

Union Calendar No. 405

107TH CONGRESS
2D SESSION

H. R. 4864

[Report No. 107-658]

To combat terrorism and defend the Nation against terrorist acts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2002

Mr. SENSENBRENNER (for himself, Mr. CONYERS, and Mr. SMITH of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 17, 2002

Additional sponsors: Mr. PENCE, Mr. KELLER, Mr. SCHIFF, Mr. GALLEGLY, Ms. BALDWIN, Mr. GREEN of Wisconsin, and Mrs. JOHNSON of Connecticut

SEPTEMBER 17, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 5, 2002]

A BILL

To combat terrorism and defend the Nation against terrorist acts, 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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Anti-Terrorism Explosives Act of 2002”.*

4 **SEC. 2. PERMITS FOR PURCHASERS OF EXPLOSIVES.**

5 *(a) DEFINITIONS.—Section 841(j) of title 18, United States Code, is amended to read as follows:*

7 *“(j) ‘Permittee’ means any user of explosives for a lawful purpose, who has obtained a user permit or a limited permit under this chapter.”.*

10 *(b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Section 842 of such title is amended—*

12 *(1) in subsection (a)—*

13 *(A) in paragraph (2), by striking “and”; and*

15 *(B) by striking paragraph (3) and inserting the following:*

17 *“(3) other than a licensee or permittee, knowingly—*

19 *“(A) to transport, ship, cause to be transported, or receive any explosive materials; or*

21 *“(B) to distribute explosive materials to any person other than a licensee or permittee; or*

23 *“(4) who is a holder of a limited permit—*

24 *“(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or*

1 “(B) to receive explosive materials from a
2 licensee or permittee whose premises are located
3 in the State of residence of the holder, except that
4 the holder of a limited permit may so receive ex-
5 plosive materials on 4 or fewer occasions pursu-
6 ant to regulations prescribed by the Secretary.”;
7 and

8 (2) by striking subsection (b) and inserting the
9 following:

10 “(b) It shall be unlawful for any licensee or permittee
11 knowingly to distribute any explosive materials to any per-
12 son other than—

13 “(1) a licensee;
14 “(2) a holder of a user permit; or
15 “(3) a holder of a limited permit who is a resi-
16 dent of the State where distribution is made and in
17 which the transferor’s premises are located.”.

18 (c) LICENSES AND USER PERMITS.—Section 843(a) of
19 such title is amended—

20 (1) in the 1st sentence—

21 (A) by inserting “or limited permit” after
22 “user permit”; and

23 (B) by inserting “, including the names of
24 and appropriate identifying information regard-
25 ing all employees who will be authorized by the

1 *employer to possess explosive materials, as well*
2 *as fingerprints and a photograph of each respon-*
3 *sible person with respect to the applicant. In this*
4 *section, the term ‘responsible person’ means, with*
5 *respect to an applicant, an individual who has*
6 *the power to direct the management and policies*
7 *of the applicant pertaining to explosive mate-*
8 *rials’ before the period; and*

9 *(2) by striking the 3rd sentence and inserting*
10 *“Each license or user permit shall be valid for no*
11 *longer than 3 years from the date of issuance, and*
12 *each limited permit shall be valid for no longer than*
13 *1 year from the date of issuance. Each license or per-*
14 *mit shall be renewable upon the same conditions and*
15 *subject to the same restrictions as the original license*
16 *or permit (except that, in the case of the renewal of*
17 *a limited permit, the verification requirement of sub-*
18 *section (b)(5) may be satisfied by inspection or such*
19 *other means as the Secretary deems appropriate) and*
20 *upon payment of a renewal fee not to exceed 1/2 of the*
21 *original fee.”.*

22 *(d) CRITERIA FOR APPROVING LICENSES AND PER-*
23 *IMITS.—Section 843(b) of such title is amended—*
24 *(1) by striking paragraph (1) and inserting the*
25 *following:*

1 “(1) the applicant (or, if the applicant is a cor-
2 poration, partnership, or association, each responsible
3 person with respect to the applicant) is not a person
4 who is prohibited from receiving, distributing, trans-
5 porting, or possessing explosive materials under sub-
6 section (d) or (i) of section 842;”;

7 (2) by redesignating paragraphs (2) through (5)
8 as paragraphs (3) through (6), respectively, and in-
9 serting after paragraph (1) the following:

