

110TH CONGRESS  
1ST SESSION

# S. 1237

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

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IN THE SENATE OF THE UNITED STATES

APRIL 26, 2007

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

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

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 2007”.

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 after section 922 the following:

12 **“§ 922A. Attorney General’s discretion to deny trans-**  
13 **fer of a firearm**

14 “The Attorney General may deny the transfer of a  
15 firearm under section 922(t)(1)(B)(ii) of this title if the  
16 Attorney General—

17 “(1) determines that the transferee is known  
18 (or appropriately suspected) to be or have been en-  
19 gaged in conduct constituting, in preparation for, in  
20 aid of, or related to terrorism, or providing material  
21 support or resources for terrorism; and

22 “(2) has a reasonable belief that the prospective  
23 transferee may use a firearm in connection with ter-  
24 rorism.

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—

6 “(1) an applicant for a firearm permit which  
7 would qualify for an exemption under section 922(t)  
8 is known (or appropriately suspected) to be or have  
9 been engaged in conduct constituting, in preparation  
10 for, in aid of, or related to terrorism, or providing  
11 material support or resources for terrorism; and

12 “(2) the Attorney General has a reasonable be-  
13 lief that the applicant may use a firearm in connec-  
14 tion with terrorism.”;

15 (2) in section 921(a), by adding at the end the  
16 following:

17 “(36) The term ‘terrorism’ includes inter-  
18 national terrorism and domestic terrorism, as those  
19 terms are defined in section 2331 of this title.

20 “(37) The term ‘material support or resources’  
21 has the same meaning as in section 2339A of this  
22 title.

23 “(38) The term ‘responsible person’ means an  
24 individual who has the power, directly or indirectly,  
25 to direct or cause the direction of the management

1 and policies of the applicant or licensee pertaining to  
2 firearms.”; and

3 (3) in the table of sections, by inserting after  
4 the item relating to section 922 the following:

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

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

5 (b) EFFECT OF ATTORNEY GENERAL DISCRE-  
6 TIONARY DENIAL THROUGH THE NATIONAL INSTANT  
7 CRIMINAL BACKGROUND CHECK SYSTEM (NICS) ON  
8 FIREARMS PERMITS.—Section 922(t) of title 18, United  
9 States Code, is amended—

10 (1) in paragraph (1)(B)(ii), by inserting “or  
11 State law, or that the Attorney General has deter-  
12 mined to deny the transfer of a firearm pursuant to  
13 section 922A of this title” before the semicolon;

14 (2) in paragraph (2), in the matter preceding  
15 subparagraph (A), by inserting “, or if the Attorney  
16 General has not determined to deny the transfer of  
17 a firearm pursuant to section 922A of this title”  
18 after “or State law”;

19 (3) in paragraph (3)—

20 (A) in subparagraph (A)—

21 (i) in clause (i)—

22 (I) in subclause (I), by striking  
23 “and” at the end; and

1 (II) by adding at the end the fol-  
2 lowing:

3 “(III) was issued after a check of the sys-  
4 tem established pursuant to paragraph (1);”;

5 (ii) in clause (ii), by inserting “and”  
6 after the semicolon; and

7 (iii) by adding at the end the fol-  
8 lowing:

9 “(iii) the State issuing the permit agrees to  
10 deny the permit application if such other person is  
11 the subject of a determination by the Attorney Gen-  
12 eral pursuant to section 922B of this title;”;

13 (4) in paragraph (4), by inserting “, or if the  
14 Attorney General has not determined to deny the  
15 transfer of a firearm pursuant to section 922A of  
16 this title” after “or State law”; and

17 (5) in paragraph (5), by inserting “, or if the  
18 Attorney General has determined to deny the trans-  
19 fer of a firearm pursuant to section 922A of this  
20 title” after “or State law”.

21 (c) UNLAWFUL SALE OR DISPOSITION OF FIREARM  
22 BASED UPON ATTORNEY GENERAL DISCRETIONARY DE-  
23 NIAL.—Section 922(d) of title 18, United States Code, is  
24 amended—

1           (1) in paragraph (8), by striking “or” at the  
2 end;

3           (2) in paragraph (9), by striking the period at  
4 the end and inserting “; or”; and

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

6           “(10) has been the subject of a determination  
7 by the Attorney General under section 922A, 922B,  
8 923(d)(1)(H), or 923(e) of this title.”.

