

107TH CONGRESS
1ST SESSION

S. 641

To amend section 842 of title 18, United States Code, relating to explosive materials.

IN THE SENATE OF THE UNITED STATES

MARCH 28, 2001

Mr. TORRICELLI introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend section 842 of title 18, United States Code, relating to explosive materials.

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 “Explosives Protection
5 Act of 2001”.

6 **SEC. 2. PROHIBITIONS RELATING TO EXPLOSIVE MATE-**
7 **RIALS.**

8 (a) PROHIBITION OF SALE, DELIVERY, OR TRANS-
9 FER OF EXPLOSIVE MATERIALS TO CERTAIN INDIVID-
10 UALS.—Section 842 of title 18, United States Code, is

1 amended by striking subsection (d) and inserting the fol-
 2 lowing:

3 “(d) PROHIBITION OF SALE, DELIVERY, OR TRANS-
 4 FER OF EXPLOSIVE MATERIALS TO CERTAIN INDIVID-
 5 UALS.—It shall be unlawful for any licensee to knowingly
 6 sell, deliver, or transfer any explosive materials to any in-
 7 dividual who—

8 “(1) is less than 21 years of age;

9 “(2) is under indictment for, or has been con-
 10 victed in any court of, a crime punishable by impris-
 11 onment for a term exceeding 1 year;

12 “(3) is a fugitive from justice;

13 “(4) is an unlawful user of or addicted to any
 14 controlled substance (as defined in section 102 of
 15 the Controlled Substances Act (21 U.S.C. 802));

16 “(5) has been adjudicated as a mental defective
 17 or has been committed to any mental institution;

18 “(6) being an alien—

19 “(A) is illegally or unlawfully in the United
 20 States; or

21 “(B) except as provided in section 845(d),
 22 has been admitted to the United States under
 23 a nonimmigrant visa (as that term is defined in
 24 section 101(a)(26) of the Immigration and Na-
 25 tionality Act (8 U.S.C. 1101(a)(26));

1 “(7) has been discharged from the Armed
2 Forces under dishonorable conditions;

3 “(8) having been a citizen of the United States,
4 has renounced his citizenship;

5 “(9) is subject to a court order that restrains
6 such person from harassing, stalking, or threatening
7 an intimate partner of such person or child of such
8 intimate partner or person, or engaging in other
9 conduct that would place an intimate partner in rea-
10 sonable fear of bodily injury to the partner or child,
11 except that this paragraph shall only apply to a
12 court order that—

13 “(A) was issued after a hearing of which
14 such person received actual notice, and at which
15 such person had the opportunity to participate;
16 and

17 “(B)(i) includes a finding that such person
18 represents a credible threat to the physical safe-
19 ty of such intimate partner or child; and

20 “(ii) by its terms explicitly prohibits the
21 use, attempted use, or threatened use of phys-
22 ical force against such intimate partner or child
23 that would reasonably be expected to cause bod-
24 ily injury; or

1 “(10) has been convicted in any court of a mis-
2 demeanor crime of domestic violence.”.

3 (b) PROHIBITION ON SHIPPING, TRANSPORTING,
4 POSSESSION, OR RECEIPT OF EXPLOSIVES BY CERTAIN
5 INDIVIDUALS.—Section 842 of title 18, United States
6 Code, is amended by striking subsection (i) and inserting
7 the following:

8 “(i) PROHIBITION ON SHIPPING, TRANSPORTING,
9 POSSESSION, OR RECEIPT OF EXPLOSIVES BY CERTAIN
10 INDIVIDUALS.—It shall be unlawful for any person to ship
11 or transport in interstate or foreign commerce, or possess,
12 in or affecting commerce, any explosive, or to receive any
13 explosive that has been shipped or transported in inter-
14 state or foreign commerce, if that person—

15 “(1) is less than 21 years of age;