10 “(2) none of the employees who will be author-
11 ized by the applicant to possess explosive materials in
12 the course of their employment with the applicant is
13 a person whose possession of explosives would be un-
14 lawful under section 842(i);”;

15 (3) in paragraph (5) (as so redesignated)—

16 (A) by inserting “the Secretary has verified
17 by inspection that” before “the applicant”; and
18 (B) by striking “and” at the end;

19 (4) by striking the period at the end of para-
20 graph (6) (as so redesignated) and inserting “; and”;
21 and

22 (5) by adding at the end the following:

23 “(7) in the case of a limited permit, the appli-
24 cant has certified in writing that the applicant will
25 not receive explosive materials on more than 4 dif-

1 ferent occasions during any 12-month period in
2 which a limited permit issued to the applicant is in
3 effect.”.

4 (e) *DEADLINE FOR APPROVAL OR DENIAL OF APPLICA-*
5 *TION.*—Section 843(c) of such title is amended by striking
6 “a period of forty-five days beginning on the date such”
7 and inserting “90 days after the”.

8 (f) *INSPECTION AUTHORITY.*—Section 843(f) of such
9 title is amended—

10 (1) in the 1st sentence—

11 (A) by striking “permittees” and inserting
12 “holders of user permits”; and

13 (B) by inserting “licensees and permittees”
14 before “shall submit”; and

15 (2) in the 2nd sentence, by striking “permittee”
16 the first place it appears and inserting “holder of a
17 user permit”.

18 (g) *POSTING OF PERMITS.*—Section 843(g) of such
19 title is amended by inserting “user” before “permits”.

20 (h) *BACKGROUND CHECKS; CLEARANCES.*—Section
21 843 of such title is amended by adding at the end the fol-
22 lowing:

23 “(h)(1) If the Secretary receives from an employer the
24 name and other identifying information with respect to a
25 responsible person or an employee who will be authorized

1 *by the employer to possess explosive materials in the course
2 of employment with the employer, the Secretary shall deter-
3 mine whether possession of explosives by the responsible per-
4 son or the employee, as the case may be, would be unlawful
5 under section 842(i). In making the determination, the Sec-
6 retary may take into account a letter or document issued
7 under paragraph (2) of this subsection.*

8 “*(2)(A) If the Secretary determines that possession of
9 explosives by the responsible person or the employee would
10 not be unlawful under section 842(i), the Secretary shall
11 notify the employer in writing or electronically of the deter-
12 mination and issue to the responsible person or the em-
13 ployee, as the case may be, a letter of clearance which con-
14 firms the determination.*

15 “*(B) If the Secretary determines that possession of ex-
16 plosives by the responsible person or the employee would
17 be unlawful under section 842(i), the Secretary shall notify
18 the employer in writing or electronically of the determina-
19 tion and issue to the responsible person or the employee,
20 as the case may be, a document which confirms the deter-
21 mination, explains the grounds for the determination, pro-
22 vides information on how the disability may be relieved,
23 and explains how the determination may be appealed.”.*

1 (i) *EFFECTIVE DATE.*—The amendments made by this
2 section shall take effect 180 days after the date of enactment
3 of this Act.

4 (j) ELECTRONIC RECORDS.—Not later than one year
5 after the effective date of this Act, the Secretary of the Treas-
6 ury shall maintain an electronic record of each license, user
7 permit, or limit permit issued or renewed under section 843
8 of title 18, United States Code, on or after one year after
9 the effective date of this Act.

10 **SEC. 3. PERSONS PROHIBITED FROM RECEIVING OR POS-
11** **SESSING EXPLOSIVE MATERIALS.**

(a) *DISTRIBUTION OF EXPLOSIVE MATERIALS.*—Section 842(d) of title 18, United States Code, is amended—

(1) by striking “or” at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting “or has been committed to a mental institution;” and

(3) by adding at the end the following:

“(7) is an alien, other than a lawful permanent resident alien (as defined in section 101(a)(20) of the Immigration and Nationality Act) or an alien described in subsection (q)(2) of this section;

“(8) has been discharged from the Armed Forces under dishonorable conditions; or

1 “(9) having been a citizen of the United States,
2 has renounced his citizenship.”.

