

115TH CONGRESS
1ST SESSION

H. R. 4057

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

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2017

Mr. KING of New York (for himself and Miss RICE of New York) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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

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 “Denying Firearms and
5 Explosives to Dangerous Terrorists Act of 2017”.

1 **SEC. 2. GRANTING THE ATTORNEY GENERAL THE AUTHOR-**
2 **ITY TO DENY THE SALE, DELIVERY, OR**
3 **TRANSFER OF A FIREARM OR THE ISSUANCE**
4 **OF A FIREARMS OR EXPLOSIVES LICENSE OR**
5 **PERMIT TO DANGEROUS TERRORISTS.**

6 (a) STANDARD FOR EXERCISING ATTORNEY GEN-
7 ERAL DISCRETION REGARDING TRANSFERRING FIRE-
8 ARMS OR ISSUING FIREARMS PERMITS TO DANGEROUS
9 TERRORISTS.—Chapter 44 of title 18, United States
10 Code, is amended—

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

13 **“§ 922A. Attorney General’s discretion to deny trans-**
14 **fer of a firearm**

15 “The Attorney General may deny the transfer of a
16 firearm pursuant to section 922(t)(1)(B)(ii) if the Attor-
17 ney General determines that the transferee is known (or
18 appropriately suspected) to be or have been engaged in
19 conduct constituting, in preparation for, in aid of, or re-
20 lated to terrorism, or providing material support thereof,
21 and the Attorney General has a reasonable belief that the
22 prospective transferee may use a firearm in connection
23 with terrorism.”;

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

1 **“§ 922B. Attorney General’s discretion regarding ap-**
 2 **plicants for firearm permits which would**
 3 **qualify for the exemption provided under**
 4 **section 922(t)(3)**

5 “The Attorney General may determine that an appli-
 6 cant for a firearm permit which would qualify for an ex-
 7 emption under section 922(t)(3) is known (or appro-
 8 priately suspected) to be or have been engaged in conduct
 9 constituting, in preparation for, in aid of, or related to
 10 terrorism, or providing material support thereof, and the
 11 Attorney General has a reasonable belief that the appli-
 12 cant may use a firearm in connection with terrorism.”;
 13 and

14 (3) in section 921(a), by adding at the end the
 15 following:

16 “(36) The term ‘terrorism’ means ‘international ter-
 17 rorism’ as defined in section 2331(1), and ‘domestic ter-
 18 rorism’ as defined in section 2331(5).

19 “(37) The term ‘material support’ means ‘material
 20 support or resources’ within the meaning of section 2339A
 21 or 2339B.

22 “(38) The term ‘responsible person’ means an indi-
 23 vidual who has the power, directly or indirectly, to direct
 24 or cause the direction of the management and policies of
 25 the applicant or licensee pertaining to firearms.”.

1 (b) EFFECT OF ATTORNEY GENERAL DISCRE-
2 TIONARY DENIAL THROUGH THE NATIONAL INSTANT
3 CRIMINAL BACKGROUND CHECK SYSTEM (NICS) ON
4 FIREARMS PERMITS.—Section 922(t) of such title is
5 amended—

6 (1) in paragraph (1)(B)(ii), by inserting “or
7 State law, or that the Attorney General has deter-
8 mined to deny the transfer of a firearm pursuant to
9 section 922A” before the semicolon;

10 (2) in paragraph (2), by inserting after “or
11 State law” the following: “or if the Attorney General
12 has not determined to deny the transfer of a firearm
13 pursuant to section 922A”;

14 (3) in paragraph (3)(A)(i)—

15 (A) by striking “and” at the end of sub-
16 clause (I); and

17 (B) by adding at the end the following:

18 “(III) was issued after a check of the system
19 established pursuant to paragraph (1);”;

20 (4) in paragraph (3)(A)—

21 (A) by adding “and” at the end of clause
22 (ii); and

23 (B) by adding after and below the end the
24 following:

1 “(iii) the State issuing the permit
2 agrees to deny the permit application if
3 such other person is the subject of a deter-
4 mination by the Attorney General pursuant
5 to section 922B;”;

6 (5) in paragraph (4), by inserting after “or
7 State law,” the following: “or if the Attorney Gen-
8 eral has not determined to deny the transfer of a
9 firearm pursuant to section 922A,”; and

10 (6) in paragraph (5), by inserting after “or
11 State law,” the following: “or if the Attorney Gen-
12 eral has determined to deny the transfer of a fire-
13 arm pursuant to section 922A,”.

