

107TH CONGRESS
2D SESSION

H. R. 4864

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

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Anti-Terrorism Explo-
5 sives Act of 2002”.

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

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

1 “(j) ‘Permittee’ means any user of explosives for a
2 lawful purpose, who has obtained a user permit or a lim-
3 ited permit under this chapter.”.

4 (b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Sec-
5 tion 842 of such title is amended—

6 (1) in subsection (a)—

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

8 and

9 (B) by striking paragraph (3) and insert-
10 ing the following:

11 “(3) other than a licensee or permittee,
12 knowingly—

13 “(A) to transport, ship, cause to be trans-
14 ported, or receive any explosive materials; or

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

17 or

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

19 “(A) to transport, ship, cause to be trans-
20 ported, or receive in interstate or foreign com-

21 merce any explosive materials; or

22 “(B) to receive explosive materials from a
23 licensee or permittee whose premises are located

24 in the State of residence of the holder, except
25 that the holder of a limited permit may so re-

1 ceive explosive materials on 4 or fewer occasions
2 pursuant to regulations prescribed by the Sec-
3 retary.”; and

4 (2) by striking subsection (b) and inserting the
5 following:

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

9 “(1) a licensee;

10 “(2) a holder of a user permit; or

11 “(3) a holder of a limited permit who is a resi-
12 dent of the State where distribution is made and in
13 which the transferor’s premises are located.”.

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

16 (1) in the 1st sentence—

17 (A) by inserting “or limited permit” after
18 “user permit”; and

19 (B) by inserting “, including the names of
20 and appropriate identifying information regard-
21 ing all employees who will be authorized by the
22 employer to possess explosive materials, as well
23 as fingerprints and a photograph of each re-
24 sponsible person with respect to the applicant.

25 In this section, the term ‘responsible person’

1 means, with respect to an applicant, an indi-
2 vidual who has the power to direct the manage-
3 ment and policies of the applicant pertaining to
4 explosive materials” before the period; and

5 (2) by striking the 3rd sentence and inserting
6 “Each license or user permit shall be valid for no
7 longer than 3 years from the date of issuance, and
8 each limited permit shall be valid for no longer than
9 1 year from the date of issuance. Each license or
10 permit shall be renewable upon the same conditions
11 and subject to the same restrictions as the original
12 license or permit (except that, in the case of the re-
13 newal of a limited permit, the verification require-
14 ment of subsection (b)(4) may be satisfied by inspec-
15 tion or such other means as the Secretary deems ap-
16 propriate) and upon payment of a renewal fee not to
17 exceed $\frac{1}{2}$ of the original fee.”.

18 (d) CRITERIA FOR APPROVING LICENSES AND PER-
19 MITS.—Section 843(b) of such title is amended—

20 (1) by striking paragraph (1) and inserting the
21 following:

22 “(1) the applicant (or, if the applicant is a cor-
23 poration, partnership, or association, each respon-
24 sible person with respect to the applicant) is not a
25 person who is prohibited from receiving, distributing,

1 transporting, or possessing explosive materials under
2 subsection (d) or (i) of section 842;”;

3 (2) by redesignating paragraphs (2) through
4 (5) as paragraphs (3) through (6), respectively, and
5 inserting after paragraph (1) the following:

6 “(2) none of the employees who will be author-
7 ized by the applicant to possess explosive materials
8 in the course of their employment with the applicant
9 is a person whose possession of explosives would be
10 unlawful under section 842(i);”;

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

12 (A) by inserting “the Secretary has
13 verified by inspection that” before “the appli-
14 cant”; and

15 (B) by striking “and” at the end;

16 (4) by striking the period at the end of para-
17 graph (6) (as so redesignated) and inserting “;
18 and”; and

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

20 “(7) in the case of a limited permit, the appli-
21 cant has certified in writing that the applicant will
22 not receive explosive materials on more than 4 dif-
23 ferent occasions during any 12-month period in
24 which a limited permit issued to the applicant is in
25 effect.”.

1 (e) DEADLINE FOR APPROVAL OR DENIAL OF APPLI-
2 CATION.—Section 843(c) of such title is amended by strik-
3 ing “a period of forty-five days beginning on the date
4 such” and inserting “90 days after the”.

5 (f) INSPECTION AUTHORITY.—Section 843(f) of such
6 title is amended—

7 (1) in the 1st sentence—

8 (A) by striking “permittees” and inserting
9 “holders of user permits”; and

10 (B) by inserting “licensees and permittees”
11 before “shall submit”; and

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

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

17 (h) BACKGROUND CHECKS; CLEARANCES.—Section
18 843 of such title is amended by adding at the end the
19 following:

20 “(h)(1) If the Secretary receives from an employer
21 the name and other identifying information with respect
22 to a responsible person or an employee who will be author-
23 ized by the employer to possess explosive materials in the
24 course of employment with the employer, the Secretary
25 shall determine whether possession of explosives by the re-

1 sponsible person or the employee, as the case may be,
2 would be unlawful under section 842(i). In making the de-
3 termination, the Secretary may take into account a letter
4 or document issued under paragraph (2) of this sub-
5 section.

