

Organized Crime Control Act of 1970, Title XI

Regulation of Explosives

Public Law 91-452, Approved October 15, 1970 (as Amended)

[NOTE: Any reference to the Internal Revenue Code of 1954 refers to the Internal Revenue Code of 1986 (§2, Public Law 99-514, 100 Stat. 2085, October 22, 1986.)]

Purpose

SEC. 1101. The Congress hereby declares that the purpose of this title is to protect interstate and foreign commerce against interference and interruption by reducing the hazard to persons and property arising from misuse and unsafe or insecure storage of explosive materials. It is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, storage, or use of explosive materials for industrial, mining, agricultural, or other lawful purposes, or to provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.

Sec. 1102. Title 18, United States Code, is amended by adding after chapter 39 the following chapter:

Chapter 40. Importation, Manufacture, Distribution and Storage of Explosive Materials

Editor's Note: The sections of law set out herein were added by Public Law 91-452, Title XI, §1102(a), Oct. 15, 1970, 84 Stat. 952-959, and remain un-changed unless otherwise footnoted.

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§ 841. Definitions

As used in this chapter

- (a) **“Person”** means any individual, corporation, company, association, firm, partnership, society, or joint stock company.
- (b) **“Interstate or foreign commerce”** means commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State. “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(c) **“Explosive materials”** means explosives, blasting agents, and detonators.

(d) Except for the purposes of subsections (d), (e), (f), (g), (h), (i), and (j) of section 844 of this title, **“explosives”** means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The Attorney General shall publish and revise at least annually in the Federal Register a list of these and any additional explosives which he determines to be within the coverage of this chapter. For the purposes of subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, the term “explosive” is defined in subsection (j) of such section 844.

(e) **“Blasting agent”** means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: Provided, That the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

(f) **“Detonator”** means any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

(g) “**Importer**” means any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

(h) “**Manufacturer**” means any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

(i) “**Dealer**” means any person engaged in the business of distributing explosive materials at wholesale or retail.

(j) “**Permittee**” means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited permit under the provisions of this chapter.

(k) “**Attorney General**” means the Attorney General of the United States.

(l) “**Crime punishable by imprisonment for a term exceeding one year**” shall not mean (1) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Attorney General may be regulation designate, or (2) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

(m) “**Licensee**” means any importer, manufacturer, or dealer licensed under the provisions of this chapter.

(n) “**Distribute**” means sell, issue, give, transfer, or otherwise dispose of.

(o) “**Convention on the Marking of Plastic Explosives**” means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

(p) “**Detection agent**” means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

(5) any other substance in the concentration specified by the Attorney General, after consultation with the Secretary of State and the Secretary of Defense, that has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

(q) “**Plastic explosive**” means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than 10^{-4} Pa at a temperature of 25 degrees C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.

(r) “**Alien**” means any person who is not a citizen or national of the United States.

(s) “**Responsible person**” means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.

(Added Pub. L. 91-452, title XI, Sec. 1102(a), Oct. 15, 1970, 84 Stat. 952; amended Pub. L. 104-132, title VI, Sec. 602, Apr. 24, 1996, 110 Stat. 1288; Pub. L. 107-296, title XI, Sec. 1112(e)(1), (3), 1122(a), Nov. 25, 2002, 116 Stat. 2276, 2280.)

§ 842. Unlawful acts

(a) It shall be unlawful for any person—

(1) to engage in the business of importing, manufacturing, or dealing in explosive materials without a license issued under this chapter;

(2) knowingly to withhold information or to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the provisions of this chapter;

(3) other than a licensee or permittee knowingly—
(A) to transport, ship, cause to be transported, or receive any explosive materials; or

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

(4) who is a holder of a limited permit—
(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited permit holder.

(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

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- (1) a licensee;
 - (2) a holder of a user permit; or
 - (3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

(c) It shall be unlawful for any licensee to distribute explosive materials to any person who the licensee has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into it or to receive explosive materials in it.

