substituted “; and” for period at end of subpar. (B)(ii).

Subsecs. (f) to (h). Pub. L. 101-647, § 3526(a), redesignated subsec. (f) relating to punishment for traveling from any State or foreign country into another State to obtain firearms for drug trafficking purposes as subsec. (g) and redesignated former subsec. (g) as (h).

1988—Subsec. (a). Pub. L. 100-690, § 6462, in par. (1), inserted “or 3” and substituted “, (c), or (f)” for “(or (c))” in introductory provisions and struck out “(g), (i), (j),” after “(f),” in subpar. (B), added par. (2), and redesignated former par. (2) as (3).

Subsec. (c)(1). Pub. L. 100-690, § 7060(a), substituted “crime (including a crime of violence or drug trafficking crime which” for “crime,, including a crime of violence or drug trafficking crime, which”, “device) for” for “device, for”, “crime, be sentenced” for “crime,, be sentenced”, and “crime in which” for “crime, or drug trafficking crime in which”.

Pub. L. 100-690, § 6460(1), (2)(A), substituted “thirty years. In” for “ten years. In” and “twenty years, and if” for “ten years, and if”.

Pub. L. 100-690, § 6460(2)(B), which directed amendment of subsec. (c)(1) by striking “20 years” and inserting “life imprisonment without release” was executed by substituting “life imprisonment without release” for “twenty years” to reflect the probable intent of Congress because “20 years” did not appear.

Subsec. (c)(2). Pub. L. 100-690, § 6212, amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For purposes of this subsection, the term ‘drug trafficking crime’ means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).”

Subsec. (e)(1). Pub. L. 100-690, § 7056, inserted “committed on occasions different from one another,” after “or both.”

Subsec. (e)(2)(B). Pub. L. 100-690, § 6451(1), inserted “, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult,” after “one year”.

Subsec. (e)(2)(C). Pub. L. 100-690, § 6451(2), added subpar. (C).

Subsec. (f). Pub. L. 100-690, § 6211, added subsec. (f) relating to punishment for traveling from any State or foreign country into another State to obtain firearms for drug trafficking purposes.

Pub. L. 100-649, § 2(b)(2), added subsec. (f) relating to penalty for violating section 922(p).

Subsec. (g). Pub. L. 100-690, § 6211, added subsec. (g).

1986—Subsec. (a). Pub. L. 99-308, § 104(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Whoever violates any provision of this chapter or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter, shall be fined not more than \$5,000, or imprisoned not more than five years, or both, and shall become eligible for parole as the Board of Parole shall determine.”

Subsec. (c)(1). Pub. L. 99-308, § 104(a)(2)(C)–(E), designated existing provision as par. (1), and substituted “violence or drug trafficking crime,” for “violence” in four places and inserted “, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for ten years” after “five years”, “, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for twenty years” after “ten years”, and “or drug trafficking crime” before “in which the firearm was used or carried”.

Subsec. (c)(2), (3). Pub. L. 99-308, § 104(a)(2)(F), added pars. (2) and (3).

Subsec. (d). Pub. L. 99-308, § 104(a)(3), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “Any firearm or ammunition involved in or used or intended to be used in, any violation of the provisions of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.”

Subsec. (d)(1). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (e). Pub. L. 99-308, § 104(a)(4), added subsec. (e).

Subsec. (e)(1). Pub. L. 99-570, § 1402(a), substituted “for a violent felony or a serious drug offense, or both” for “for robbery or burglary, or both”.

Subsec. (e)(2). Pub. L. 99-570, § 1402(b), amended par. (2) generally, substituting provisions defining terms “serious drug offense” and “violent felony” for provisions defining “robbery” and “burglary”.

1984—Subsec. (a). Pub. L. 98-473, § 223(a), which directed amendment of subsec. (a) by striking out “, and shall become eligible for parole as the Board of Parole shall determine” effective Nov. 1, 1987, pursuant to section 235 of Pub. L. 98-473, as amended, could not be executed because quoted language no longer appears due to general amendment of subsec. (a) by Pub. L. 99-308, § 104(a)(1). See 1986 Amendment note above.

Subsec. (c). Pub. L. 98-473, § 1005(a), amended subsec. (c) generally, substituting provisions setting forth mandatory, determinate sentence for persons who use or carry firearms during and in relation to any Federal crime of violence for provisions setting out a minimum sentencing scheme for the use or carrying, unlawfully, of a firearm during a Federal felony.

