



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

April 25, 2007

The Honorable Richard B. Cheney
President
United States Senate
Washington, D.C. 20510

Dear Mr. President:

The criteria for prohibiting the receipt or possession of a firearm are established by 18 U.S.C. 922(g) and (n) and state law. Similarly, the criteria for prohibiting the receipt or possession of explosives are established in 18 U.S.C. 842 and the requirements for federal explosives licenses and user permits are set forth in 18 U.S.C. 843. Pursuant to Brady Handgun Violence Prevention Act of 1993, the Attorney General conducts background checks on individuals purchasing or otherwise receiving firearms from a federal firearms licensee and on individuals seeking firearms or explosives licenses or permits. Absent one or more of the prohibiting criteria, however, there is currently no legal basis for the Attorney General to deny a firearm transfer or a firearms or explosive permit or license based merely on a person's inclusion on a terrorist watch list.

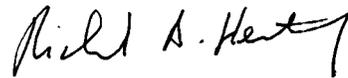
There are situations in which it would be counterproductive to *mandate* the denial of a firearm transfer or a firearm or explosives license or permit to an individual on a terrorist watch list. For example, mandatory denial could in some cases compromise an ongoing investigation or intelligence-collection operation. At the same time, there may be circumstances in which it is important for the Attorney General to have the *discretionary* authority to deny such transfers, licenses or permits.

Accordingly, the Department of Justice has drafted the enclosed bill titled "Denying Firearms and Explosives to Dangerous Terrorists Act of 2007" for consideration by Congress. The draft legislation provides the Attorney General with discretionary authority to deny the transfer of a firearm or the issuance of a firearm or explosives license or permit when a background check reveals that the candidate is a known or suspected terrorist and the Attorney General reasonably believes that the person may use a firearm or explosives in connection with terrorism. It also establishes appropriate procedures for when an individual seeks to challenge such a determination by the Attorney General.

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We will be glad to answer any questions you may have about this proposed legislation. The Office of Management and Budget has advised us that there is no objection to this letter from the perspective of the Administration's program.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Hertling". The signature is written in a cursive style with a prominent initial "R" and a long, sweeping tail.

Richard A. Hertling
Acting Assistant Attorney General

AN IDENTICAL LETTER IS BEING SENT TO THE SPEAKER OF THE HOUSE.

A BILL

To increase public safety by permitting the Attorney General to deny the transfer of a firearm or the issuance of firearms and explosives licenses to a known or suspected dangerous terrorist.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Denying Firearms and Explosives to Dangerous Terrorists Act of 2007.”

SECTION 2. GRANTING THE ATTORNEY GENERAL THE AUTHORITY TO DENY THE SALE, DELIVERY, OR TRANSFER OF A FIREARM OR THE ISSUANCE OF A FIREARMS OR EXPLOSIVES LICENSE OR PERMIT TO DANGEROUS TERRORISTS. –

(a) STANDARD FOR EXERCISING ATTORNEY GENERAL DISCRETION REGARDING TRANSFERRING FIREARMS OR ISSUING FIREARMS PERMITS TO DANGEROUS TERRORISTS.-

Chapter 44 of title 18 , United States Code, is amended–

(1) by inserting the following new section after Section 922:

“922A. Attorney General's discretion to deny transfer of a firearm.

The Attorney General may deny the transfer of a firearm pursuant to subsection (t)(1)(B)(ii) of Section 922 of this title if the Attorney General determines that the transferee is known (or appropriately suspected) to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism, or providing material support thereof, and the Attorney General has a reasonable belief that the prospective transferee may use a firearm in connection with terrorism.”;

(2) by inserting the following new section after Section 922A:

“922B: Attorney General's discretion regarding applicants for firearm permits which would qualify for the exemption provided under Section 922(t)(3).

The Attorney General may determine that an applicant for a firearm permit which would qualify for an exemption under Section 922(t) is known (or appropriately suspected) to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism, or providing material support thereof, and the

Attorney General has a reasonable belief that the applicant may use a firearm in connection with terrorism.”;

(3) by inserting after Section 921(a)(35) of this title the following definitions—

(36) The term “terrorism” includes both “international terrorism” as defined in Section §2331(1) of this title, and “domestic terrorism” as defined in Section 2331(5) of this title.

