

107TH CONGRESS
2^D SESSION

S. 1956

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2002

Mr. KOHL (for himself, Mr. HATCH, Mr. SCHUMER, and Ms. CANTWELL) in-
troduced the following bill; which was read twice and referred to the Com-
mittee on the Judiciary

A BILL

To combat terrorism and defend the Nation against terrorist
attacks, 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 referred to as the “Safe Explosives
5 Act”.

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 either a user permit or
3 a limited permit under the provisions of this chapter.”.

4 (b) PERMITS FOR PURCHASE OF EXPLOSIVES.—Sec-
5 tion 842 of title 18, United States Code, is amended—

6 (1) in subsection (a)(2), by striking “and” at
7 the end;

8 (2) by striking subsection (a)(3) and inserting
9 the following:

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

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

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

16 or

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

18 “(A) to transport, ship, cause to be trans-
19 ported, or receive in interstate or foreign com-
20 merce any explosive materials; or

21 “(B) to receive explosive materials from a
22 licensee or permittee, whose premises are lo-
23 cated within the State of residence of the lim-
24 ited permit holder, on more than 6 separate oc-

1 casions, pursuant to regulations implemented
2 by the Secretary.”;

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

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

8 “(1) a licensee;

9 “(2) a holder of a user permit; or

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

14 (4) in the first sentence of subsection (f), by in-
15 serting “, other than a holder of a limited permit,”
16 after “permittee”.

17 (c) LICENSES AND USER PERMITS.—Section 843(a)
18 of title 18, United States Code, is amended—

19 (1) by inserting “or limited permit” after “user
20 permit” in the first sentence;

21 (2) by inserting before the period at the end of
22 the first sentence the following: “, including the
23 names of and appropriate identifying information re-
24 garding all employees who will handle explosive ma-
25 terials, as well as fingerprints and a photograph of

1 the applicant (including, in the case of a corpora-
2 tion, partnership, or association, any individual pos-
3 sessed, directly or indirectly, the power to direct or
4 cause the direction of the management and policies
5 of the corporation, partnership, or association)”; and

6 (3) by striking the third sentence and inserting
7 “Each license or user permit shall be valid for no
8 longer than 3 years from the date of issuance and
9 each limited permit shall be valid for no longer than
10 1 year from the date of issuance. Each license or
11 permit shall be renewable upon the same conditions
12 and subject to the same restrictions as the original
13 license or permit and upon payment of a renewal fee
14 not to exceed one-half of the original fee.”.

15 (d) CRITERIA FOR APPROVING LICENSES AND PER-
16 MITS.—Section 843(b) of title 18, United States Code, is
17 amended—

18 (1) in paragraph (4), by striking “and” at the
19 end;

20 (2) in paragraph (5), by striking the period at
21 the end; and

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

23 “(6) none of the employees of the applicant who
24 will possess explosive materials in the course of their
25 employment with the applicant is a person whose

1 possession of explosives would be unlawful under
2 section 842(i) of this chapter; and

3 “(7) in the case of a limited permit, the appli-
4 cant has certified in writing that the applicant will
5 not receive explosive materials on more than 6 sepa-
6 rate occasions during the 12-month period for which
7 the limited permit is valid.”.

8 (e) INSPECTION AUTHORITY.—Section 843(f) of title
9 18, United States Code, is amended—

10 (1) in the first sentence—

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

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

15 (2) in the second sentence, by striking “per-
16 mittee” the first time it appears and inserting “hold-
17 er of a user permit”.

18 (f) POSTING OF PERMITS.—Section 843(g) of title
19 18, United States Code, is amended by inserting “user”
20 before “permits”.

