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The Virtual Loophole: A Survey of Online Gun Sales

By Jim Kessler and Sarah Trumble

How easy is it to buy a firearm from a complete stranger without a background check? In an analysis of internet gun sales in 10 states from a single website during the months of June and July, Third Way found more than 15,000 guns—one-third of which were semi-automatics—available for sale without background checks at any given moment. In 2,000 web ads in these states, buyers were intentionally seeking private sellers where background checks are specifically exempt from federal law. This report focuses on online sales in the 10 states where Senators were initially targeted but failed to support bipartisan legislation to close this virtual loophole.

[CREATE A LISTING](#)

FOR SALE: MOSIN NAGANT M44 CARBINE BOLT ACTION RIFLE

Price: **\$ 250**
Seller: Private Party
[Listings by this user](#)

Caliber: 7.62x54R [Flag](#) | [Edit](#) | [Favorite](#)
Action: Bolt Action
Firearm Type: Rifle [Contact Seller](#)

Mosin Nagant M44 Carbine Bolt Action

Shoots 7.62x54R Caliber Rounds

Black Monte Carlo Stock Attached

This is a private sale, not affiliated with any gun retailer or dealer.
You can avoid the background check and taxes by taking this rifle off my hands for \$250.00 firm, no bartering or negotiating!

In 1993, Congress passed the Brady Law requiring that anyone buying a firearm from a gun store must undergo a criminal background check first. This law was designed to exclude prohibited buyers—such as those with felony convictions or drug addiction histories, perpetrators of domestic violence, those who were severely mentally ill, and others—from purchasing firearms.

Even after the Brady Law passed, there were always narrow avenues for those prohibited by law from owning a gun to obtain a firearm without undergoing a background check. That is because federal law only covers the sale of firearms from gun stores, not from private individuals who live within the same state as the buyer. This private sale exemption was designed to allow family members, friends, and neighbors to buy and sell guns with one another without needing to run background checks. As time went by, certain venues, like gun shows, allowed both licensed sellers and private sellers to offer firearms for sale in a commercial platform. Even though these sales occur in a commercial location, private sellers are not required to perform background checks on buyers. This is known as the “gun show loophole,” and it has been widely discussed in Washington, D.C., and nationally.

Less has been said about internet sales because they are so new. When the Brady Law was passed, the internet was home to 130 websites.¹ By 2012, there were 634 million.² This study focuses on only one, Armslist.com. Armslist.com is one of several websites that links private sellers of firearms with prospective buyers to effectively avoid federal regulations concerning sales of guns, specifically regulations requiring criminal background checks for gun purchasers.

THE MAGNITUDE OF ONLINE GUN SALES

This survey presents a snapshot of the number of gun sale listings on Armslist.com across 10 states on several random summer days.³ While Armslist.com operates in every single state, for the purposes of this study, Third Way analyzed the listings in Alaska, Arizona, Arkansas, Georgia, Montana, Nevada, New Hampshire, North Dakota, Ohio, and Tennessee—10 states that are home to Senators who voted against expanding background checks to these online sales in April. Here’s what we found:

- 15,768 for sale ads listed by private sellers of firearms.
- 5,136 of these ads were for semi-automatic weapons, including assault weapons.
- 1,928 ads were from prospective buyers asking to buy specifically from private sellers (thereby ensuring that no background check is required).
- 1,018 private individuals were selling four or more firearms simultaneously.
- Many listed numerous weapons for sale at the same time. One person had 22 separate guns listed for sale in Arkansas, while another listed 21 in Nevada, and a third listed 21 in Ohio.

(The full list of online gun sales from these 10 states is available in the Appendix.)

POLICY RECOMMENDATION

The magnitude of these sales occurring without a background check may be disturbing, but they are not illegal under current law. In April of this year, the Senate attempted to close this loophole through legislation authored by two gun rights stalwarts, Senator Joe Manchin (D-WV) and Senator Pat Toomey (R-PA). Both Senators had received an A rating from the National Rifle Association in the past, but both bucked the gun lobby to propose bipartisan legislation to close the loophole that allows strangers to sell guns without background checks over the internet and at gun shows. An avid hunter, Senator Manchin called his legislation “gunsense.”

The Manchin-Toomey legislation had the support of 55 Senators but fell short of the 60 votes needed to overcome a Senate filibuster—in part thanks to some of the Senators representing the states in this survey. The bill simply would have applied the same rules that already apply to sales at gun stores to online commercial sales like those facilitated by Armslist.com. It is worth noting that it is easy and convenient to do a background check for gun sales:

- There are almost five times as many licensed gun stores in this country as there are McDonald’s—and 22,896 of them are located in these 10 states.⁴
- In 2012, 2,783,958 people went through a firearm background check in these 10 states, and 25,501,571 have done so since the instant background check system was established in 1998. Across the country, more than 170 million people have gone through a firearm background check at a licensed dealer.⁵
- Between mid-July and the end of this year, these 10 states will host 185 gun shows.⁶ Every licensed dealer participating in one of these sales will run a background check, on the spot, for every gun sale. Those who are not licensed dealers will be able to sell no questions asked.
- 92% of background checks are completed within minutes.⁷

The Manchin-Toomey background check bill is expected to come up for a second vote later this year. The bill’s authors are hoping to make minor modifications to convince some Senators, like those from these 10 states, to re-think their position. This snapshot shows that each of these Senators should seriously consider doing so to keep guns out of the hands of criminals in their state.