16 “(2) has been convicted in any court, of a crime
17 punishable by imprisonment for a term exceeding 1
18 year;

19 “(3) is a fugitive from justice;

20 “(4) is an unlawful user of or addicted to any
21 controlled substance (as defined in section 102 of
22 the Controlled Substances Act (21 U.S.C. 802));

23 “(5) has been adjudicated as a mental defective
24 or who has been committed to a mental institution;

25 “(6) being an alien—

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

3 “(B) except as provided in section 845(d),
4 has been admitted to the United States under
5 a nonimmigrant visa (as that term is defined in
6 section 101(a)(26) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1101(a)(26));

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

10 “(8) having been a citizen of the United States,
11 has renounced his citizenship; or

12 “(9) is subject to a court order that—

13 “(A) was issued after a hearing of which
14 such person received actual notice, and at which
15 such person had an opportunity to participate;

16 “(B) restrains such person from harassing,
17 stalking, or threatening an intimate partner of
18 such person or child of such intimate partner or
19 person, or engaging in other conduct that would
20 place an intimate partner in reasonable fear of
21 bodily injury to the partner or child; and

22 “(C)(i) includes a finding that such person
23 represents a credible threat to the physical safe-
24 ty of such intimate partner or child; and

1 “(ii) by its terms explicitly prohibits the
 2 use, attempted use, or threatened use of phys-
 3 ical force against such intimate partner or child
 4 that would reasonably be expected to cause bod-
 5 ily injury; or

6 “(10) has been convicted in any court of a mis-
 7 demeanor crime of domestic violence.”.

8 (c) EXCEPTIONS AND WAIVER FOR CERTAIN INDI-
 9 VIDUALS.—Section 845 of title 18, United States Code,
 10 is amended by adding at the end the following:

11 “(d) EXCEPTIONS AND WAIVER FOR CERTAIN INDI-
 12 VIDUALS.—

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

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

17 “(B) the term ‘nonimmigrant visa’ has the
 18 same meaning as in section 101(a)(26) of the
 19 Immigration and Nationality Act (8 U.S.C.
 20 1101(a)(26)).

21 “(2) EXCEPTIONS.—Subsections (d)(5)(B) and
 22 (i)(5)(B) of section 842 do not apply to any alien
 23 who has been lawfully admitted to the United States
 24 pursuant to a nonimmigrant visa, if that alien is—

1 “(A) admitted to the United States for
2 lawful hunting or sporting purposes;

3 “(B) a foreign military personnel on offi-
4 cial assignment to the United States;

5 “(C) an official of a foreign government or
6 a distinguished foreign visitor who has been so
7 designated by the Department of State; or

8 “(D) a foreign law enforcement officer of
9 a friendly foreign government entering the
10 United States on official law enforcement busi-
11 ness.

12 “(3) WAIVER.—

13 “(A) IN GENERAL.—Any individual who
14 has been admitted to the United States under
15 a nonimmigrant visa and who is not described
16 in paragraph (2), may receive a waiver from the
17 applicability of subsection (d)(5)(B) or (i)(5)(B)
18 of section 842, if—

19 “(i) the individual submits to the At-
20 torney General a petition that meets the
21 requirements of subparagraph (B); and

22 “(ii) the Attorney General approves
23 the petition.

24 “(B) PETITIONS.—Each petition under
25 subparagraph (A)(i) shall—

1 “(i) demonstrate that the petitioner
2 has resided in the United States for a con-
3 tinuous period of not less than 180 days
4 before the date on which the petition is
5 submitted under this paragraph; and

6 “(ii) include a written statement from
7 the embassy or consulate of the petitioner,
8 authorizing the petitioner to engage in any
9 activity prohibited under subsection (d) or
10 (i) of section 842, as applicable, and certi-
11 fying that the petitioner would not other-
12 wise be prohibited from engaging in that
13 activity under subsection (d) or (i) of sec-
14 tion 842, as applicable.”.

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