(37) The term “material support” has the same meaning as in Sections 2339A or B of this title.

(38) The term “responsible person” means an individual who has the power, directly or indirectly, to direct or cause the direction of the management and policies of the applicant or licensee pertaining to firearms.

(b) EFFECT OF ATTORNEY GENERAL DISCRETIONARY DENIAL THROUGH THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM (NICS) ON FIREARMS PERMITS. –

Section 922(t) of title 18, United States Code, is amended –

(1) by inserting at the end of paragraph (t)(1)(B)(ii) before “; and”, the following:

“or State law, or that the Attorney General has determined to deny the transfer of a firearm pursuant to section 922A of this title”;

(2) by inserting in (t)(2) after “or State law” the following:

“or if the Attorney General has not determined to deny the transfer of a firearm pursuant to section 922A of this title”;

(3) by inserting in (t)(3)(A)(i)(II) after “and” the following:

“(III) was issued after a check of the system established pursuant to section 922(t)(1); and”;

(4) by inserting after (t)(3)(A)(ii) the following:

“and, (iii) the State issuing the permit agrees to deny the permit application if such other person is the subject of a determination by the Attorney General pursuant to Section 922B of this title;”;

(5) by inserting in (t)(4) after “or State law,” the following:

“or if the Attorney General has not determined to deny the transfer of a firearm pursuant to section 922A of this title,”;

(6) by inserting in (t)(5) after “or State law,” and inserting “or if the Attorney General has determined to deny the transfer of a firearm pursuant to section 922A of this title”.

(c) UNLAWFUL SALE OR DISPOSITION OF FIREARM BASED UPON ATTORNEY GENERAL DISCRETIONARY DENIAL.–

Section 922(d) of title 18, United States Code, is amended–

- (1) by striking “or” at the end of paragraph (8);
- (2) by striking the period at the end of paragraph (9) and inserting “; or”;
- (3) by inserting after paragraph (9) the following:

“(10) has been the subject of a determination by the Attorney General pursuant to the provisions of sections 922A, 922B, 923(d)(1)(H), or 923(e) of this title.”

(d) ATTORNEY GENERAL DISCRETIONARY DENIAL AS PROHIBITOR.–

Section 922(g) of title 18, United States Code, is amended–

- (1) by striking “or” at the end of paragraph (8);
- (2) by striking the comma at the end of paragraph (9) and inserting “; or” after paragraph (9);
- (3) by inserting the following after paragraph (9):

“(10) who has received actual notice of the Attorney General's determination made pursuant to the provisions of sections 922A, 922B, 923(d)(1)(H) or 923(e) of this title.”

(e) ATTORNEY GENERAL DISCRETIONARY DENIAL OF FEDERAL FIREARMS LICENSES.–

Section 923(d)(1) of Title 18, United States Code, is amended -

- (1) by striking “Any” and inserting in lieu thereof “Except as provided in subparagraph (H), any”;
- (2) in clause (F)(iii), by striking “and”;
- (3) in subparagraph (G) by striking “.” and inserting in lieu thereof “; and”;
- (4) by adding at the end the following:

“(H) The Attorney General may deny a license application if the Attorney General determines that the applicant (including any responsible person) is known (or appropriately suspected) to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism, or providing material support thereof, and the Attorney General has a reasonable belief that the applicant may use a firearm in connection with terrorism.”

(f) DISCRETIONARY REVOCATION OF FEDERAL FIREARMS LICENSES.—

Section 923(e) of Title 18, United States Code, is amended—

(1) by inserting in the first sentence after “revoke” the following: “– (1)”;

(2) by striking “.” at the end of the first sentence and inserting “;”;

(3) by striking in the second sentence “The Attorney General may, after notice and opportunity for hearing, revoke” and insert “(2)”;

(4) by striking at the end of the second sentence “.” and inserting the following:

“; or (3) any license issued under this section if the Attorney General determines that the holder of such license (including any responsible person) is known (or appropriately suspected) to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism, or providing material support thereof, and the Attorney General has a reasonable belief that the applicant may use a firearm in connection with terrorism.”