14 (c) UNLAWFUL SALE OR DISPOSITION OF FIREARM
15 BASED ON ATTORNEY GENERAL DISCRETIONARY DE-
16 NIAL.—Section 922(d) of such title is amended—

17 (1) by striking “or” at the end of paragraph
18 (8);

19 (2) by striking the period at the end of para-
20 graph (9) and inserting “; or”; and

21 (3) by inserting after paragraph (9) the fol-
22 lowing:

23 “(10) has been the subject of a determination
24 by the Attorney General pursuant to section 922A,
25 922B, 923(d)(1)(H), or 923(e) of this title.”.

1 (d) ATTORNEY GENERAL DISCRETIONARY DENIAL
2 AS PROHIBITOR.—Section 922(g) of such title is amend-
3 ed—

4 (1) by striking “or” at the end of paragraph
5 (8);

6 (2) by striking the comma at the end of para-
7 graph (9) and inserting; “; or”; and

8 (3) by inserting after paragraph (9) the fol-
9 lowing:

10 “(10) who has received actual notice of the At-
11 torney General’s determination made pursuant to
12 section 922A, 922B, 923(d)(1)(H), or 923(e) of this
13 title,”.

14 (e) ATTORNEY GENERAL DISCRETIONARY DENIAL
15 OF FEDERAL FIREARMS LICENSES.—Section 923(d)(1) of
16 such title is amended—

17 (1) by striking “Any” and inserting “Except as
18 provided in subparagraph (H), any”;

19 (2) in subparagraph (F)(iii), by striking “and”
20 at the end;

21 (3) in subparagraph (G), by striking the period
22 and inserting “; and”; and

23 (4) by adding at the end the following:

24 “(H) The Attorney General may deny a li-
25 cense application if the Attorney General deter-

mines 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 FIRE-
ARMS LICENSES.—Section 923(e) of such title is amended—

(1) in the first sentence—

(A) by inserting after “revoke” the following: “—(1)”; and

(B) by striking the period and inserting a semicolon;

(2) in the second sentence—

(A) by striking “The Attorney General may, after notice and opportunity for hearing, revoke” and insert “(2)”; and

(B) by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(3) any license issued under this section if the Attorney General determines that the holder of the

1 license (including any responsible person) is known
 2 (or appropriately suspected) to be or have been en-
 3 gaged in conduct constituting, in preparation for, in
 4 aid of, or related to terrorism, or providing material
 5 support thereof, and the Attorney General has a rea-
 6 sonable belief that the applicant may use a firearm
 7 in connection with terrorism.”.

8 (g) ATTORNEY GENERAL’S ABILITY TO WITHHOLD
 9 INFORMATION IN FIREARMS LICENSE DENIAL AND REV-
 10 OCATION SUIT.—Section 923(f) of such title is amended—

11 (1) in the first sentence of paragraph (1), by
 12 inserting “, except that if the denial or revocation is
 13 pursuant to subsection (d)(1)(H) or (e)(3), then any
 14 information on which the Attorney General relied for
 15 this determination may be withheld from the peti-
 16 tioner if the Attorney General determines that dis-
 17 closure of the information would likely compromise
 18 national security” before the period; and

19 (2) in paragraph (3), by inserting after the
 20 third sentence the following: “With respect to any
 21 information withheld from the aggrieved party under
 22 paragraph (1), the United States may submit, and
 23 the court may rely on, summaries or redacted
 24 versions of documents containing information the

1 disclosure of which the Attorney General has deter-
2 mined would likely compromise national security.”.

