

# Union Calendar No. 405

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4864

[Report No. 107-658]

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

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## 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]

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## 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 Explo-*  
3 *sives Act of 2002”.*

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

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

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

10 (b) *PERMITS FOR PURCHASE OF EXPLOSIVES.*—Sec-  
11 tion 842 of such title is amended—

12 (1) in subsection (a)—

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

14 and

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

17 “(3) other than a licensee or permittee, know-  
18 ingly—

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

21 “(B) to distribute explosive materials to  
22 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 trans-  
25 ported, or receive in interstate or foreign com-  
26 merce 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          *MITS.—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.**

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

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

15                   (2) *by striking the period at the end of para-*  
16 *graph (6) and inserting “or has been committed to a*  
17 *mental institution;”;* and

18                   (3) *by adding at the end the following:*

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

23                   “*(8) has been discharged from the Armed Forces*  
24 *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 *ign 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-immi-  
10 grant 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 explo-  
14 sive materials is in furtherance of the mili-  
15 tary 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 *rials 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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