9           (d) ATTORNEY GENERAL DISCRETIONARY DENIAL  
10 AS PROHIBITOR.—Section 922(g) of title 18, United  
11 States Code, is amended—

12           (1) in paragraph (8), by striking “or” at the  
13 end;

14           (2) in paragraph (9), by striking the comma at  
15 the end and inserting “; or”; and

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

18           “(10) who has received actual notice of the At-  
19 torney General’s determination made under section  
20 922A, 922B, 923(d)(1)(H) or 923(e) of this title,”.

21           (e) ATTORNEY GENERAL DISCRETIONARY DENIAL  
22 OF FEDERAL FIREARMS LICENSES.—Section 923(d)(1) of  
23 title 18, United States Code, is amended—

1           (1) in the matter preceding subparagraph (A),  
2           by striking “Any” and inserting “Except as provided  
3           in subparagraph (H), any”;

4           (2) in subparagraph (F), by striking “and” at  
5           the end;

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

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

9           “(H) The Attorney General may deny a license  
10          application if the Attorney General determines that  
11          the applicant (including any responsible person) is  
12          known (or appropriately suspected) to be or have  
13          been engaged in conduct constituting, in preparation  
14          for, in aid of, or related to terrorism, or providing  
15          material support or resources for terrorism, and the  
16          Attorney General has a reasonable belief that the  
17          applicant may use a firearm in connection with ter-  
18          rorism.”.

19          (f) DISCRETIONARY REVOCATION OF FEDERAL FIRE-  
20          ARMS LICENSES.—Section 923(e) of title 18, United  
21          States Code, is amended—

22                 (1) by inserting “(1)” after “(e)”;

23                 (2) by striking “revoke any license” and insert-  
24                 ing the following: “revoke—

25                         “(A) any license”;

1           (3) by striking “. The Attorney General may,  
2           after notice and opportunity for hearing, revoke the  
3           license” and inserting the following: “;

4           “(B) the license”; and

5           (4) by striking “. The Secretary’s action” and  
6           inserting the following: “; or

7           “(C) any license issued under this section if the  
8           Attorney General determines that the holder of such  
9           license (including any responsible person) is known  
10          (or appropriately suspected) to be or have been en-  
11          gaged in conduct constituting, in preparation for, in  
12          aid of, or related to terrorism or providing material  
13          support or resources for terrorism, and the Attorney  
14          General has a reasonable belief that the applicant  
15          may use a firearm in connection with terrorism.

16          “(2) The Attorney General’s action”.

17          (g) ATTORNEY GENERAL’S ABILITY TO WITHHOLD  
18          INFORMATION IN FIREARMS LICENSE DENIAL AND REV-  
19          OCATION SUIT.—

20                 (1) IN GENERAL.—Section 923(f)(1) of title 18,  
21                 United States Code, is amended by inserting after  
22                 the first sentence the following: “However, if the de-  
23                 nial or revocation is pursuant to subsection  
24                 (d)(1)(H) or (e)(3), any information upon which the  
25                 Attorney General relied for this determination may

1 be withheld from the petitioner, if the Attorney Gen-  
2 eral determines that disclosure of the information  
3 would likely compromise national security.”.

4 (2) SUMMARIES.—Section 923(f)(3) of title 18,  
5 United States Code, is amended by inserting after  
6 the third sentence the following: “With respect to  
7 any information withheld from the aggrieved party  
8 under paragraph (1), the United States may submit,  
9 and the court may rely upon, summaries or redacted  
10 versions of documents containing information the  
11 disclosure of which the Attorney General has deter-  
12 mined would likely compromise national security.”.