6 “(2)(A) If the Secretary determines that possession
7 of explosives by the responsible person or the employee
8 would not be unlawful under section 842(i), the Secretary
9 shall notify the employer in writing or electronically of the
10 determination and issue to the responsible person or the
11 employee, as the case may be, a letter of clearance which
12 confirms the determination.

13 “(B) If the Secretary determines that possession of
14 explosives by the responsible person or the employee would
15 be unlawful under section 842(i), the Secretary shall no-
16 tify the employer in writing or electronically of the deter-
17 mination and issue to the responsible person or the em-
18 ployee, as the case may be, a document which confirms
19 the determination, explains the grounds for the determina-
20 tion, provides information on how the disability may be
21 relieved, and explains how the determination may be ap-
22 pealed.”.

23 (i) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect 180 days after the date of
25 enactment of this Act.

1 **SEC. 3. PERSONS PROHIBITED FROM RECEIVING OR POS-**
2 **SESSING EXPLOSIVE MATERIALS.**

3 (a) DISTRIBUTION OF EXPLOSIVE MATERIALS.—Sec-
4 tion 842(d) of title 18, United States Code, is amended—

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

7 (2) by striking the period at the end of para-
8 graph (6) and inserting “or has been committed to
9 a mental institution;” and

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

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

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

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

19 (b) POSSESSION OF EXPLOSIVES.—Section 842(i) of
20 such title is amended—

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

23 (2) by inserting after paragraph (4) the fol-
24 lowing:

25 “(5) who, is an alien, other than a lawful per-
26 manent resident alien (as defined in section

1 101(a)(20) of the Immigration and Nationality Act)
2 or an alien described in subsection (q)(2);

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

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

7 (c) PROVISIONS RELATING TO LEGAL ALIENS.—Sec-
8 tion 842 of such title is amended by adding at the end
9 the following:

10 “(q) PROVISIONS RELATING TO LEGAL ALIENS.—

11 “(1) DEFINITION.—In this subsection, the term
12 ‘alien’ has the same meaning as in section 101(a)(3)
13 of the Immigration and Nationality Act (8 U.S.C.
14 1101(a)(3)).

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

17 “(A) is—

18 “(i) in lawful nonimmigrant status;

19 “(ii) a refugee admitted under section
20 207 of the Immigration and Nationality
21 Act (8 U.S.C. 1157); or

22 “(iii) in asylum status under section
23 208 of the Immigration and Nationality
24 Act (8 U.S.C. 1158); and

25 “(B) is—

1 “(i) a law enforcement officer of a for-
2 eign country designated in writing by the
3 Attorney General as a country covered by
4 this subparagraph, and is entering the
5 United States on official law enforcement
6 business;

7 “(ii) a person having the authority to
8 direct or cause the direction of the man-
9 agement and policies of a corporation,
10 partnership, or association licensed under
11 section 843(a), and shipping, transporting,
12 possessing or receiving explosive materials
13 relates to the authority; or

14 “(iii) a member of the armed forces of
15 a foreign country that is a member of the
16 North Atlantic Treaty Organization, Aus-
17 tralia, New Zealand, Japan, Republic of
18 Korea, or other foreign country designated
19 in writing by the Attorney General, after
20 consultation with the Secretary of Defense,
21 as a country covered by this subparagraph
22 (whether or not admitted in a non-immi-
23 grant status), who is present in the United
24 States under military orders for training or
25 other authorized purpose, and the ship-

1 ping, transporting, possessing, or receiving
2 explosive materials is in furtherance of the
3 military purpose;

4 “(iv) an employee of an intelligence
5 agency of a foreign country who is lawfully
6 present in the United States in cooperation
7 with the Director of Central Intelligence.”.

8 (d) EXPANSION OF AUTHORITY TO PROVIDE RELIEF
9 FROM DISABILITIES.—Section 845(b) of such title is
10 amended—

11 (1) by striking “had been indicted for or con-
12 victed of a crime punishable by imprisonment for a
13 term exceeding one year” and inserting “is prohib-
14 ited from shipping, transporting, receiving, or pos-
15 sessing any explosive”;

16 (2) by striking “of such indictment or convic-
17 tion” and inserting “of the applicable provision of
18 section 842(i)”;

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

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

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

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

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

5 “(i) A person who manufactures or imports explosive
6 materials or ammonium nitrate shall, as required by letter
7 issued by the Secretary, furnish samples of the explosive
8 materials or ammonium nitrate, information on chemical
9 composition of the explosive materials or ammonium ni-
10 trate, and any other information that the Secretary deter-
11 mines is relevant to the identification of the explosive ma-
12 terials or to identification of the ammonium nitrate. The
13 Secretary shall, by regulation, provide for the reimburse-
14 ment of the fair market value of samples furnished pursu-
15 ant to this subsection, as well as the reasonable costs of
16 shipment.”.

17 **SEC. 5. DESTRUCTION OF PROPERTY OF INSTITUTIONS RE-**
18 **CEIVING FEDERAL FINANCIAL ASSISTANCE.**

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

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