(d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:

- (1) is under twenty-one years of age;
- (2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- (3) is under indictment for a crime punishable by imprisonment for a term exceeding one year;
- (4) is a fugitive from justice;
- (5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(6) has been adjudicated a mental defective or who has been committed to a mental institution;

(7) is an alien, other than an alien who—

(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act);

(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act or is in asylum status under section 208 of the Immigration and Nationality Act and—

(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business; or

(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

(8) has been discharged from the armed forces under dishonorable conditions;

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

(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

(f) It shall be unlawful for any licensee or permittee willfully to manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Attorney General may by regulation require, including, but not limited to, a statement of intended use, the name, date, place of birth, social security number or taxpayer identification number, and place of residence of any natural person to whom explosive materials are distributed. If explosive materials are distributed to a corporation or other business entity, such records shall include the identity and principal and local places of business and the name, date, place of birth, and place of residence of the natural person acting as agent of the corporation or other business entity in arranging the distribution.

(g) It shall be unlawful for any licensee or permittee knowingly to make any false entry in any record which he is required to keep pursuant to this section or regulations promulgated under section 847 of this title.

(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.

(i) It shall be unlawful for any person—

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who is an alien, other than an alien who—

(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act);

(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act or is in asylum status under section 208 of the Immigration and Nationality Act and--

(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business; or

(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

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

(7) who, having been a citizen of the United States, has renounced the citizenship of that person; to ship or transport any explosive in or affecting interstate or foreign commerce or to receive or possess any explosive which has been shipped or transported in or affecting interstate or foreign commerce.

(j) It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Attorney General. In promulgating such regulations, the Attorney General shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry.

(k) It shall be unlawful for any person who has knowledge of the theft or loss of any explosive materials from his stock, to fail to report such theft or loss within twenty-four hours of discovery thereof, to the Attorney General and to appropriate local authorities.

(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

(m) (1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection [enacted April 24, 1996] by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

(n) (1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

(2) This subsection does not apply to—

(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection [enacted April 24, 1996] by any person during the period beginning on that date and ending 3 years after that date of enactment; or

(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection [enacted April 24, 1996] by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of this subsection [enacted April 24, 1996], to fail to report to the Attorney General within 120 days after such date of enactment the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Attorney General may prescribe by regulation.

(p) Distribution of information relating to explosives, destructive devices, and weapons of mass destruction.

(1) Definitions. In this subsection—

(A) the term “destructive device” has the same meaning as in section 921(a)(4);

(B) the term “explosive” has the same meaning as in section 844(j); and

(C) the term “weapon of mass destruction” has the same meaning as in section 2332a(c)(2).

(2) Prohibition. It shall be unlawful for any person—

(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence; or

(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

(Added Pub. L. 91-452, title XI, Sec. 1102(a), Oct. 15, 1970, 84 Stat. 953; amended Pub. L. 100-690, title VI, Sec. 6474(c), (d), Nov. 18, 1988, 102 Stat. 4380; Pub. L. 101-647, title XXXV, Sec. 3521, Nov. 29, 1990, 104 Stat. 4923; Pub. L. 103-322, title XI, Sec. 110508, 10516, Sept. 13, 1994, 108 Stat. 2018, 2020; Pub. L. 104-132, title VI, Sec. 603, title VII, Sec. 707, Apr. 24, 1996, 110 Stat. 1289, 1296; Pub. L. 106-54, Sec. 2(a), Aug. 17, 1999, 113 Stat. 398; Pub. L. 107-296, title XI, Sec. 1112(e)(3), 1122(b), 1123, Nov. 25, 2002, 116 Stat. 2276, 2280, 2283.)

§ 843. Licenses and user permits

(a) An application for a user permit or limited permit or a license to import, manufacture, or deal in explosive materials shall be in such form and contain such information as the Attorney General shall by regulation prescribe, including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person. Each applicant for a license or permit shall pay a fee to be charged as set by the Attorney General, said fee not to exceed \$ 50 for a limited permit and \$ 200 for any other license or permit. Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.

