



Top Ten Reasons Why the McCain-Lieberman Gun Show Bill Would Open More Loopholes Than it Would Close

CFA opposes the “Gun Show Loophole Closing and Gun Law Enforcement Act of 2001,” (S. 890) sponsored by Senators John McCain (R-AZ) and Joe Lieberman (D-CT) because it would open more loopholes than it would close:

- 10) **The McCain-Lieberman bill allows people to operate mini gun shows from the comforts of home.** The McCain-Lieberman bill defines a “gun show” as an event where there are 75 or more guns, *except when the guns are part of a “personal collection.”* Under current law, there is no blanket exemption for a “personal collection” of up to 75 guns. McCain-Lieberman would create a new *de facto* exemption for unlicensed individuals who run gun shows out of their homes—calling them sales from their “personal collections.”
- 9) **The McCain-Lieberman bill sets different background check standards for unlicensed individuals versus federally licensed dealers.** The McCain-Lieberman bill would shorten the background checks for sales by *unlicensed* sellers from three business days to 24 hours in states where 95 percent of certain records are automated. There is absolutely no basis whatsoever to treat gun sales at gun shows differently depending on whether the seller is licensed or unlicensed. If anything, the unlicensed transfers should be treated more strictly, because criminals and other prohibited people are more likely to buy guns from unlicensed transferors—especially if they know that law enforcement has substantially less time to finish the background check. Indeed, the need to treat them the same is precisely the reason for closing the gun show loophole in the first place.
- 8) **The McCain-Lieberman bill reduces the time for law enforcement to do adequate background checks.** Under the McCain-Lieberman bill, sales by unlicensed individuals would initially be subject to the three business day rule, but the time period would sunset to 24 hours if certain conditions are met. This would not be effective for catching suspect sales by unlicensed individuals because it’s simply not enough time. Since many gun shows take place on the weekends, the information necessary to complete a background check would not be accessible within 24 hours because state and local offices where that crucial information is kept are not open on weekends. This bill would have the negative effect of drawing more criminals to unlicensed individuals who sell at gun shows. In operation, it may sell more guns but it would put the public at risk.
- 7) **The McCain-Lieberman bill gives too many people access to the background check system.** The McCain-Lieberman bill creates a new category of “special firearms event” licensees who could conduct background checks at gun shows. The idea was first proposed in 1999 by Senator and NRA Board Member Larry Craig (R-ID). This provision would impose additional burdens on the background check system that would likely result in delays, outages, and mis-identifications. The system could also reverse a multi-year effort to reduce the number of “kitchen table” dealers operating out of homes and offices, often not in compliance with state and local laws. There is no evidence to support creating a new class of licensees for gun show background checks. California has a significant number of gun shows and requires all sales to go through a licensed dealer.
- 6) **The McCain-Lieberman bill weakens existing law in New York.** McCain-Lieberman’s two-tiered

system for background checks at gun shows—one for sales by federal firearm licensees, and another for sales by unlicensed individuals—could undermine the existing gun show background check law in New York. The new federal law could replace New York’s current system which was signed into law last year by Governor Pataki. New York follows the current federal rule that allows three business days to complete background checks. The McCain-Lieberman bill’s anti-preemption provision would not insulate the existing New York law since the state law incorporates any amendments made to the federal law.

- 5) **The McCain-Lieberman bill increases the risk of illegal gun trafficking.** The McCain-Lieberman bill would allow individual states to reduce the three business days to 24 hours for sales by unlicensed individuals if the U.S. Attorney General certifies that the state has met certain conditions. This will create a patchwork of state law, with some states operating under the three business day rule and others under the 24 hour rule. The states with the weaker standard will be at increased risk of attracting illegal gun traffickers.
- 4) **The McCain-Lieberman bill’s 95 percent provision is illusory.** The McCain-Lieberman bill would shorten the background checks for sales by unlicensed sellers from three business days to 24 hours in states where 95 percent of “all records containing information that would disqualify an individual” are computerized. It’s unclear which records would be classified as “information that would disqualify an individual.” Also, this provision does not require that the information be final (e.g. an arrest record only)—increasing the probability that more than 24 hours would be needed to follow up on many suspect cases.
- 3) **The McCain-Lieberman bill runs counter to the experience in McCain’s home state, which shows that at least three days are necessary to do adequate background checks.** According to a May 15th report released by the Arizona state Auditor General's Office, a third of 5,000 gun purchases last year probably should not have happened because of "serious disqualifying offenses, such as misconduct with weapons, sexual assault, child abuse, arson, robbery, aggravated assault or conspiracy to commit murder." Arizona currently allows up to three days for the background check process. After that, the sale can go through whether the check is completed or not. Of the 123,000 applications the Arizona Department of Public Safety (DPS) received in 2000, 10,000 needed further research. The DPS completed only half of the red-flagged checks in the allotted three days, auditors reported, letting 5,000 purchases through without a background check.
- 2) **The McCain-Lieberman bill allows states to shorten the time for background checks even though they won’t be able to get the checks done.** In Arizona, 100 percent of the criminal history records are already automated. So if the McCain-Lieberman bill is interpreted to say that a state needs to have 95 percent of its records with dispositions automated and available, Arizona would qualify TODAY for a 24-hour background check, even though they can't get the checks done in three days.
- 1) **There’s already a bill to close the gun show loophole that will do the job.** The Gun Show Background Check Act (S. 767), sponsored by Senator Jack Reed (D-RI) is the only bill that will effectively close the deadly gun show loophole. Senator Reed’s bill merely extends existing federal law that applies to sales at gun stores to include all sales at gun shows. Most importantly, this legislation allows law enforcement up to three business days to complete background checks. While ninety-five percent of the checks are completed in less than two hours, three business days are needed to ensure that law enforcement officials can complete the background check in a small number of suspect cases where the initial check raises a flag. The FBI found that purchasers whose checks take more than 24 hours to complete are 20 times more likely to be prohibited than the average purchaser. As evidence from Arizona reveals, the three business day provision must be preserved for all sellers at gun shows—anything less will be an invitation to criminals.