

118TH CONGRESS
2D SESSION

S. 3589

To amend title 18, United States Code, to prohibit unauthorized private paramilitary activity, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2024

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to prohibit unauthorized private paramilitary activity, 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 “Preventing Private
5 Paramilitary Activity Act of 2024”.

6 **SEC. 2. PROHIBITION OF UNAUTHORIZED PRIVATE PARA-**
7 **MILITARY ACTIVITY.**

8 (a) IN GENERAL.—Part I of title 18, United States
9 Code, is amended by adding at the end the following:

1 **“CHAPTER 125—UNAUTHORIZED PRIVATE**
 2 **PARAMILITARY ACTIVITY**

“2741. Definitions.

“2742. Unauthorized private paramilitary activity.

“2743. Preemption.

“2744. Civil remedies.

3 **“§ 2741. Definitions**

4 “In this chapter:

5 “(1) **AMMUNITION.**—The term ‘ammunition’
 6 has the meaning given the term in section 921(a).

7 “(2) **ARMED FORCES.**—The term ‘armed forces’
 8 has the meaning given the term in section 101 of
 9 title 10.

10 “(3) **DANGEROUS WEAPON.**—The term ‘dan-
 11 gerous weapon’ has the meaning given the term in
 12 section 930(g).

13 “(4) **EXPLOSIVE OR INCENDIARY DEVICE.**—The
 14 term ‘explosive or incendiary device’ has the mean-
 15 ing given the term in section 232.

16 “(5) **FIREARM.**—The term ‘firearm’ has the
 17 meaning given the term in section 921(a).

18 “(6) **LARGE CAPACITY AMMUNITION FEEDING**
 19 **DEVICE.**—The term ‘large capacity ammunition
 20 feeding device’—

21 “(A) means a magazine, belt, drum, feed
 22 strip, or similar device that has a capacity of,
 23 or that can be readily restored or converted to

1 accept, more than 10 rounds of ammunition;
2 and

3 “(B) does not include an attached tubular
4 device designed to accept, and capable of oper-
5 ating only with, .22 caliber rimfire ammunition.

6 “(7) NATIONAL GUARD.—The term ‘National
7 Guard’ has the meaning given that term in section
8 101(c) of title 10 and section 101 of title 32.

9 “(8) PERSON.—The term ‘person’ means any
10 individual, partnership, corporation, company, asso-
11 ciation, firm, society, organization, or governmental
12 entity, whether incorporated or unincorporated.

13 “(9) PRIVATE PARAMILITARY ORGANIZATION.—
14 The term ‘private paramilitary organization’ means
15 any group of 3 or more persons associating under a
16 command structure for the purpose of functioning in
17 public or training to function in public as a combat,
18 combat support, law enforcement, or security serv-
19 ices unit.

20 “(10) REGULARLY ORGANIZED STATE MILI-
21 TIA.—The term ‘regularly organized State militia’
22 includes a defense force authorized under section
23 109(c) of title 32.

24 “(11) STATE.—The term ‘State’ means a State
25 of the United States, the District of Columbia, and

1 any commonwealth, territory, or possession of the
2 United States.

3 **“§ 2742. Unauthorized private paramilitary activity**

4 “(a) OFFENSE.—It shall be unlawful to knowingly,
5 in a circumstance described in subsection (b), while acting
6 as part of or on behalf of a private paramilitary organiza-
7 tion and armed with a firearm, explosive or incendiary de-
8 vice, or other dangerous weapon—

9 “(1) publically patrol, drill, or engage in tech-
10 niques capable of causing bodily injury or death;

11 “(2) interfere with, interrupt, or attempt to
12 interfere with or interrupt government operations or
13 a government proceeding;

14 “(3) interfere with or intimidate another person
15 in that person’s exercise of any right under the Con-
16 stitution of the United States;

17 “(4) assume the functions of a law enforcement
18 officer, peace officer, or public official, whether or
19 not acting under color of law, and thereby assert au-
20 thority or purport to assert authority over another
21 person without the consent of that person; or

22 “(5) train to engage in any activity described in
23 paragraphs (1) through (4).

1 “(b) CIRCUMSTANCES.—The circumstances described
2 in this subsection are that the conduct described in sub-
3 section (a)—

4 “(1) involves—

5 “(A) travel across a State line or national
6 border; or

7 “(B) the use of the channels, facilities, or
8 instrumentalities of interstate or foreign com-
9 merce;

10 “(2) involves a firearm, explosive or incendiary
11 device, or dangerous weapon that has traveled in
12 interstate or foreign commerce;

13 “(3) involves the use of ammunition or a large
14 capacity ammunition feeding device that has traveled
15 in interstate or foreign commerce;

16 “(4) obstructs, delays, or affects interstate or
17 foreign commerce; or

18 “(5) occurs wholly within any commonwealth,
19 territory, or possession of the United States.