(b) Upon the filing of a proper application and payment of the prescribed fee, and subject to the provisions of this chapter and other applicable laws, the Attorney General shall issue to such applicant the appropriate license or permit if--

(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in section 842(i);

(2) the applicant has not willfully violated any of the provisions of this chapter or regulations issued hereunder;

(3) the applicant has in a State premises from which he conducts or intends to conduct business;

(4) (A) the Secretary verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Secretary determines appropriate, that the applicant has a place of storage for explosive materials which meets such standards of public safety and security against theft as the Attorney General by regulations shall prescribe; and

(B) subparagraph (A) shall not apply to an applicant for the renewal of a limited permit if the Secretary has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant; and

(5) the applicant has demonstrated and certified in writing that he is familiar with all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business;

(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 842(i); and

(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.

(c) The Attorney General shall approve or deny an application within a period of 90 days for licenses and permits beginning on the date such application is received by the Attorney General.

(d) The Attorney General may revoke any license or permit issued under this section if in the opinion of the Attorney General the holder thereof has violated any provision of this chapter or any rule or regulation prescribed by the Attorney General under this chapter, or has become ineligible to acquire explosive materials under section 842(d). The Attorney General's action under this subsection may be reviewed only as provided in subsection (e)(2) of this section.

(e) (1) Any person whose application is denied or whose license or permit is revoked shall receive a written notice from the Attorney General stating the specific grounds upon which such denial or revocation is based. Any notice of a revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrently with the effective date of the revocation.

(2) If the Attorney General denies an application for, or revokes a license, or permit, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation, the Attorney General may upon a request of the holder stay the effective date of the revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Attorney General shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days

after receipt of the Secretary's written decision, file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation, pursuant to sections 701-706 of title 5, United States Code.

(f) Licensees and holders of user permits shall make available for inspection at all reasonable times their records kept pursuant to this chapter or the regulations issued hereunder, and licensees and permittees shall submit to the Attorney General such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Attorney General may enter during business hours the premises (including places of storage) of any licensee or holder of a user permit, for the purpose of inspecting or examining (1) any records or documents required to be kept by such licensee or permittee, under the provisions of this chapter or regulations issued hereunder, and (2) any explosive materials kept or stored by such licensee or permittee at such premises. Upon the request of any State or any political subdivision thereof, the Attorney General may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received explosive materials, together with a description of such explosive materials. The Secretary may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).

(g) Licenses and user permits issued under the provisions of subsection (b) of this section shall be kept posted and kept available for inspection on the premises covered by the license and permit.

(h) (1) If the Secretary receives, from an employer, the name and other identifying information of a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether the responsible person or employee is one of the persons described in any paragraph of section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

(2) (A) If the Secretary determines that the responsible person or the employee is not one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, a letter of clearance, which confirms the determination.

(B) If the Secretary determines that the responsible person or employee is one of the persons described in any paragraph of section 842(i), the Secretary shall notify the

employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

- (i)** confirms the determination;
- (ii)** explains the grounds for the determination;
- (iii)** provides information on how the disability may be relieved; and
- (iv)** explains how the determination may be appealed.

(i) Furnishing of samples.

(1) In general. Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

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

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

(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

(2) Reimbursement. The Secretary shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.

(Added Pub. L. 91-452, title XI, Sec. 1102(a), Oct. 15, 1970, 84 Stat. 955; amended Pub. L. 107-296, title XI, Sec. 1112(e)(3), 1122(c)-(h), 1124, Nov. 25, 2002, 116 Stat. 2276, 2281, 2282, 2285.)

§ 844. Penalties

(a) Any person who—

(1) violates any of subsections (a) through (i) or (l) through (o) of section 842 shall be fined under this title, imprisoned for not more than 10 years, or both; and

(2) violates subsection (p)(2) of section 842, shall be fined under this title, imprisoned not more than 20 years, or both.

(b) Any person who violates any other provision of section 842 of this chapter shall be fined under this title or imprisoned not more than one year, or both.

(c) (1) Any explosive materials involved or used or intended to be used in any violation of the provisions of this chapter or any other rule or regulation promulgated thereunder or any violation of any criminal law of the United States shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be

impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness. The seizing officer shall make a report of the seizure and take samples as the Attorney General may by regulation prescribe.