3 (h) ATTORNEY GENERAL’S ABILITY TO WITHHOLD
4 INFORMATION IN RELIEF FROM DISABILITIES LAW-
5 SUITS.—Section 925(c) of such title is amended by insert-
6 ing after the third sentence the following: “If receipt of
7 a firearm by the person would violate section 922(g)(10),
8 any information which the Attorney General relied on for
9 this determination may be withheld from the applicant if
10 the Attorney General determines that disclosure of the in-
11 formation would likely compromise national security. In
12 responding to the petition, the United States may submit,
13 and the court may rely on, summaries or redacted versions
14 of documents containing information the disclosure of
15 which the Attorney General has determined would likely
16 compromise national security.”.

17 (i) PENALTIES.—Section 924(k) of such title is
18 amended—

19 (1) by striking “or” at the end of paragraph
20 (2);

21 (2) in paragraph (3), by striking “, or” and in-
22 serting “; or”; and

23 (3) by inserting after paragraph (3) the fol-
24 lowing:

1 “(4) constitutes an act of terrorism (as defined
2 in section 921(a)(36)), or material support thereof
3 (as defined in section 921(a)(37)); or”.

4 (j) REMEDY FOR ERRONEOUS DENIAL OF FIREARM
5 OR FIREARM PERMIT EXEMPTION.—Section 925A of such
6 title is amended—

7 (1) in the section heading, by striking “**Rem-**
8 **edy for erroneous denial of firearm**” and
9 inserting “**Remedies**”;

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

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

16 (3) by adding after and below the end the fol-
17 lowing:

18 “(b) In any case in which the Attorney General has
19 denied the transfer of a firearm to a prospective transferee
20 pursuant to section 922A or has made a determination
21 regarding a firearm permit applicant pursuant to section
22 922B, an action challenging the determination may be
23 brought against the United States. The petition must be
24 filed not later than 60 days after the petitioner has re-
25 ceived actual notice of the Attorney General’s determina-

1 tion made pursuant to section 922A or 922B. The court
2 shall sustain the Attorney General's determination on a
3 showing by the United States by a preponderance of evi-
4 dence that the Attorney General's determination satisfied
5 the requirements of section 922A or 922B. To make this
6 showing, the United States may submit, and the court
7 may rely on, summaries or redacted versions of documents
8 containing information the disclosure of which the Attor-
9 ney General has determined would likely compromise na-
10 tional security. On request of the petitioner or the court's
11 own motion, the court may review the full, undisclosed
12 documents ex parte and in camera. The court shall deter-
13 mine whether the summaries or redacted versions, as the
14 case may be, are fair and accurate representations of the
15 underlying documents. The court shall not consider the
16 full, undisclosed documents in deciding whether the Attor-
17 ney General's determination satisfies the requirements of
18 section 922A or 922B."

19 (k) PROVISION OF GROUNDS UNDERLYING INELIGI-
20 BILITY DETERMINATION BY THE NATIONAL INSTANT
21 CRIMINAL BACKGROUND CHECK SYSTEM.—Section 103
22 of the Brady Handgun Violence Prevention Act (Public
23 Law 103–159) is amended—

24 (1) in subsection (f)—

1 (A) by inserting after “is ineligible to re-
2 ceive a firearm,” the following: “or the Attorney
3 General has made a determination regarding an
4 applicant for a firearm permit pursuant to sec-
5 tion 922B of title 18, United States Code”; and

6 (B) by inserting after “the system shall
7 provide such reasons to the individual,” the fol-
8 lowing: “except for any information the disclo-
9 sure of which the Attorney General has deter-
10 mined would likely compromise national secu-
11 rity”; and

12 (2) in subsection (g)—

13 (A) in the first sentence, by inserting after
14 “subsection (g) or (n) of section 922 of title 18,
15 United States Code or State law” the following:
16 “or if the Attorney General has made a deter-
17 mination pursuant to section 922A or 922B of
18 such title,”;

19 (B) by inserting “, except any information
20 the disclosure of which the Attorney General
21 has determined would likely compromise na-
22 tional security” before the period; and

23 (C) by adding at the end the following:
24 “Any petition for review of information with-
25 held by the Attorney General under this sub-

1 section shall be made in accordance with section
 2 925A of title 18, United States Code.”.