13 (h) ATTORNEY GENERAL’S ABILITY TO WITHHOLD  
14 INFORMATION IN RELIEF FROM DISABILITIES LAW-  
15 SUITS.—Section 925(c) of title 18, United States Code,  
16 is amended by inserting after the third sentence the fol-  
17 lowing: “If the person is subject to a disability under sec-  
18 tion 922(g)(10) of this title, any information which the  
19 Attorney General relied on for this determination may be  
20 withheld from the applicant if the Attorney General deter-  
21 mines that disclosure of the information would likely com-  
22 promise national security. In responding to the petition,  
23 the United States may submit, and the court may rely  
24 upon, summaries or redacted versions of documents con-  
25 taining information the disclosure of which the Attorney

1 General has determined would likely compromise national  
2 security.”.

3 (i) PENALTIES.—Section 924(k) of title 18, United  
4 States Code, is amended—

5 (1) in paragraph (2), by striking “or” at the  
6 end;

7 (2) in paragraph (3), by striking the comma at  
8 the end and inserting “; or”; and

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

11 “(4) constitutes an act of terrorism, or pro-  
12 viding material support or resources for terrorism,”.

13 (j) REMEDY FOR ERRONEOUS DENIAL OF FIREARM  
14 OR FIREARM PERMIT EXEMPTION.—

15 (1) IN GENERAL.—Section 925A of title 18,  
16 United States Code, is amended—

17 (A) in the section heading, by striking  
18 “**Remedy for erroneous denial of fire-**  
19 **arm**” and inserting “**Remedies**”;

20 (B) by striking “Any person denied a fire-  
21 arm pursuant to subsection (s) or (t) of section  
22 922” and inserting the following:

23 “(a) Except as provided in subsection (b), any person  
24 denied a firearm pursuant to subsection (t) of section 922

1 or a firearm permit pursuant to a determination made  
2 under section 922B”; and

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

4 “(b) In any case in which the Attorney General has  
5 denied the transfer of a firearm to a prospective transferee  
6 pursuant to section 922A of this title or has made a deter-  
7 mination regarding a firearm permit applicant pursuant  
8 to section 922B of this title, an action challenging the de-  
9 termination may be brought against the United States.  
10 The petition shall be filed not later than 60 days after  
11 the petitioner has received actual notice of the Attorney  
12 General’s determination under section 922A or 922B of  
13 this title. The court shall sustain the Attorney General’s  
14 determination upon a showing by the United States by a  
15 preponderance of evidence that the Attorney General’s de-  
16 termination satisfied the requirements of section 922A or  
17 922B, as the case may be. To make this showing, the  
18 United States may submit, and the court may rely upon,  
19 summaries or redacted versions of documents containing  
20 information the disclosure of which the Attorney General  
21 has determined would likely compromise national security.  
22 Upon request of the petitioner or the court’s own motion,  
23 the court may review the full, undisclosed documents ex  
24 parte and in camera. The court shall determine whether  
25 the summaries or redacted versions, as the case may be,

1 are fair and accurate representations of the underlying  
2 documents. The court shall not consider the full, undis-  
3 closed documents in deciding whether the Attorney Gen-  
4 eral’s determination satisfies the requirements of section  
5 922A or 922B.”.

6 (2) TECHNICAL AND CONFORMING AMEND-  
7 MENT.—The table of sections at the beginning of  
8 chapter 44 of title 18, United States Code, is  
9 amended by striking the item relating to section  
10 925A and inserting the following:

“925A. Remedies.”.

11 (k) PROVISION OF GROUNDS UNDERLYING INELIGI-  
12 BILITY DETERMINATION BY THE NATIONAL INSTANT  
13 CRIMINAL BACKGROUND CHECK SYSTEM.—Section 103  
14 of the Brady Handgun Violence Prevention Act (18 U.S.C.  
15 922 note) is amended—

16 (1) in subsection (f), by inserting “or the Attor-  
17 ney General has made a determination regarding an  
18 applicant for a firearm permit pursuant to section  
19 922B of title 18, United States Code,” after “is in-  
20 eligible to receive a firearm”;

21 (2) in subsection (f), by inserting “except any  
22 information for which the Attorney General has de-  
23 termined that disclosure would likely compromise  
24 national security,” after “reasons to the individual,”;  
25 and

1 (3) in subsection (g)—

2 (A) the first sentence—

3 (i) by inserting “or if the Attorney  
4 General has made a determination pursu-  
5 ant to section 922A or 922B of title 18,  
6 United States Code,” after “or State  
7 law,”; and

8 (ii) by inserting “, except any infor-  
9 mation for which the Attorney General has  
10 determined that disclosure would likely  
11 compromise national security” before the  
12 period at the end ; and

13 (B) by adding at the end the following:  
14 “Any petition for review of information with-  
15 held by the Attorney General under this sub-  
16 section shall be made in accordance with section  
17 925A of title 18, United States Code.”.