(g) ATTORNEY GENERAL'S ABILITY TO WITHHOLD INFORMATION IN FIREARMS LICENSE DENIAL AND REVOCATION SUIT.—

(1) Section 923(f)(1) of Title 18, United States Code, is amended by inserting after the first sentence the following:

“However, if the denial or revocation is pursuant to section 923(d)(1)(H) or 923(e)(3) of this title, then any information upon which the Attorney General relied for this determination may be withheld from the petitioner if the Attorney General determines that disclosure of the information would likely compromise national security.”;

(2) Section 923(f)(3) of Title 18, United States Code, is amended by inserting after the third sentence:

“With respect to any information withheld from the aggrieved party under subsection (f)(1), the United States may submit, and the court may rely upon, summaries or redacted versions of documents containing information the disclosure of which the Attorney General has determined would likely compromise national security.”

(h) ATTORNEY GENERAL'S ABILITY TO WITHHOLD INFORMATION IN RELIEF FROM DISABILITIES LAWSUITS.--

Section 925(c) of Title 18, United States Code, is amended by inserting after the third sentence the following:

“If the person is subject to a disability under section 922(g)(10) of this title, any information which the Attorney General relied on for this determination may be withheld from the applicant if the Attorney General determines that disclosure of the information would likely compromise national security. In responding to the petition, the United States may submit, and the court may rely upon, summaries or redacted versions of documents containing information the disclosure of which the Attorney General has determined would likely compromise national security.”

(i) PENALTIES. –

Section 924 of title 18, United States Code, is amended--

(1) by striking “or” at the end of paragraph (k)(2);

(2) by inserting in paragraph (k)(3) after “subsection (c)(3)),” but before the phrase “smuggles or knowingly.” the following:

“or, (4) constitutes an act of terrorism, or material support thereof, as those terms are defined in Sections 2331(1) and (5) and Sections 2339A or B of this title.”

(j) REMEDY FOR ERRONEOUS DENIAL OF FIREARM OR FIREARM PERMIT EXEMPTION.--

Section 925A of title 18, United States Code, is amended--

(1) by striking the existing section title and substituting the following: “Remedies”;

(2) by striking at the beginning “Any person denied a firearm pursuant to subsection (s) or (t) of section 922” and inserting the following:

“(a) Except as provided in subsection (b), any person denied a firearm pursuant to subsection (t) of section 922 or a firearm permit pursuant to a determination made under section 922B”;

(3) by inserting the following after paragraph (a)--

“(b) In any case in which the Attorney General has denied the transfer of a firearm to a prospective transferee pursuant to Section 922A of this title or has made a determination regarding a firearm permit applicant pursuant to Section 922B of this title, an action challenging the determination may be brought against the United States. The petition must

be filed not later than 60 days after the petitioner has received actual notice of the Attorney General's determination made pursuant to section 922A or 922B of this title. The Court shall sustain the Attorney General's determination upon a showing by the United States by a preponderance of evidence that the Attorney General's determination satisfied the requirements of Sections 922A or 922B. To make this showing, the United States may submit, and the court may rely upon, summaries or redacted versions of documents containing information the disclosure of which the Attorney General has determined would likely compromise national security. Upon request of the petitioner or the court's own motion, the court may review the full, undisclosed documents *ex parte* and *in camera*. The court shall determine whether the summaries or redacted versions, as the case may be, are fair and accurate representations of the underlying documents. The court shall not consider the full, undisclosed documents in deciding whether the Attorney General's determination satisfies the requirements of Sections 922A or 922B."

**(k) PROVISION OF GROUNDS UNDERLYING INELIGIBILITY
DETERMINATION BY THE NATIONAL INSTANT CRIMINAL BACKGROUND
CHECK SYSTEM.–**

Section 103 of Public Law 103-159, as amended, is amended–

(1) by inserting in subsection (f) after “is ineligible to receive a firearm,” the following “or the Attorney General has made a determination regarding an applicant for a firearm permit pursuant to section 922B of title 18, United States Code”;

(2) by inserting in subsection (f) after “the system shall provide such reasons to the individual,” the following: “except any information for which the Attorney General has determined that disclosure would likely compromise national security”;

(3) by inserting in the first sentence of subsection (g) after “subsection (g) or (n) of section 922 of title 18, United States Code [subsec. (g) or (n) of this section], or State law,” the following:

“or if the Attorney General has made a determination pursuant to sections 922A or 922B of title 18, United States Code,”;

(4) by inserting at the end of the first sentence of subsection (g) after “the reasons therefor” the following:

“except any information for which the Attorney General has determined that disclosure would likely compromise national security.”;

(5) by inserting at the end of subsection (g) the following:

“Any petition for review of information withheld by the Attorney General under this subsection shall be made in accordance with the provisions of section 925A of title 18, United States Code.”

