

115TH CONGRESS
1ST SESSION

H. R. 4064

To impose restrictions on the sale of binary explosives, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2017

Mr. SOTO introduced the following bill; which was referred to the Committee
on the Judiciary

A BILL

To impose restrictions on the sale of binary explosives, 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. LICENSING OF RETAILERS OF BINARY EXPLO-**
4 **SIVES.**

5 (a) PROHIBITED ACTS.—Section 842(a) of title 18,
6 United States Code, is amended—

7 (1) in paragraph (3)(B), by striking “or”;

8 (2) in paragraph (4)(B), by striking the period

9 at the end and inserting a semicolon; and

10 (3) by adding at the end the following:

1 “(5) to engage in the business of selling a bi-
2 nary explosive to an individual without a license
3 issued under this chapter;

4 “(6) to knowingly sell a binary explosive to an
5 individual without complying with subsection (q); or

6 “(7) to knowingly purchase a binary explosive
7 in excess of the monthly amount described in sub-
8 section (q)(1).”.

9 (b) TREATMENT OF BINARY EXPLOSIVES.—

10 (1) TREATMENT WITH RESPECT TO LI-
11 CENSES.—Section 843 of title 18, United States
12 Code, is amended—

13 (A) in subsection (a), by striking “deal in
14 explosive materials” and inserting “deal in ex-
15 plosive materials, or to sell a binary explosive to
16 an individual,”;

17 (B) in subsection (a), by striking “to pos-
18 sess explosive materials” and inserting “to pos-
19 sess explosive materials or a binary explosive”;

20 (C) in subsection (b)(4)(A), by striking
21 “storage for explosive materials” and inserting
22 “storage for explosive materials or a binary ex-
23 plosive”; and

1 (D) in subsection (f), by adding at the end:

2 “A reference in this subsection to ‘explosive ma-
3 terials’ shall also include a binary explosive.”.

4 (2) TREATMENT WITH RESPECT TO PEN-
5 ALTIES.—Section 844 of title 18, United States
6 Code, is amended by adding at the end the fol-
7 lowing:

8 “(q) TREATMENT OF BINARY EXPLOSIVES.—A ref-
9 erence in this section to ‘explosive materials’ shall also in-
10 clude a binary explosive.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date that is 1 year
13 after the date of enactment of this Act.

14 **SEC. 2. ESTABLISHMENT OF MAXIMUM PURCHASE**
15 **AMOUNTS FOR BINARY EXPLOSIVES.**

16 Section 842 of title 18, United States Code, is
17 amended by adding at the end the following:

18 “(q) ESTABLISHMENT OF MAXIMUM PURCHASE
19 AMOUNTS FOR BINARY EXPLOSIVES.—

20 “(1) MAXIMUM MONTHLY PURCHASE
21 AMOUNTS.—Not later than 90 days after the date of
22 enactment of this subsection, the Attorney General
23 shall establish the maximum amount of a binary ex-
24 plosive (or a combination thereof) that may be pur-
25 chased by one individual in a calendar month, based

1 on a recommendation from the Director of the Bu-
2 reau of Alcohol, Tobacco, Firearms and Explosives.

3 “(2) ESTABLISHMENT OF NATIONAL BINARY
4 EXPLOSIVE CHECK SYSTEM.—

5 “(A) IN GENERAL.—Not later than 180
6 days after the date of enactment of this sub-
7 section, the Attorney General shall establish a
8 national binary explosive check system.

9 “(B) OPERATION OF SYSTEM.—The sys-
10 tem shall—

11 “(i) be electronic and accessible
12 through an Internet website;

13 “(ii) compile records of sales of all bi-
14 nary explosives to named individuals;

15 “(iii) be capable of identifying a
16 named individual by entry of information
17 from a valid identification document (as
18 defined in section 1028(d)) issued to such
19 individual;

20 “(iv) be capable of receiving inquiries
21 from a seller about whether the amount of
22 a binary explosive sought to be purchased
23 by a prospective purchaser would exceed
24 the amount described in paragraph (1);

1 “(v) be capable of responding to a
2 seller with an indication whether the
3 amount of a binary explosive sought to be
4 purchased by a prospective purchaser
5 would exceed the amount described in
6 paragraph (1);

7 “(vi) be able to respond to all inquir-
8 ies in a reasonable amount of time; and

9 “(vii) only be accessible to dealers of
10 binary explosives that have a valid license
11 issued under this chapter.