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

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

3 (a) DISTRIBUTION OF EXPLOSIVES.—Section 842(d)
4 of title 18, United States Code, is amended—

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

7 (2) in paragraph (6), by striking the period at
8 the end and inserting “or who has been committed
9 to a mental institution;”; and

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

11 “(7) is an alien, other than an alien who is law-
12 fully admitted for permanent residence (as defined
13 in section 101 (a)(20) of the Immigration and Na-
14 tionality Act) or an alien described in subsection
15 (q)(2);

16 “(8) has been discharged from the armed forces
17 under dishonorable conditions; or

18 “(9) having been a citizen of the United States,
19 has renounced the citizenship of that person.”.

20 (b) POSSESSION OF EXPLOSIVE MATERIALS.—Sec-
21 tion 842(i) of title 18, United States Code, is amended—

22 (1) in paragraph (3), by striking “or” at the
23 end; and

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

1 “(5) who is an alien, other than an alien who
2 is lawfully admitted for permanent residence (as
3 that term is defined in section 101(a)(20) of the Im-
4 migration and Nationality Act) or an alien described
5 in subsection (q)(2);

6 “(6) who has been discharged from the armed
7 forces under dishonorable conditions; or

8 “(7) who, having been a citizen of the United
9 States, has renounced the citizenship of that per-
10 son.”.

11 (c) DEFINITION.—Section 842 of title 18, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

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

15 “(1) DEFINITION.—In this subsection, the term
16 ‘alien’ has the same meaning as in section 101(a)(3)
17 of the Immigration and Nationality Act (8 U.S.C.
18 1101(a)(3)).

19 “(2) EXCEPTIONS.—Subsections (d)(7) and
20 (i)(5) do not apply to any alien who—

21 “(A) is in lawful nonimmigrant status, is a
22 refugee admitted under section 207 of the Im-
23 migration and Nationality Act (8 U.S.C. 1157),
24 or is in asylum status under section 208 of the

1 Immigration and Nationality Act (8 U.S.C.
2 1158);

3 “(B) is a foreign law enforcement officer
4 of a friendly foreign government entering the
5 United States on official law enforcement busi-
6 ness;

7 “(C) is a person having the authority to di-
8 rect or cause the direction of the management
9 and policies of a corporation, partnership, or
10 association licensed pursuant to section 843(a),
11 and the shipping, transporting, possessing, or
12 receiving of explosive materials relates to that
13 authority; or

14 “(D) is a member of a North Atlantic
15 Treaty Organization (NATO) or other friendly
16 foreign military force (whether or not admitted
17 in a nonimmigrant status) who is present in the
18 United States under military orders for training
19 or other authorized purpose, and the shipping,
20 transporting, possessing, or receiving explosive
21 materials is in furtherance of the military pur-
22 pose.”.

23 “(3) WAIVER.—

24 “(A) CONDITIONS FOR WAIVER.—Any indi-
25 vidual who has been admitted to the United

1 States under a nonimmigrant visa may receive
2 a waiver from the requirements of subsection
3 (i)(5) if—

4 “(i) the individual submits to the At-
5 torney General a petition that meets the
6 requirements of subparagraph (C); and

7 “(ii) the Attorney General approves
8 the petition.

9 “(B) PETITION.—Each petition submitted
10 in accordance with subparagraph (A) shall—

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

16 “(ii) include a written statement from
17 the embassy or consulate of the petitioner,
18 authorizing the petitioner to acquire explo-
19 sives and certifying that the alien would
20 not, absent the application of subsection
21 (i)(5), otherwise be prohibited from such
22 an acquisition under subsection (i).

23 “(C) APPROVAL OF PETITION.—The Attor-
24 ney General shall approve a petition submitted
25 in accordance with this paragraph if the Attor-

1 ney General determines that waiving the re-
2 quirements of subsection (i)(5) with respect to
3 the petitioner—

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

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

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

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

12 “(h) FURNISHING OF SAMPLES.—

13 “(1) IN GENERAL.—Licensed manufacturers
14 and licensed importers and persons who manufac-
15 ture or import explosive materials or ammonium ni-
16 trate shall, when required by letter issued by the
17 Secretary, furnish—

18 “(A) samples of such explosive materials or
19 ammonium nitrate;

20 “(B) information on chemical composition
21 of those products; and

22 “(C) any other information that the Sec-
23 retary determines is relevant to the identifica-
24 tion and classification of the explosive materials
25 or to identification of the ammonium nitrate.

