

BULLET TAX

Crime -
Bullet Tax

Q. This week, Sen. Moynihan pressed his case for an ammo tax of 10,000% on handgun ammunition to help pay for health care. Would you support such a tax?

A. Sen. Moynihan makes an important connection that I've been trying to highlight as well, about the enormous health care costs we pay because of violence -- and in particular, gun violence. Every weekend, emergency rooms across the country are filled with people who've been cut up or shot up. We spend over \$4 billion a year on this problem, and sometimes we spend half a million dollars or more to fix somebody who was shot with a \$35 handgun and a \$5 box of bullets.

I like the way we pay for health care in our plan -- by raising taxes on cigarettes, etc. I don't know if an ammunition tax is the right way to go, but I do think we ought to pay more attention to some of the most lethal ammunition out there -- especially armor-piercing bullets. We ought to look at ways to strengthen the ban on armor-piercing bullets. Nobody's using those bullets to go deer hunting; they're using armor-piercing bullets to gun down our cops.

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DEPARTMENT OF THE TREASURY
WASHINGTON

GENERAL COUNSEL

The Honorable Daniel P. Moynihan
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This responds to your request for the views of the Department of the Treasury on S. 868, the "Firearm Victims Protection Act," the purpose of which is to help reduce the public health care cost resulting from firearm related injury and death.

The Department of the Treasury is examining whether an increase in the excise tax on firearms and ammunition is appropriate and whether any increase should apply to all firearms and ammunition or only to firearms and ammunition most commonly associated with gunshot fatalities and wounds. Although our examination is continuing, we would nevertheless like to offer several observations concerning the bill, and we would be pleased to work with the Committee as it considers the legislation.

Proposed section 4181(b)(1) defines "handgun" as "a firearm which, at the time of manufacture, had a barrel of less than 12 inches in length." If the purpose of this section is to tax those firearms commonly known as "handguns" at 25 percent, we note that a number of handguns have barrel lengths in excess of 12 inches (e.g., the Remington XP100 Silhouette pistol (14 1/2 inches), the Thompson Center Contender pistol (available in 10, 14 and 16 inches), and the Magnum Research SSP91 single shot pistol (14 inches)). We also note that the definition of handgun is not limited to firearms that may be fired with one hand, but would also include rifles and shotguns with barrels of less than 12 inches.

The definition of "assault weapon" in proposed section 4181(b)(2) is unclear. By defining assault weapons in part as having a barrel length of between 12 and 18 inches, many assault-type rifles would be excluded from the 25 percent tax rate (e.g., the AR-15, the M1A, and the HK91 rifles, all of which have barrel lengths exceeding 18 inches). Furthermore, including the phrase "capable of receiving ammunition directly from a large capacity ammunition magazine" in the definition has little meaning since any firearm designed to accept a detachable magazine can accept a large capacity magazine.

The definition of "assault weapon" also uses the phrase "concealable by a person." This language is meaningless because any firearm, irrespective of barrel length, can be concealed "by" a person. Since the apparent intent of the language is to include within the definition firearms that are "not concealable on" a person, we recommend that proposed section 4181(b)(2)(A)(ii)(I) be amended accordingly.

Finally, we are concerned that proposed section 4181(b)(2)(B) is too vague because any semiautomatic firearm would be substantially functionally equivalent to any other semiautomatic firearm as defined in proposed section 4181(b)(2)(A)(ii).

Section 3(b) of the bill would amend chapter 31 of the Internal Revenue Code, which concerns retail excise taxes, by adding a new subchapter D, "Handguns and Assault Weapons." However, since Section 3(b) generally would only tax transactions after the first retail sale (most first retail sales of firearms and ammunition are subject to the tax imposed by IRC section 4181), we do not believe chapter 31 is the appropriate chapter in which to include the new tax. Furthermore, although proposed subchapter D imposes a tax on transactions other than sales, it fails to include a provision determining a constructive price on which to compute the tax.

Section 4 of the bill would create a Health Care Trust Fund into which the taxes collected under IRC section 4056, that portion of IRC section 4181 attributable to the tax on articles subject to the 25-percent rate, and proposed new IRC subchapter D would be deposited. It should be noted, however, that this provision appears to repeal part of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669), which states that all taxes imposed by IRC sections 4161(b) and 4181, with certain exceptions, are to be deposited into another fund and used by the States for various wildlife projects, hunter safety training programs, and recreational programs.

The Department strongly supports increasing the level of fees charged for Federal firearms licenses as proposed in section 5 of the bill. Higher fees would help defray the increased costs associated with processing and investigating firearms dealer license applications and annual license renewals. More importantly, increased fees would discourage the filing of license applications by persons who have no intent to engage in the firearms business, but whose only interest in seeking a license is to obtain firearms at wholesale prices or in

interstate commerce. The Department estimates that approximately one-third of Federal firearms licensees made no firearms sales within the past year, and that about 40 percent made ten or fewer sales during that same period. Nevertheless, determining the level at which the increased fees should be set, a level that would accomplish the foregoing without discouraging legitimate business, is a matter under study by the Department.

Finally, the Department does not support the earmarking of tax receipts for unrelated expenditure purposes, as proposed in sections 4 and 5 of the bill. Such earmarking exacerbates the problem of budgetary control, and the Department has consistently maintained that tax receipts should be available in the general fund of the Treasury for appropriation by the Congress for current programs and objectives. Furthermore, we believe that the proposed grants to health care providers from the Health Care Trust Fund to be established by section 4 of the bill should instead be considered in the context of health care reform.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely,

Jean E. Hanson
General Counsel