1971—Subsec. (c). Pub. L. 91-644, in first sentence, substituted “felony for which he” for “felony which” in items (1) and (2) and inserted “, in addition to the punishment provided for the commission of such felony,” before “be sentenced”, and in second sentence substituted “for not less than two nor more than twenty-five years” for “for not less than five years nor more than 25 years”, inserted “in the case of a second or subsequent conviction” after “suspend the sentence”, and prohibited term of imprisonment imposed under this subsec. to run concurrently with any term for commission of the felony.

1968—Subsec. (a). Pub. L. 90-618 inserted provision authorizing the Board of Parole to grant parole to a person convicted under this chapter.



Subsec. (b). Pub. L. 90-618 inserted “or any ammunition” after “a firearm”.

Subsecs. (c), (d). Pub. L. 90-618 added subsec. (c), redesignated former subsec. (c) as (d), and as so redesignated, substituted “section 5845(a) of that Code” for “section 5848(1) of said Code”.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-391, title IV, § 403(b), Dec. 21, 2018, 132 Stat. 5222, provided that: “This section [amending this section], and the amendments made by this section, shall apply to any offense that was committed before the date of enactment of this Act [Dec. 21, 2018], if a sentence for the offense has not been imposed as of such date of enactment.”

#### EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 5(c)(2) of Pub. L. 109-92 effective 180 days after Oct. 26, 2005, see section 5(d) of Pub. L. 109-92, set out as a note under section 922 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-294, title VI, § 603(m)(2), Oct. 11, 1996, 110 Stat. 3505, provided that: “The amendments made by paragraph (1) [amending this section] shall take effect as if the amendments had been included in section 110507 of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994].”

Pub. L. 104-294, title VI, § 603(p)(2), Oct. 11, 1996, 110 Stat. 3505, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if the amendment had been included in section 110102(c)(2) of the Act referred to in paragraph (1) [Pub. L. 103-322] on the date of the enactment of such Act [Sept. 13, 1994].”

#### EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Amendment by sections 110102(c) and 110103(c) of Pub. L. 103-322 repealed 10 years after Sept. 13, 1994, see section 110105(2) of Pub. L. 103-322, formerly set out as a note under section 921 of this title.

Pub. L. 103-322, title XXXIII, § 330011(i), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of the date on which section 3528 of Pub. L. 101-647 took effect.

Pub. L. 103-322, title XXXIII, § 330011(j), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of the date on which section 3527 of Pub. L. 101-647 took effect.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 1702(b)(3) of Pub. L. 101-647 applicable to conduct engaged in after end of 60-day period beginning on Nov. 29, 1990, see section 1702(b)(4) of Pub. L. 101-647, set out as a note under section 921 of this title.

Pub. L. 101-647, title XXII, § 2203(d), Nov. 29, 1990, 104 Stat. 4857, provided that the amendment by that section is effective with respect to any offense committed after Nov. 1, 1987.

#### EFFECTIVE DATE OF 1988 AMENDMENT; SUNSET PROVISION

Amendment by section 2(b) of Pub. L. 100-649 effective 30th day beginning after Nov. 10, 1988, and amendment by section 2(f)(2)(B), (D) effective 35 years after such effective date, see section 2(f) of Pub. L. 100-649, as amended, set out as a note under section 922 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-308 effective 180 days after May 19, 1986, see section 110(a) of Pub. L. 99-308, set out as a note under section 921 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 223(a) of Pub. L. 98-473 effective Nov. 1, 1987, and applicable only to offenses com-

mitted after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98-473, set out as an Effective Date note under section 3551 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-618 effective Dec. 16, 1968, see section 105 of Pub. L. 90-618, set out as a note under section 921 of this title.

#### EFFECTIVE DATE

Section effective 180 days after June 19, 1968, see section 907 of Pub. L. 90-351, set out as a note under section 921 of this title.

### § 925. Exceptions: Relief from disabilities

(a)(1) The provisions of this chapter, except for sections 922(d)(9) and 922(g)(9) and provisions relating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to the transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(2) The provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to (A) the shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10 before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

(3) Unless otherwise prohibited by this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

(4) When established to the satisfaction of the Attorney General to be consistent with the provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 922(p), and other applicable Federal and State laws and published ordinances, the Attorney General may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the sixty day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) determined by the Attorney General to be generally recognized as particularly