12 “(3) BEHIND-THE-COUNTER ACCESS AND
13 SALES FORM REQUIREMENTS.—Beginning on the
14 date that is 1 year after the date of enactment of
15 this subsection, a seller of binary explosives to an in-
16 dividual shall ensure that sales by such seller of a
17 binary explosive are made in accordance with the fol-
18 lowing:

19 “(A) The seller offers the product for sale
20 only at a retail location.

21 “(B) In offering the product for sale, the
22 seller places the product behind the counter.

23 “(C) The seller delivers the product di-
24 rectly into the custody of the purchaser.

1 “(D) The seller does not sell such a prod-
2 uct unless the prospective purchaser—

3 “(i) presents a valid identification
4 document (as defined in section 1028(d))
5 of such purchaser containing a photograph
6 of such purchaser; and

7 “(ii) fills out the sales form with the
8 name and address of such purchaser and
9 the amount of binary explosive being pur-
10 chased.

11 “(E) The seller does not sell such a prod-
12 uct to a prospective purchaser unless the sell-
13 er—

14 “(i) determines that the name entered
15 by such prospective purchaser on the sales
16 form is the same as the name provided on
17 the identification document;

18 “(ii) transmits to the national binary
19 explosive check system the name of the
20 product, the quantity to be sold, and the
21 name and address of such prospective pur-
22 chaser; and

23 “(iii) receives from the system a state-
24 ment that the amount of a binary explosive
25 sought to be purchased by a prospective

1 purchaser would not exceed the amount de-
2 scribed in paragraph (1).

3 “(F) The sales form includes a notice to
4 purchasers that entering false statements or
5 misrepresentations on the sales form may sub-
6 ject the purchasers to criminal penalties under
7 section 1001, which notice specifies the max-
8 imum fine and term of imprisonment under
9 such section.

10 “(G) The seller maintains the sales form
11 for not fewer than two years after the date on
12 which the sale is consummated.

13 “(4) SAFE HARBOR RULE.—

14 “(A) IN GENERAL.—A seller who knows,
15 should know, or has reason to believe that the
16 purchase of an amount of a binary explosive by
17 a prospective purchaser would result in a viola-
18 tion of paragraph (1) may sell such amount to
19 such purchaser if such seller is notified by the
20 national binary explosive check system that the
21 purchase of such amount would not result in a
22 violation of paragraph (1).

23 “(B) REQUIRED PROCEDURE.—If a seller
24 sells a binary explosive to a prospective pur-
25 chaser pursuant to subparagraph (A), such sell-

er, promptly after the sale, shall notify the Attorney General of—

“(i) the name and address of the purchaser;

“(ii) the amount sold; and

“(iii) the factual basis, if any, for the knowledge or belief that such a sale resulted in a violation of paragraph (1).

“(5) DEFINITION.—In this section:

“(A) The term ‘behind the counter’ means, with respect to a binary explosive, that customers do not have direct access to the product before the sale is made at a retail location.

“(B) The term ‘retail location’ means a location at which a seller sells a binary explosive in limited, small quantities or amounts, and not in gross.

“(C) The term ‘sales form’ means the form the prospective purchase of a binary explosive fills out with the name and address of such purchaser and the amount of binary explosive being purchased.”.

SEC. 3. DEFINITION.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

1 “(u) ‘Binary explosive’ means a substance that, when
2 combined with another substance—
3 “(1) results in explosive material; and
4 “(2) has as its primary or common purpose to
5 function by explosion through target practice using
6 a firearm.”.

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