(l) UNLAWFUL DISTRIBUTION OF EXPLOSIVES BASED UPON ATTORNEY GENERAL DISCRETIONARY DENIAL.–

Section 842(d) of title 18, United States Code, is amended –

(1) by striking in subparagraph (9)“.” and inserting in lieu thereof “;”;

(2) by inserting immediately thereafter the following:

“(10) has received actual notice of the Attorney General’s determination made pursuant to Section 843(b)(8) or (d)(2) of this title.”

(m) ATTORNEY GENERAL DISCRETIONARY DENIAL AS PROHIBITOR.–

Section 842(i) of title 18, United States Code, is amended by inserting between the end of subparagraph (7) and the phrase beginning with “to ship or transport” the following:

“; and (8) who has received actual notice of the Attorney General’s determination made pursuant to Section 843(b)(8) or (d)(2) of this title.”

(n) ATTORNEY GENERAL DISCRETIONARY DENIAL OF FEDERAL EXPLOSIVES LICENSES AND PERMITS.–

Section 843(b) of Title 18, United States Code, is amended–

(1) by deleting the word “Upon” and inserting the following: “Except as provided in subsection (8), upon”;

(2) by inserting the following after the end of subsection (7):

“(8) The Attorney General may deny the issuance of a permit or license to an applicant if the Attorney General determines that the applicant or a responsible person or employee possessor thereof is known (or appropriately suspected) to be or have been engaged in conduct constituting, in preparation of, in aid of, or related to terrorism, or providing material support thereof, and the Attorney General has a reasonable belief that the person may use explosives in connection with terrorism.”

(o) ATTORNEY GENERAL DISCRETIONARY REVOCATION OF FEDERAL EXPLOSIVES LICENSES AND PERMITS.–

Section 843(d) of Title 18, United States Code, is amended–

(1) by inserting in the first sentence after “if” the following: “– (1)”;

(2) by striking the “.” at the end of the first sentence and inserting the following:

“; or (2) the Attorney General determines that the licensee or holder (or any responsible person or employee possessor thereof) is known (or appropriately suspected) to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism, or providing material support thereof, and that the Attorney General has a reasonable belief that the person may use explosives in connection with terrorism.”

(p) ATTORNEY GENERAL’S ABILITY TO WITHHOLD INFORMATION IN EXPLOSIVES LICENSE AND PERMIT DENIAL AND REVOCATION SUITS.—

(1) Section 843(e)(1) of Title 18, United States Code, is amended by inserting after the first sentence the following:

“However, if the denial or revocation is based upon an Attorney General determination under Sections 843(b)(8) or (d)(2) of this title, then any information which the Attorney General relied on for this determination may be withheld from the petitioner if the Attorney General determines that disclosure of the information would likely compromise national security.”;

(2) Section 843(e)(2) of Title 18, United States Code, is amended by inserting after the last sentence the following:

“In responding to any petition for review of a denial or revocation based upon an Attorney General determination under Sections 843(b)(8) or (d)(2), the United States may submit, and the court may rely upon, summaries or redacted versions of documents containing information the disclosure of which the Attorney General has determined would likely compromise national security.”

(q) ABILITY TO WITHHOLD INFORMATION IN COMMUNICATIONS TO EMPLOYERS.—

Section 843(h)(2) of Title 18, United States Code, is amended—

(1) by inserting in Section 843(h)(2)(A) after “section 842(i),” the following “or section 843(b)(1)(on grounds of terrorism) of this title,”;

(2) by inserting in Section 843(h)(2)(B) after “section 842(i),” the following “or section 843(b)(8),”;

(3) by inserting in Section 843(h)(2)(B)(ii) after “determination” the following “, except that any information that the Attorney General relied on for a determination pursuant to Section 843(b)(8) may be withheld if the Attorney General concludes that disclosure of the information would likely compromise national security.”