3 (l) UNLAWFUL DISTRIBUTION OF EXPLOSIVES
 4 BASED ON ATTORNEY GENERAL DISCRETIONARY DE-
 5 NIAL.—Section 842(d) of such title is amended—

6 (1) by striking the period at the end of para-
 7 graph (9) and inserting “; or”; and

8 (2) by adding at the end the following:

9 “(10) has received actual notice of the Attorney
 10 General’s determination made pursuant to section
 11 843(b)(8) or (d)(2) of this title.”.

12 (m) ATTORNEY GENERAL DISCRETIONARY DENIAL
 13 AS PROHIBITOR.—Section 842(i) of such title is amend-
 14 ed—

15 (1) by adding “; or” at the end of paragraph
 16 (7); and

17 (2) by inserting after paragraph (7) the fol-
 18 lowing:

19 “(8) who has received actual notice of the At-
 20 torney General’s determination made pursuant to
 21 section 843(b)(8) or (d)(2),”.

22 (n) ATTORNEY GENERAL DISCRETIONARY DENIAL
 23 OF FEDERAL EXPLOSIVES LICENSES AND PERMITS.—
 24 Section 843(b) of such title is amended—

1 (1) by striking “Upon” and inserting the fol-
2 lowing: “Except as provided in paragraph (8), on”;
3 and

4 (2) by inserting after paragraph (7) the fol-
5 lowing:

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

16 (o) ATTORNEY GENERAL DISCRETIONARY REVOCATION OF FEDERAL EXPLOSIVES LICENSES AND PERMITS.—Section 843(d) of such title is amended—

19 (1) by inserting “(1)” in the first sentence after
20 “if”; and

21 (2) by striking the period at the end of the first
22 sentence and inserting the following: “; or (2) the
23 Attorney General determines that the licensee or
24 holder (or any responsible person or employee possessor thereof) is known (or appropriately suspected)
25

1 to be or have been engaged in conduct constituting,
2 in preparation for, in aid of, or related to terrorism,
3 or providing material support thereof, and that the
4 Attorney General has a reasonable belief that the
5 person may use explosives in connection with ter-
6 rorism.”.

7 (p) ATTORNEY GENERAL’S ABILITY TO WITHHOLD
8 INFORMATION IN EXPLOSIVES LICENSE AND PERMIT DE-
9 NIAL AND REVOCATION SUITS.—Section 843(e) of such
10 title is amended—

11 (1) in the first sentence of paragraph (1), by
12 inserting “except that if the denial or revocation is
13 based on a determination under subsection (b)(8) or
14 (d)(2), then any information which the Attorney
15 General relied on for the determination may be with-
16 held from the petitioner if the Attorney General de-
17 termines that disclosure of the information would
18 likely compromise national security” before the pe-
19 riod; and

20 (2) in paragraph (2), by adding at the end the
21 following: “In responding to any petition for review
22 of a denial or revocation based on a determination
23 under section 843(b)(8) or (d)(2), the United States
24 may submit, and the court may rely on, summaries
25 or redacted versions of documents containing infor-

1 mation the disclosure of which the Attorney General
2 has determined would likely compromise national se-
3 curity.”.

4 (q) ABILITY TO WITHHOLD INFORMATION IN COM-
5 MUNICATIONS TO EMPLOYERS.—Section 843(h)(2) of
6 such title is amended—

7 (1) in subparagraph (A), by inserting “or sec-
8 tion 843(b)(1) (on grounds of terrorism) of this
9 title,” after “section 842(i),”; and

10 (2) in subparagraph (B)—

11 (A) by inserting “or section 843(b)(8)”
12 after “section 842(i),”; and

13 (B) in clause (ii), by inserting “, except
14 that any information that the Attorney General
15 relied on for a determination pursuant to sec-
16 tion 843(b)(8) may be withheld if the Attorney
17 General concludes that disclosure of the infor-
18 mation would likely compromise national secu-
19 rity” before the semicolon.

20 (r) CONFORMING AMENDMENT TO IMMIGRATION AND
21 NATIONALITY ACT.—Section 101(a)(43)(E)(ii) of the Im-
22 migration and Nationality Act (8 U.S.C.
23 1101(a)(43)(E)(ii)) is amended by striking “or (5)” and
24 inserting “(5), or (10)”.

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