

Restoring the Armed Career Criminal Act: A Bad Law Made Worse

Bill numbers: S. 3335/H.R. 6697

Sponsors:

Senate - Sen. Orrin Hatch (R-Utah), Sen. Tom Cotton (R-Ark.), Sen. Lindsay Graham (R-S.C.)

House -Rep. David Kustoff (R-Tenn.)

Bill Status: These bills are not yet law. They still need to pass their respective Judiciary Committees, pass both chambers of Congress, and receive the president’s signatures. **FAMM opposes S. 3335 and H.R. 6697.**

Current law: Under the Armed Career Criminal Act (ACCA), individuals with three prior “serious drug felonies” **or** “violent felonies” who are found in possession of a firearm are subject to a 15-year mandatory minimum penalty.

The Bill: To correct a U.S. Supreme Court ruling in *Johnson v. United States* (2015) that found part of the law’s definition of a “violent felony” unconstitutionally vague, the Restoring the Armed Career Criminal Act would apply ACCA’s 15-year mandatory minimum to any person in possession of a firearm with 3 or more prior “serious felony convictions,” defined in the bill as a state or federal crime punishable by a maximum of at least 10 years in prison.

The Problem: The Armed Career Criminal Act as it currently exists is overbroad, applies excessive mandatory sentences to many repeat offenders who pose little public safety risk, and fails to increase public safety.

- ACCA currently casts too wide a net, applying to repeat offenders with no violent history.
 - The original intent of the law is to target repeat serious and violent offenders. However, the definition of “serious drug felony” under current law includes low-level federal and state drug felonies. Under ACCA the following state offenses are “serious drug felonies” sufficient to trigger the 15-year mandatory minimum:
 - Possession with intent of 0.5 grams of cocaine (Tennessee)
 - Possession with intent of 750 milligrams of cocaine base (Arizona)
 - Possession with intent of 22 10-milligram Hydrocodone pills (Florida)
 - Possession with intent of two grams of cocaine (Mississippi).
- This bill would apply harsh ACCA sentences to even more nonviolent offenders.
 - The bill would apply ACCA’s 15-year mandatory minimum sentence to people whose entire criminal histories are comprised of nonviolent offenses.
 - Under the bill, the following state offenses would be “serious felony convictions”:
 - Passing a worthless check valued at \$2,500 (Tennessee)
 - Stealing an unoccupied car (Utah)

- Shoplifting a product valued at \$10,000 (South Carolina)
 - Burglary of an unoccupied habitation (Texas)
 - Theft of \$5,000 (Louisiana and Arkansas)
- ACCA fails to protect public safety, and expanding its scope will not reverse this.
 - All of the available studies and evidence show that mandatory minimums like the one found in ACCA do not deter or reduce crime. Expanding the application of such a mandatory minimum is doubling down on a failed policy.
 - A recent study found that progressively tougher sanctions for repeat offenders, such as ACCA, are not only less effective than alternative sanctions but can also be criminogenic, resulting in more crime and decreased safety.