(r) CONFORMING AMENDMENT TO IMMIGRATION AND NATIONALITY ACT.–

Section 1101(a)(43)(E)(ii) of Title 8, United States Code, is amended by striking the word “or” between “(4)” and “(5)” and inserting after “(5)” the following: “, or (10)”.

DENYING FIREARMS AND EXPLOSIVES TO TO DANGEROUS TERRORISTS ACT OF 2007

Background:

The criteria for prohibiting the receipt or possession of a firearm are established by 18 U.S.C. § 922(g) and (n) and state law. The criteria for prohibiting the receipt or possession of explosives are established in 18 U.S.C. § 842 and requirements for federal explosives licenses and user permits are set forth in 18 U.S.C. § 843. Pursuant to federal law, the Attorney General conducts background checks under the Brady Handgun Violence Prevention Act of 1993 (“Brady Act”) on individuals purchasing or otherwise receiving firearms from a federal firearms licensee and on individuals seeking firearms or explosives licenses or permits. The background checks are performed by the Federal Bureau of Investigation’s (FBI) National Instant Criminal Background Check System (NICS). Absent one or more of the prohibiting criteria, however, there is currently no legal basis for the Attorney General to deny a firearm transfer or a firearms or explosive permit or license based merely on a person’s inclusion on a terrorist watch list.

There may be circumstances, however, where it is important for the Attorney General to have the authority to deny such a transfer in his or her discretion. At the same time, there are circumstances in which it may be counterproductive to *mandate* the denial of a firearm transfer to an individual on a terrorist watch list, such as when such a denial might compromise an ongoing investigation or intelligence-collection operation. Accordingly, the “Denying Firearms and Explosives to Dangerous Terrorists Act” provides the Attorney General the discretionary authority to deny firearms transfers and firearms or explosives licenses or permits to dangerous terrorists. The authority includes due process safeguards that both afford the affected individual an appropriate opportunity to challenge the denial after it is made and protect the sensitive information upon which terrorist watch list listings are based.

Section-by-Section Analysis:

Section 1. Section 1 provides that the short title of the Act is “Denying Firearms and Explosives to Dangerous Terrorists Act of 2007” (“the Act”).

Section 2. Section 2 makes a series of amendments and additions to existing law to grant the Attorney General the authority to deny the sale, delivery, or transfer of a firearm or issuance of a firearms or explosives license or permit to persons the Attorney General determines to be dangerous terrorists. It also establishes procedures for when an individual wants to challenge such a determination by the Attorney General.

Subsection 2(a) creates a new section 922A of title 18, United States Code, establishing the Attorney General’s authority to deny a transfer of a firearm when conducting a background check if the Attorney General “determines that the transferee is known (or appropriately suspected) to be or have been engaged in conduct constituting, in preparation for, in aid of, or related to terrorism, or providing material support thereof,

and the Attorney General has a reasonable belief that the prospective transferee may use a firearm in connection with terrorism.” This is the new standard for denial that the Act authorizes the Attorney General to use in firearms and explosives background checks and is hereafter referred to as “Attorney General dangerous terrorist determination.”

Subsection 2(a) also creates a new section 922B of title 18, United States Code, establishing the Attorney General’s discretion to make a similar determination under the same standard with respect to an applicant for a state firearm permit that would exempt a holder from a Brady Act background check (“Brady alternative permit”). Subsection 2(b) provides that a state permit will only qualify as a Brady alternative permit if the state issuing the permit agrees to deny the permit application if the applicant is the subject of an Attorney General dangerous terrorist determination under section 922B.

Subsection 2(a) also amends 18 U.S.C. § 921(a), the definition section of the Gun Control Act, by adding definitions of the terms “terrorism,” “material support,” and “responsible person.”

Subsection 2(c) amends 18 U.S.C. § 922(d) by adding an Attorney General dangerous terrorist determination as an additional basis upon which federal firearms licensees are prohibited from selling or disposing of a firearm to the individual. Subsection 2(d) amends 18 U.S.C. § 922(g), by adding to the list of persons prohibited from receiving or possessing firearms an individual who has received actual notice that the Attorney General has denied the person a firearm or a firearm or explosives permit or license based on an Attorney General dangerous terrorist determination.