1 “(2) REIMBURSEMENT.—The Secretary may,
 2 by regulation, authorize reimbursement of the fair
 3 market value of samples furnished pursuant to this
 4 subsection, as well as the reasonable costs of ship-
 5 ment.”.

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

8 Section 844(f)(1) of title 18, United States Code, is
 9 amended by inserting before the word “shall” the fol-
 10 lowing: “or any institution or organization receiving Fed-
 11 eral financial assistance,”.

12 **SEC. 6. RELIEF FROM DISABILITIES.**

13 Section 845(b) of title 18, United States Code, is
 14 amended to read as follows:

15 “(b) RELIEF FROM DISABILITIES.—

16 “(1) IN GENERAL.—A person who is prohibited
 17 from possessing, shipping, transporting, receiving
 18 purchasing, importing, manufacturing, or dealing in
 19 explosive materials may make application to the Sec-
 20 retary for relief from the disabilities imposed by
 21 Federal law with respect to the acquisition, receipt,
 22 transfer, shipment, transportation, or possession of
 23 explosive materials, and the Secretary may grant
 24 that relief, if it is established to the satisfaction of
 25 the Secretary that—

1 “(A) the circumstances regarding the dis-
2 ability, and the record and reputation of the ap-
3 plicant are such that the applicant will not be
4 likely to act in a manner dangerous to public
5 safety; and

6 “(B) that the granting of the relief will not
7 be contrary to the public interest.

8 “(2) PETITION FOR JUDICIAL REVIEW.—Any
9 person whose application for relief from disabilities
10 under this section is denied by the Secretary may
11 file a petition with the United States district court
12 for the district in which that person resides for a ju-
13 dicial review of the denial.

14 “(3) ADDITIONAL EVIDENCE.—The court may,
15 in its discretion, admit additional evidence where
16 failure to do so would result in a miscarriage of jus-
17 tice.

18 “(4) FURTHER OPERATIONS.—A licensee or
19 permittee who conducts operations under this chap-
20 ter and makes application for relief from the disabil-
21 ities under this chapter, shall not be barred by that
22 disability from further operations under the license
23 or permit of that person pending final action on an
24 application for relief filed pursuant to this section.

1 “(5) NOTICE.—Whenever the Secretary grants
2 relief to any person pursuant to this section, the
3 Secretary shall promptly publish in the Federal Reg-
4 ister, notice of that action, together with reasons for
5 that action.”.

6 **SEC. 7. THEFT REPORTING REQUIREMENT.**

7 Section 842 of title 18, United States Code, as
8 amended by this Act, is amended by adding at the end
9 the following:

10 “(r) THEFT REPORTING REQUIREMENT.—

11 “(1) IN GENERAL.—A holder of a limited user
12 permit who knows that explosive materials have been
13 stolen from that user, shall report the theft to the
14 Secretary not later than 24 hours after the discovery
15 of the theft.

16 “(2) PENALTY.—A holder of a limited user per-
17 mit who does not report a theft in accordance with
18 paragraph (1), shall be fined not more than
19 \$10,000, imprisoned not more than 5 years, or
20 both.”.

21 **SEC. 8. APPLICABILITY.**

22 Nothing in this Act shall be construed to affect the
23 exception in section 845(a)(4) (relating to small arms am-
24 munition and components of small arms ammunition) or
25 section 845(a)(5) (relating to commercially manufactured

1 black powder in quantities not to exceed 50 pounds in-
2 tended to be used solely for sporting, recreational, or cul-
3 tural purposes in antique firearms) of title 18, United
4 States Code.

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