APPENDIX: A Snapshot of Online Gun Sales from June-July 2013

State or City	Number of for sale listings by private sellers	Number of semiautomatics for sale by private sellers	Number of want ad listings for private sellers	Number of people selling 4 or more guns	Largest quantity of guns being advertised by single seller	Number of Gun Shows 7/11-12/31 2013	Number of FFLs	Background Check required at gun shows or private sales?
Alaska	124	54	6	9	12	4	1,006	No
Anchorage	56	15	2	4	12			
Fairbanks	24	7	3	0	3			
Juneau	22	19	0	1	4			
Arizona	979	345	116	72	14	16	3,034	No
Tucson	177	50	18	21	14			
Phoenix	573	162	61	30	13			
Arkansas	1182	421	77	93	22	9	2,013	No
Little Rock	366	135	16	20	14			
Fort Smith	157	37	7	9	22			
Fayetteville	412	157	35	24	20			
Georgia	1960	781	96	66	18	27	3,770	No
Atlanta	819	278	82	23	10			
Augusta	104	35	?	3	6			
Columbus	131	52	17	2	6			
Montana	544	176	90	34	13	8	1,508	No
Billings	80	21	8	2	12			
Missoula	141	35	16	9	12			
Great Falls	21	6	11	0	3			
Nevada	844	314	111	39	21	7	1,350	No
Las Vegas	317	85	42	16	19			
Reno	451	143	64	20	21			
New Hampshire	574	209	125	35	9	3	1,139	No
Manchester	96	32	18	5	7			
Nashua	60	19	16	3	5			
Concord	111	35	17	10	7			
North Dakota	49	21	17	7	11	1	644	No
Fargo	23	5	1	3	6			
Grand Forks	13	6	3	1	11			
Ohio	6192	1840	940	225	21	77	4,984	No

Cincinnati	1135	330	132	40	13			
Columbus	1134	351	155	34	21			
Cleveland	1176	325	171	63	15			
Tennessee	3320	975	350	438	14	33	3,448	No
Memphis	263	79	37	14	12			
Nashville	1079	300	86	161	14			
Knoxville	1007	267	137	134	9			

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ENDNOTES

1 "How We Got from 1 to 162 Million Websites on the Internet," *Pingdom*, April 4, 2008. Accessed July 19, 2013. Available at: <http://royal.pingdom.com/2008/04/04/how-we-got-from-1-to-162-million-websites-on-the-internet/>.

2 "Internet 2012 in Numbers," *Pingdom*, January 13, 2013. Accessed July 19, 2013. Available at: <http://royal.pingdom.com/2013/01/16/internet-2012-in-numbers/>.

3 State-level data on the number of for sale listings by private sellers, the number of semiautomatics for sale by private sellers, and the number of want ad listings for private sellers was collected on June 13, 2013 for all states except Arkansas and Tennessee. State-level data on the number of people selling 4 or more guns and the largest quantity of guns being advertised by a single seller was collected between June 4 and June 7, 2013 for all states except Arkansas and Tennessee. All city-level data was collected between July 10 and July 12, 2013 except for those cities in Tennessee. Arkansas state-level data was collected on July 10, 2013. All Tennessee data was collected on July 18, 2013.

4 McDonald's," *Entrepreneur*. Accessed January 28, 2013. Available at: <http://www.entrepreneur.com/franchises/mcdonalds/282570-0.html>.; See also United States, Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, "Report of Active Firearms Licenses - License Type by State Statistics," July 10, 2013. Accessed July 18, 2013. Available at: <http://www.atf.gov/content/statistics-listing-federal-firearms-licensees>.

5 United States, Department of Justice, Federal Bureau of Investigations, Criminal Justice Information Services Division, "Total NICS Firearm Background Checks by State: Nov. 30, 1998 -June 30, 2013." Accessed July 18, 2013. Available at: <http://www.fbi.gov/about-us/cjis/nics/reports>; See also United States, Department of Justice, Federal Bureau of Investigations, Criminal Justice Information Services Division, "Total NICS Firearm Background Checks: November 30, 1998-June 30, 2013." Accessed July 18, 2013. Available at: <http://www.fbi.gov/about-us/cjis/nics/reports>.

6 "Gun Shows," Gun Shows Today. Accessed July 11, 2013. Available at: <http://www.gunshowstoday.com>; See also "2013 North Dakota Shows," American Gun Shows. Accessed July 11, 2013. Available at: <http://www.americangunshows.com/GunShows/ND-GunShows.htm>.

7 United States, Department of Justice, Federal Bureau of Investigations, Criminal Justice Information Services Division, "National Instant Criminal Background Check System (NICS) Operations: 2011," Report. January 14, 2013. Available at: <http://www.fbi.gov/about-us/cjis/nics/reports/2011-operations-report/operations-report-2011>.