20 “(c) EXCEPTIONS.—Subsection (a) shall not apply
21 to—

22 “(1) the armed forces of the United States, the
23 National Guard, the Naval Militia, any regularly or-
24 ganized State militia, or any unorganized or reserve

1 militia called into service by a State or the United
2 States;

3 “(2) a group of individuals who—

4 “(A) associate as a military organization
5 solely for purposes of historical reenactment or
6 study; or

7 “(B) parade in public as part of a bona
8 fide veterans organization with no intent to en-
9 gage in the activities prohibited by subsection
10 (a);

11 “(3) students in an educational institution au-
12 thorized by the Federal Government or a State to
13 teach military science as a prescribed part of the
14 course of instruction, when under the supervision of
15 a military instructor; or

16 “(4) members of an organization that is author-
17 ized under Federal or State law to provide para-
18 military, law enforcement, or security services train-
19 ing or to engage in paramilitary activity, law en-
20 forcement, or security services when performing the
21 functions authorized by law and, in the case of para-
22 military activity and law enforcement functions,
23 when under the direction and control of a govern-
24 mental authority.

1 “(d) PENALTY.—Any person who violates subsection
2 (a) shall be fined under this title, imprisoned for not more
3 than 1 year, or both, except that—

4 “(1) in the case of a violation that does not re-
5 sult in bodily injury and is committed by a person
6 who has not, prior to the commission of the viola-
7 tion, been convicted of violating a Federal or State
8 law, the person may be sentenced to probation for
9 a term of not more than 1 year;

10 “(2) in the case of a violation that occurs after
11 a prior conviction under this section has become
12 final, the person shall be fined under this title, im-
13 prisoned for not more than 2 years, or both;

14 “(3) in the case of a violation that results in
15 damage to property, the person shall be fined under
16 this title, imprisoned for not more than 2 years, or
17 both; and

18 “(4) in the case of a violation that results in—

19 “(A) bodily injury, the person shall be
20 fined under this title, imprisoned for not more
21 than 5 years, or both; or

22 “(B) death, the person shall be fined under
23 this title and imprisoned for any term of years
24 or for life.

25 “(e) FORFEITURE.—

1 “(1) IN GENERAL.—Any person who violates
2 subsection (a) shall forfeit to the United States any
3 property, personal or real, involved in, used, or in-
4 tended to be used, in any manner or part, to com-
5 mit, or to facilitate the commission of, the violation,
6 or that constitutes or is derived from proceeds trace-
7 able to the violation.

8 “(2) PROCEDURES.—Section 413 of the Con-
9 trolled Substances Act (21 U.S.C. 853), with the ex-
10 ception of subsections (a) and (d), shall apply to the
11 criminal forfeiture of property pursuant to this sub-
12 section.

13 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
14 tion shall be construed to preclude a violation of sub-
15 section (a) being committed by a person acting separately
16 from the other members of the private paramilitary orga-
17 nization, provided that the violation is committed in fur-
18 therance of or in coordination with the actions of the other
19 members.

20 **“§ 2743. Preemption**

21 “Nothing in this chapter shall be construed as indi-
22 cating an intent on the part of Congress to occupy the
23 field in which any provisions of the chapter operate to the
24 exclusion of State or local laws on the same subject mat-
25 ter, nor shall any provision of this chapter be construed

1 to invalidate any provision of State law unless the provi-
2 sion of State law is inconsistent with any of the purposes
3 of this chapter.

4 **“§ 2744. Civil remedies**

5 “(a) PUBLIC RIGHT OF ACTION.—Whenever the At-
6 torney General has reasonable cause to believe that any
7 person or group of persons has engaged in or is about
8 to engage in any act prohibited by section 2742, the Attor-
9 ney General may bring a civil action for preventive relief,
10 including an application for a permanent or temporary in-
11 junction, restraining order, or other order, in an appro-
12 priate district court of the United States.

13 “(b) PRIVATE RIGHT OF ACTION.—Any person in-
14 jured as a result of any violation of section 2742 may
15 bring a civil action, individually or jointly with other ag-
16 grieved persons, in an appropriate district court of the
17 United States for preventive relief, including an applica-
18 tion for a permanent or temporary injunction, restraining
19 order, or other order, or for damages incurred as a result
20 of any violation of section 2742, including reasonable at-
21 torney fees and costs.

22 “(c) FORFEITURE.—Any property subject to for-
23 feiture pursuant to section 2742 may be forfeited to the
24 United States in a civil case in accordance with the proce-
25 dures set forth in chapter 46.”.

1 (b) CLERICAL AMENDMENT.—The table of chapters
2 for part I of title 18, United States Code, is amended by
3 adding at the end the following:

“125. Unauthorized Private Paramilitary Activity 2741”.