3 (b) *POSSESSION OF EXPLOSIVES*.—Section 842(i) of
4 such title is amended—

5 (1) by striking “or” at the end of paragraph (3);
6 and

7 (2) by inserting after paragraph (4) the fol-
8 lowing:

9 “(5) who, is an alien, other than a lawful per-
10 manent resident alien (as defined in section
11 101(a)(20) of the Immigration and Nationality Act)
12 or an alien described in subsection (q)(2);

13 “(6) who has been discharged from the Armed
14 Forces under dishonorable conditions; or

15 “(7) who, having been a citizen of the United
16 States, has renounced his citizenship;”.

17 (c) *PROVISIONS RELATING TO LEGAL ALIENS*.—Sec-
18 tion 842 of such title is amended by adding at the end the
19 following:

20 “(q) *PROVISIONS RELATING TO LEGAL ALIENS*.—

21 “(1) *DEFINITION*.—In this subsection, the term
22 ‘alien’ has the same meaning as in section 101(a)(3)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1101(a)(3)).

1 “(2) *EXCEPTIONS*.—An alien is described in this
2 paragraph if the alien—

3 “(A) is—

4 “(i) in lawful nonimmigrant status;

5 “(ii) a refugee admitted under section
6 207 of the Immigration and Nationality
7 Act (8 U.S.C. 1157); or

8 “(iii) in asylum status under section
9 208 of the Immigration and Nationality
10 Act (8 U.S.C. 1158); and

11 “(B) is—

12 “(i) a law enforcement officer of a for-
13 eign country designated in writing by the
14 Attorney General as a country covered by
15 this subparagraph, and is entering the
16 United States on official law enforcement
17 business;

18 “(ii) a person having the authority to
19 direct or cause the direction of the manage-
20 ment and policies of a corporation, partner-
21 ship, or association licensed under section
22 843(a), and shipping, transporting, pos-
23 sessing or receiving explosive materials re-
24 lates to the authority; or

1 “(iii) a member of the armed forces of
2 a foreign country that is a member of the
3 North Atlantic Treaty Organization, Aus-
4 tralia, New Zealand, Japan, Republic of
5 Korea, or other foreign country designated
6 in writing by the Attorney General, after
7 consultation with the Secretary of Defense,
8 as a country covered by this subparagraph
9 (whether or not admitted in a non-immigrant
10 status), who is present in the United
11 States under military orders for training or
12 other authorized purpose, and the shipping,
13 transporting, possessing, or receiving explosive
14 materials is in furtherance of the military
15 purpose;

16 “(iv) lawfully present in the United
17 States in cooperation with the Director of
18 Central Intelligence, and the shipment,
19 transportation, receipt, or possession of the
20 explosive materials is in furtherance of such
21 cooperation.”.

22 (d) EXPANSION OF AUTHORITY TO PROVIDE RELIEF
23 FROM DISABILITIES.—Section 845(b) of such title is
24 amended—

1 (1) by striking “had been indicted for or con-
2 victed of a crime punishable by imprisonment for a
3 term exceeding one year” and inserting “is prohibited
4 from shipping, transporting, receiving, or possessing
5 any explosive”;

6 (2) by striking “of such indictment or convic-
7 tion” and inserting “of the applicable provision of
8 section 842(i)”;

9 (3) by striking “the indictment or conviction”
10 and inserting “the applicability of such provision”;

11 (4) by striking “of indictment or conviction”
12 and inserting “of such applicability”; and

13 (5) by striking “by such indictment or convic-
14 tion” and inserting “by such applicability”.

15 **SEC. 4. REQUIREMENT TO PROVIDE SAMPLES OF EXPLO-
16 SIVE MATERIALS AND AMMONIUM NITRATE.**

17 Section 843 of title 18, United States Code, is further
18 amended by adding at the end the following:

19 “(i) A person who manufactures or imports explosive
20 materials or ammonium nitrate shall, as required by letter
21 issued by the Secretary, furnish samples of the explosive
22 materials or ammonium nitrate, information on chemical
23 composition of the explosive materials or ammonium ni-
24 trate, and any other information that the Secretary deter-
25 mines is relevant to the identification of the explosive mate-

1 trials or to identification of the ammonium nitrate. The Sec-
2 retary shall, by regulation, provide for the reimbursement
3 of the fair market value of samples furnished pursuant to
4 this subsection, as well as the reasonable costs of shipment.”.

5 SEC. 5. DESTRUCTION OF PROPERTY OF INSTITUTIONS RE-
6 CEIVING FEDERAL FINANCIAL ASSISTANCE.

7 Section 844(f)(1) of title 18, United States Code, is
8 amended by inserting “or any institution or organization
9 receiving Federal financial assistance,” before “shall”.

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