

105TH CONGRESS
1ST SESSION

S. 380

To prohibit foreign nationals admitted to the United States under a nonimmigrant visa from possessing a firearm.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 1997

Mr. DURBIN (for himself, Mr. KENNEDY, and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prohibit foreign nationals admitted to the United States under a nonimmigrant visa from possessing a firearm.

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 “Durbin-Kennedy Em-
5 pire State Building Counter-Terrorism Act of 1997.”

6 **SEC. 2. FIREARMS.**

7 Section 922 of title 18, United States Code, is
8 amended—

9 (1) in subsection (d), by striking paragraph (5)
10 and inserting the following:

1 “(5) who, being an alien—

2 “(A) is illegally or unlawfully in the United
3 States; or

4 “(B) except as provided in subsection
5 (y)(2), has been admitted to the United States
6 under a nonimmigrant visa (as that term is de-
7 fined in section 101(a)(26) of the Immigration
8 and Nationality Act (8 U.S.C. 1101(a)(26));”;
9 (2) in subsection (g), by striking paragraph (5)
10 and inserting the following:

11 “(5) who, being an alien—

12 “(A) is illegally or unlawfully in the United
13 States; or

14 “(B) except as provided in subsection
15 (y)(2), has been admitted to the United States
16 under a nonimmigrant visa (as that term is de-
17 fined in section 101(a)(26) of the Immigration
18 and Nationality Act (8 U.S.C. 1101(a)(26));”;
19 (3) in subsection (s)(3)(B), by striking clause
20 (v) and inserting the following:

21 “(v) is not an alien who—

22 “(I) is illegally or unlawfully in the
23 United States; or

24 “(II) subject to subsection (y)(2), has
25 been admitted to the United States under

1 a nonimmigrant visa (as that term is de-
 2 fined in section 101(a)(26) of the Immi-
 3 gration and Nationality Act (8 U.S.C.
 4 1101(a)(26));” and

5 (4) by inserting after subsection (x) the follow-
 6 ing:

7 “(y) PROVISIONS RELATING TO ALIENS ADMITTED
 8 UNDER NONIMMIGRANT VISAS.—

9 “(1) DEFINITIONS.—In this subsection—

10 “(A) the term ‘alien’ has the same mean-
 11 ing as in section 101(a)(3) of the Immigration
 12 and Nationality Act (8 U.S.C. 1101(a)(3)); and

13 “(B) the term ‘nonimmigrant visa’ has the
 14 same meaning as in section 101(a)(26) of the
 15 Immigration and Nationality Act (8 U.S.C.
 16 1101(a)(26)); and

17 “(2) EXCEPTIONS.—

18 “(A) IN GENERAL.—Subsections (d)(5)(B),
 19 (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to
 20 any alien who has been lawfully admitted to the
 21 United States under a nonimmigrant visa, if
 22 that alien is—

23 “(i) admitted to the United States for
 24 lawful hunting or sporting purposes;

1 “(ii) an official representative of a
2 foreign government who is—

3 “(I) accredited to the United
4 States Government or the govern-
5 ment’s mission to an international or-
6 ganization having its headquarters in
7 the United States; or

8 “(II) en route to or from another
9 country to which that alien is accred-
10 ited;

11 “(iii) an official of a foreign govern-
12 ment or a distinguished foreign visitor who
13 has been so designated by the Department
14 of State; or

15 “(iv) a foreign law enforcement officer
16 of a friendly foreign government entering
17 the United States on official law enforce-
18 ment business.

19 “(3) WAIVER.—

20 “(A) CONDITIONS FOR WAIVER.—Any indi-
21 vidual who has been admitted to the United
22 States under a nonimmigrant visa may receive
23 a waiver from the requirements of subsection
24 (g)(5), if—

1 “(i) the individual submits to the At-
2 torney General a petition that meets the
3 requirements of subparagraph (C); and

4 “(ii) the Attorney General approves
5 the petition.

6 “(B) PETITION.—Each petition under sub-
7 paragraph (B) shall—

8 “(i) demonstrate that the petitioner
9 has resided in the United States for a con-
10 tinuous period of not less than 180 days
11 before the date on which the petition is
12 submitted under this paragraph; and

13 “(ii) include a written statement from
14 the embassy or consulate of the petitioner,
15 authorizing the petitioner to acquire a fire-
16 arm or ammunition and certifying that the
17 alien would not, absent the application of
18 subsection (g)(5)(B), otherwise be prohib-
19 ited from such acquisition under subsection
20 (g).

21 “(C) APPROVAL OF PETITION.—The Attor-
22 ney General shall approve a petition submitted

1 in accordance with this paragraph, if the Attor-
2 ney General determines that waiving the re-
3 quirements of subsection (g)(5)(B) with respect
4 to the petitioner—

5 “(i) would be in the interests of jus-
6 tice; and

7 “(ii) would not jeopardize the public
8 safety.”.

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