

§ 3796II-3. James Guelff and Chris McCurley Body Armor Act of 2002

(a) Short title

This section may be cited as the “James Guelff and Chris McCurley Body Armor Act of 2002”.

(b) Findings

Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 1,500 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

(c) Definitions

In this section:

(1) Body armor

The term “body armor” means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) Law enforcement agency

The term “law enforcement agency” means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or

supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) Law enforcement officer

The term “law enforcement officer” means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(d) Amendment of sentencing guidelines with respect to body armor

(1) In general

Pursuant to its authority under section 994(p) of title 28, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18) or drug trafficking crime (as defined in section 924(c) of title 18) (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) in which the defendant used body armor.

(2) Sense of Congress

It is the sense of Congress that any sentencing enhancement under this subsection should be at least 2 levels.

(e) Omitted

(f) Donation of Federal surplus body armor

(1) Definitions

In this subsection, the terms “Federal agency” and “surplus property” have the meanings given such terms under section 102 of title 40.

(2) Donation of body armor

Notwithstanding sections 541–555 of title 40, the head of a Federal agency may donate body armor directly to any State or local law enforcement agency, if such body armor—

(A) is in serviceable condition;

(B) is surplus property; and

(C) meets or exceeds the requirements of National Institute of Justice Standard 0101.03 (as in effect on November 2, 2002).

(3) Notice to Administrator

The head of a Federal agency who donates body armor under this subsection shall submit to the Administrator of General Services a written notice identifying the amount of body armor donated and each State or local law enforcement agency that received the body armor.

(4) Donation by certain officers

(A) Department of Justice

In the administration of this subsection with respect to the Department of Justice, in addition to any other officer of the Department of Justice designated by the Attorney General, the following officers may act as the head of a Federal agency:

(i) The Administrator of the Drug Enforcement Administration.

(ii) The Director of the Federal Bureau of Investigation.

(iii) The Commissioner of the Immigration and Naturalization Service.

(iv) The Director of the United States Marshals Service.

(B) Department of the Treasury

In the administration of this subsection with respect to the Department of the Treasury, in addition to any other officer of the Department of the Treasury designated by the Secretary of the Treasury, the following officers may act as the head of a Federal agency:

(i) The Director of the Bureau of Alcohol, Tobacco, and Firearms.

(ii) The Commissioner of Customs.

(iii) The Director of the United States Secret Service.

(5) No liability

Notwithstanding any other provision of law, the United States shall not be liable for any harm occurring in connection with the use or misuse of any body armor donated under this subsection.

(Pub. L. 107-273, div. C, title I, § 11009, Nov. 2, 2002, 116 Stat. 1819.)

CODIFICATION

Section is comprised of section 11009 of Pub. L. 107-273. Subsec. (e) of section 11009 of Pub. L. 107-273 enacted section 931 of Title 18, Crimes and Criminal Procedure, and amended sections 921 and 924 of Title 18.

Section was enacted as part of the 21st Century Department of Justice Appropriations Authorization Act, and not as part of title I of the Omnibus Crime Control and Safe Streets Act of 1968 which comprises this chapter.

In subsec. (f), “section 102 of title 40” substituted for “section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)” in par. (1), and “sections 541-555 of title 40” substituted for “section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)” in par. (2), on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, including the related functions of the Secretary of the Treasury, to the Department of Justice, see section 531(c) of Title 6, Domestic Security, and section 599A(c)(1) of Title 28, Judiciary and Judicial Procedure.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

SUBCHAPTER XIII—TRANSITION; EFFECTIVE DATE; REPEALER

CODIFICATION

Subchapter is based on part Z, formerly part M, of title I of Pub. L. 90-351, as added by Pub. L. 96-157, § 2, and redesignated by Pub. L. 99-570, § 1552(a)(1), Pub. L. 101-647, §§ 241(a)(1)(A), 801(a)(1), Pub. L. 102-521, § 4(a)(1), Pub. L. 103-322, §§ 10003(a)(1), 20201(a)(1), 32101(a)(1), 40121(a)(1), 40231(a)(1), 50001(a)(1), 210201(a)(1), 210302(c)(1)(A), and Pub. L. 105-181, § 3(a)(1).

§ 3797. Continuation of rules, authorities, and proceedings

(a) Continuing status until otherwise affected

(1) All orders, determinations, rules, regulations, and instructions of the Law Enforcement Assistance Administration which are in effect on December 27, 1979, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President or the Attorney General, the Office of Justice Assistance, Research, and Statistics or the Director of the Bureau of Justice Statistics, the National Institute of Justice, or the Administrator of the Law Enforcement Assistance Administration with respect to their functions under this chapter or by operation of law.

(2) All orders, determinations, rules, regulations, and instructions issued under this chapter which are in effect on October 12, 1984, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Assistant Attorney General, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Bureau of Justice Assistance with respect to their functions under this chapter or by operation of law.

(b) Obligation by Director of National Institute of Justice of previously appropriated unused or reversionary funds for continuation of research and development projects or purposes of this chapter

The Director of the National Institute of Justice may award new grants, enter into new contracts or cooperative agreements, or otherwise obligate previously appropriated unused or reversionary funds for the continuation of research and development projects in accordance with the provisions of this chapter as in effect on the day before December 27, 1979, based upon applications received under this chapter before December 27, 1979, or for purposes consistent with provisions of this chapter.

(c) Obligation by Director of Bureau of Justice Statistics of pre-fiscal year 1980 appropriated funds for statistical projects or purposes of this chapter

The Director of the Bureau of Justice Statistics may award new grants, enter into new con-