(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of (including any person having an interest in) the property so destroyed may make application to the Attorney General for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Attorney General that—

(A) the property has not been used or involved in a violation of law; or

(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness, the Attorney General shall make an allowance to the claimant not exceeding the value of the property destroyed.

(d) Whoever transports or receives, or attempts to transport or receive, in interstate or foreign commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years, or fined under this title, or both; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not more than twenty years or fined under this title, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(e) Whoever, through the use of the mail, telephone, telegraph, or other instrument of interstate or foreign commerce, or in or affecting interstate or foreign commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of fire or an explosive shall be imprisoned for not more than 10 years or fined under this title, or both.

(f) (1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance, shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both.

(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both.

(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life, fined under this title, or both.

(g) (1) Except as provided in paragraph (2), whoever possesses an explosive in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department, or other person responsible for the management of such building or airport, shall be imprisoned for not more than five years, or fined under this title, or both.

(2) The provisions of this subsection shall not be applicable to—

(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Pipeline and Hazardous Materials Safety Administration for the handling of hazardous materials pursuant to chapter 51 of title 49.

(h) Whoever—

(1) uses fire or an explosive to commit any felony which may be prosecuted in a court of the United States, or

(2) carries an explosive during the commission of any felony which may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for 10 years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.

(i) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not less than 5 years and not more than 20 years, fined under this title, or both; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not less than 7 years and not more than 40 years, fined under this title, or both; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(j) For the purposes of subsections (d), (e), (f), (g), (h), and (i) of this section and section 842(p), the term “explosive” means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years, fined under this title, or both.

(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be fined under this title, imprisoned not more than 10 years, or both.

(m) A person who conspires to commit an offense under subsection (h) shall be imprisoned for any term of years not exceeding 20, fined under this title, or both.

(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense the commission of which was the object of the conspiracy.

(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3)) or drug trafficking crime (as defined in section 924(c)(2)) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of an explosive material.

(p) Theft reporting requirement.

(1) In general. A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Attorney General not later than 24 hours after the discovery of the theft.

(2) Penalty. A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than \$ 10,000, imprisoned not more than 5 years, or both.

(Added Pub. L. 91-452, title XI, Sec. 1102(a), Oct. 15, 1970, 84 Stat. 956; amended Pub. L. 97-298, Sec. 2, Oct. 12, 1982, 96 Stat. 1319; Pub. L. 98-473, title II, Sec. 1014, Oct. 12, 1984, 98 Stat. 2142; Pub. L. 99-514, Sec. 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100-690, title VI, Sec. 6474(a), (b), Nov. 18, 1988, 102 Stat. 4379; Pub. L. 101-647, title XXXV, Sec. 3522, Nov. 29, 1990, 104 Stat. 4924; Pub. L. 103-272, Sec. 5(e)(7), July 5, 1994, 108 Stat. 1374; Pub. L. 103-322, title VI, Sec. 60003(a)(3), title XI, Sec. 110504(b), 110509, 110515(b), 110518(b), title XXXII, Sec. 320106, 320917(a), title XXXIII, Sec. 330016(1)(H), (K), (L), (N), Sept. 13, 1994, 108 Stat. 1969, 2016, 2018, 2020, 2111, 2129, 2147, 2148; Pub. L. 104-132, title VI, Sec. 604, title VII, Sec. 701, 706, 708(a), (c)(3), 724, Apr. 24, 1996, 110 Stat. 1289, 1291, 1295-1297, 1300; Pub. L. 104-294, title VI, Sec. 603(a), Oct. 11, 1996, 110 Stat. 3503; Pub. L. 106-54, Sec. 2(b), Aug. 17, 1999, 113 Stat. 399; Pub. L. 107-296, title XI, Sec. 1112(e)(3), 1125, 1127, Nov. 25, 2002, 116 Stat. 2276, 2285.)