Subsection 2(e) amends 18 U.S.C. § 923(d)(1) to authorize the Attorney General to deny a federal firearms license to an applicant who is subject to an Attorney General dangerous terrorist determination and subsection 2(f) amends 18 U.S.C. § 923(e), to allow the Attorney General to revoke a federal firearms license held by a person who is subject to such a determination.

Subsection 2(g) amends 18 U.S.C. § 923(f)(1) to provide that the Attorney General may, when providing an applicant the grounds for denying or revoking a federal firearm license, withhold information relied upon in making a dangerous terrorist determination if the Attorney General determines that disclosure of the information would likely compromise national security. Subsection 2(g) also amends 18 U.S.C. § 923(f)(3), to allow, in a suit challenging a federal firearms license denial or revocation, the United States to submit, and the court to rely upon, summaries or redacted versions of documents containing information the disclosure of which the Attorney General has determined would likely compromise national security. Subsection 2(h) amends 18 U.S.C. § 925 (c), to similarly allow the withholding of such information, and the submission and reliance on summaries or redacted documents in court, in cases in which individuals seek relief from firearms disabilities.

Subsection (i) amends 18 U.S.C. § 924(k) by adding conduct constituting terrorism, or the material support thereof, to the list of activities in connection with which

the smuggling or knowing bringing of a firearm into the United States is punishable as a crime.

Subsection 2(j) amends 18 U.S.C. § 925A to provide a procedure by which a person who has been denied the transfer of a firearm under section 922A or the issuance of a Brady alternative firearm permit under section 922B may petition a federal court to challenge the Attorney General's dangerous terrorist determination with respect to the prospective transferee or licensee. The provision requires the court to sustain the Attorney General's determination upon a showing by the United States by a preponderance of evidence that the Attorney General's determination satisfied the requirements of sections 922A or 922B. To make its showing, the United States is authorized to submit, and the court to rely upon, summaries or redacted versions of documents that contain information the disclosure of which the Attorney General has determined would likely compromise national security. The provision allows the court to review the full, undisclosed documents *ex parte* and *in camera* upon the request of the petitioner or on the court's own motion, to determine whether the summaries or redacted versions are a fair and accurate version of the underlying documents. The court is not to consider the full, undisclosed documents in deciding whether the Attorney General's determination satisfies the requirements of section 922A or 922B.

Subsection 2(j) provides an exception for information the disclosure of which the Attorney General finds would compromise national security from the Brady Act's requirement that the Attorney General provide, at the request of a denied person, the reasons for a NICS denial of the transfer of a firearm or issuance of an alternative firearm permit. It also provides that any petition for review of information so withheld be made in accordance with 18 U.S.C. § 925A.

Subsection 2(l) amends 18 U.S.C. § 843(d) by adding an Attorney General dangerous terrorist determination as an additional basis upon which persons are prohibited from knowingly distributing explosives to certain individuals. Subsection 2(m) amends 18 U.S.C. § 842(i), by adding to the list of persons prohibited from shipping, transporting, receiving, or possessing explosives an individual who has received actual notice that the Attorney General has denied him or her an explosives permit or license, or revoked such a license or permit, based on an Attorney General dangerous terrorist determination.

Subsection 2(n) amends 18 U.S.C. § 843(b) to authorize the Attorney General to deny a federal explosives license or permit to an applicant who is subject to an Attorney General dangerous terrorist determination, and subsection 2(o) amends 18 U.S.C. § 843(d) to allow the Attorney General to revoke a federal explosives license or permit held by a person who is subject to such a determination.

Subsection 2(p) amends 18 U.S.C. § 843(e)(1) to allow the Attorney General to withhold information the disclosure of which he determines would likely compromise national security in explosive license and permit denial or revocation suits. Subsection 2(q) amends 18 U.S.C. § 843(h)(2) to allow the Attorney General to similarly withhold

such information when communicating to employers of responsible persons or employees who will be authorized to possess explosives in the course of employment of the grounds for making a dangerous terrorist determination with respect to such persons.

Subsection (r) amends the definition of “aggravated felony” in the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(43)(E)(ii), to include the new 18 U.S.C. § 922(g)(10) offense.