18 (l) UNLAWFUL DISTRIBUTION OF EXPLOSIVES  
19 BASED UPON ATTORNEY GENERAL DISCRETIONARY DE-  
20 NIAL.—Section 842(d) of title 18, United States Code, is  
21 amended—

22 (1) in paragraph (9), by striking the period and  
23 inserting “; or”; and

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

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

4           (m) ATTORNEY GENERAL DISCRETIONARY DENIAL  
5 AS PROHIBITOR.—Section 842(i) of title 18, United States  
6 Code, is amended—

7           (1) in paragraph (7), by inserting “; or” at the  
8           end; and

9           (2) by inserting after paragraph (7) the fol-  
10          lowing:

11           “(8) who has received actual notice of the At-  
12          torney General’s determination made pursuant to  
13          subsection (b)(8) or (d)(2) of section 843 of this  
14          title,”.

15          (n) ATTORNEY GENERAL DISCRETIONARY DENIAL  
16 OF FEDERAL EXPLOSIVES LICENSES AND PERMITS.—  
17 Section 843(b) of title 18, United States Code, is amend-  
18 ed—

19          (1) by striking “Upon” and inserting “Except  
20          as provided in paragraph (8), upon”; and

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

22           “(8) The Attorney General may deny the  
23          issuance of a permit or license to an applicant if the  
24          Attorney General determines that the applicant or a  
25          responsible person or employee possessor thereof is

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

8 (o) ATTORNEY GENERAL DISCRETIONARY REVOCATION OF FEDERAL EXPLOSIVES LICENSES AND PER-  
9 MITS.—Section 843(d) of title 18, United States Code, is  
10 amended—  
11 amended—

12 (1) by inserting “(1)” after “(d)”;

13 (2) by striking “if in the opinion” and inserting  
14 the following: “if—

15 “(A) in the opinion”; and

16 (3) by striking “. The Secretary’s action” and  
17 inserting the following: “; or

18 “(B) the Attorney General determines that the  
19 licensee or holder (or any responsible person or em-  
20 ployee possessor thereof) is known (or appropriately  
21 suspected) to be or have been engaged in conduct  
22 constituting, in preparation for, in aid of, or related  
23 to terrorism, or providing material support or re-  
24 sources for terrorism, and that the Attorney General

1 has a reasonable belief that the person may use ex-  
2 plosives in connection with terrorism.

3 “(2) The Attorney General’s action”.

4 (p) ATTORNEY GENERAL’S ABILITY TO WITHHOLD  
5 INFORMATION IN EXPLOSIVES LICENSE AND PERMIT DE-  
6 NIAL AND REVOCATION SUITS.—Section 843(e) of title  
7 18, United States Code, is amended—

8 (1) in paragraph (1), by inserting after the first  
9 sentence the following: “However, if the denial or  
10 revocation is based upon an Attorney General deter-  
11 mination under subsection (b)(8) or (d)(2) of section  
12 843 of this title, any information which the Attorney  
13 General relied on for this determination may be  
14 withheld from the petitioner if the Attorney General  
15 determines that disclosure of the information would  
16 likely compromise national security.”; and

17 (2) in paragraph (2), by adding at the end the  
18 following: “In responding to any petition for review  
19 of a denial or revocation based upon an Attorney  
20 General determination under subsection (b)(8) or  
21 (d)(2) of section 843, the United States may submit,  
22 and the court may rely upon, summaries or redacted  
23 versions of documents containing information the  
24 disclosure of which the Attorney General has deter-  
25 mined would likely compromise national security.”.

1 (q) ABILITY TO WITHHOLD INFORMATION IN COM-  
2 MUNICATIONS TO EMPLOYERS.—Section 843(h)(2) of title  
3 18, United States Code, is amended—

4 (1) in subparagraph (A), by inserting “or in  
5 section 843(b)(1) (on grounds of terrorism) of this  
6 title” after “section 842(i)”; and

7 (2) in subparagraph (B)—

8 (A) in the matter preceding clause (i), by  
9 inserting “or in section 843(b)(8),” after “sec-  
10 tion 842(i),”; and

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

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

○