§ 845. Exceptions; relief from disabilities

(a) Except in the case of subsections (l), (m), (n), or (o) of section 842 and subsections (d), (e), (f), (g), (h), and (i) of section 844 of this title, this chapter shall not apply to:

(1) aspects of the transportation of explosive materials via railroad, water, highway, or air that pertain to safety, including security, and are regulated by the United States Department of Transportation or the Department of Homeland Security;

(2) the use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopeia, or the National Formulary;

(3) the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof;

(4) small arms ammunition and components thereof;

(5) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in section 921(a)(16) of title 18 of the United States Code, or in antique devices as exempted from the term “destructive device” in section 921(a)(4) of title 18 of the United States Code; and

(6) the manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

(b) (1) A person who is prohibited from shipping, transporting, receiving, or possessing any explosive under section 842(i) may apply to the Secretary for relief from such prohibition.

(2) The Secretary may grant the relief requested under paragraph (1) if the Secretary determines that the circumstances regarding the applicability of section 842(i), and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

(3) A licensee or permittee who applies for relief, under this subsection, from the disabilities incurred under this chapter as a result of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year shall not be barred by such disability from further operations under the license or permit pending final action on an application for relief filed pursuant to this section.

(c) It is an affirmative defense against any proceeding involving subsections (l) through (o) of section 842 if the proponent proves by a preponderance of the evidence that the plastic explosive—

(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

(A) research, development, or testing of new or modified explosive materials;

(B) training in explosives detection or development or testing of explosives detection equipment; or

(C) forensic science purposes; or

(2) was plastic explosive that, within 3 years after the date of enactment of the Antiterrorism and Effective Death Penalty Act of 1996 [enacted April 24, 1996], will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

(3) For purposes of this subsection, the term “military device” includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.

(Added Pub. L. 91-452, title XI, Sec. 1102(a), Oct. 15, 1970, 84 Stat. 958; amended Pub. L. 93-639, Sec. 101, Jan. 4, 1975, 88 Stat. 2217; Pub. L. 104-132, title VI, Sec. 605, Apr. 24, 1996, 110 Stat. 1289; Pub. L. 107-296, title XI, Sec. 1126, Nov. 25, 2002, 116 Stat. 2285; Pub. L. 109-59, title VII, Sec. 7127, Aug. 10, 2005, 119 Stat. 1909.)

§ 846. Additional powers of the Attorney General

(a) The Attorney General is authorized to inspect the site of any accident, or fire, in which there is reason to believe that explosive materials were involved, in order that if any such incident has been brought about by accidental means, precautions may be taken to prevent similar accidents from occurring. In order to carry out the purpose of this subsection, the Attorney General is authorized to enter into or upon any property where explosive materials have been used, are suspected of having been used, or have been found in an otherwise unauthorized location. Nothing in this chapter shall be construed as modifying or otherwise affecting in any way the investigative authority of any other Federal agency. In addition to any other investigatory authority they have with respect to violations of provisions of this, the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, shall have authority to conduct investigations with respect to violations of subsection (d), (e), (f), (g), (h), or (i) of section 844 of this title.

(b) The Attorney General is authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents shall report the information to the Attorney General pursuant to such regulations as deemed necessary to carry out the provisions of this subsection. The repository shall also contain information on incidents voluntarily reported to the Attorney General by State and local authorities.

(Added Pub. L. 91-452, title XI, Sec. 1102(a), Oct. 15, 1970, 84 Stat. 959; amended Pub. L. 104-208, div. A, title I, Sec. 101(f) (title VI, Sec. 654(a)), Sept. 30, 1996, 110 Stat. 3009-314, 3009-369; Pub. L. 107-296, title XI, Sec. 1112(e)(2), (3), Nov. 25, 2002, 116 Stat. 2276.)

§ 847. Rules and regulations

The administration of this chapter shall be vested in the Attorney General. The Attorney General may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter. The Attorney General shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

(Added Pub. L. 91-452, title XI, Sec. 1102(a), Oct. 15, 1970, 84 Stat. 959; amended Pub. L. 107-296, title XI, Sec. 1112(e)(3), Nov. 25, 2002, 116 Stat. 2276.)

§ 848. Effect on State Law

No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State so that the two cannot be reconciled or consistently stand together.

(Added Pub. L. 91-452, title XI, Sec. 1102(a), Oct. 15, 1970, 84 Stat. 959.)