

1990—Pub. L. 101-647, title XXXV, § 3520, Nov. 29, 1990, 104 Stat. 4923, substituted “Licenses” for “Licensing” in item 843.

1970—Pub. L. 91-452, title XI, § 1102(a), Oct. 15, 1970, 84 Stat. 952, added chapter 40 and items 841 to 848.

#### § 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 by 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°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.

(t) INDIAN TRIBE<sup>1</sup>.—The term “Indian tribe” has the meaning given the term in section 102

<sup>1</sup> So in original. Probably should not be capitalized.

of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a)).<sup>2</sup>

(Added Pub. L. 91-452, title XI, §1102(a), Oct. 15, 1970, 84 Stat. 952; amended Pub. L. 104-132, title VI, §602, Apr. 24, 1996, 110 Stat. 1288; Pub. L. 107-296, title XI, §§1112(e)(1), (3), 1122(a), Nov. 25, 2002, 116 Stat. 2276, 2280; Pub. L. 111-211, title II, §236(b), July 29, 2010, 124 Stat. 2286.)

#### REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (a), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

#### AMENDMENTS

2010—Subsec. (t). Pub. L. 111-211 added subsec. (t).

2002—Subsec. (d). Pub. L. 107-296, §1112(e)(3), substituted “Attorney General” for “Secretary”.

Subsec. (j). Pub. L. 107-296, §1122(a)(1), added subsec. (j) and struck out former subsec. (j) which read as follows: “‘Permittee’ means any user of explosives for a lawful purpose, who has obtained a user permit under the provisions of this chapter.”

Subsec. (k). Pub. L. 107-296, §1112(e)(1), added subsec. (k) and struck out former subsec. (k) which read as follows: “‘Secretary’ means the Secretary of the Treasury or his delegate.”

Subsec. (l). Pub. L. 107-296, §1112(e)(3), substituted “Attorney General” for “Secretary”.

Subsec. (p)(5). Pub. L. 107-296, §1112(e)(3), which directed amendment of par. (5) by substituting “Attorney General” for “Secretary” wherever appearing, was executed by making the substitution the first place appearing to reflect the probable intent of Congress.

Subsecs. (r), (s). Pub. L. 107-296, §1122(a)(2), added subsecs. (r) and (s).

1996—Subsecs. (o) to (q). Pub. L. 104-132 added subsecs. (o) to (q).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by section 1112(e)(1), (3) of Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

Amendment by section 1122(a) of Pub. L. 107-296 effective 180 days after Nov. 25, 2002, see section 1122(i) of Pub. L. 107-296, set out as a note under section 843 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-132, title VI, §607, Apr. 24, 1996, 110 Stat. 1290, provided that: “Except as otherwise provided in this title [amending this section, sections 842, 844, and 845 of this title, and section 1595a of Title 19, Customs Duties, and enacting provisions set out as a note below], this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act [Apr. 24, 1996].”

#### EFFECTIVE DATE

Pub. L. 91-452, title XI, §1105(a), (b), Oct. 15, 1970, 84 Stat. 959, provided that:

“(a) Except as provided in subsection (b), the provisions of chapter 40 of title 18, United States Code, as enacted by section 1102 of this title shall take effect one hundred and twenty days after the date of enactment of this Act [Oct. 15, 1970].

“(b) The following sections of chapter 40 of title 18, United States Code, as enacted by section 1102 of this title shall take effect on the date of the enactment of this Act [Oct. 15, 1970]: sections 841, 844(d), (e), (f), (g), (h), (i), and (j), 845, 846, 847, 848 and 849 [no section 849 was enacted].”

#### SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-296, title XI, §1121, Nov. 25, 2002, 116 Stat. 2280, provided that: “This subtitle [subtitle C

(§§1121-1128) of title XI of Pub. L. 107-296, amending this section and sections 842 to 845 of this title and enacting provisions set out as a note under section 843 of this title] may be referred to as the ‘Safe Explosives Act’.”

#### SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97-298, §1, Oct. 12, 1982, 96 Stat. 1319, provided: “That this Act [amending section 844 of this title] may be cited as the ‘Anti-Arson Act of 1982’.”

#### SHORT TITLE OF 1975 AMENDMENT

Pub. L. 93-639, §1, Jan. 4, 1975, 88 Stat. 2217, provided: “That this Act [amending sections 845 and 921 of this title] may be cited as ‘Amendments of 1973 to Federal Law Relating to Explosives’.”

#### FINDINGS AND PURPOSES OF TITLE VI OF PUB. L. 104-132

Pub. L. 104-132, title VI, §601, Apr. 24, 1996, 110 Stat. 1287, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) plastic explosives were used by terrorists in the bombings of Pan American Airlines flight number 103 in December 1988 and UTA flight number 722 in September 1989;

“(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

“(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

“(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

“(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

“(b) PURPOSE.—The purpose of this title [amending this section, sections 842, 844, and 845 of this title, and section 1595a of Title 19, Customs Duties, and enacting provisions set out as a note above] is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.”

#### MARKING, RENDERING INERT, AND LICENSING OF EXPLOSIVE MATERIALS

Pub. L. 104-132, title VII, §732, Apr. 24, 1996, 110 Stat. 1303, as amended by Pub. L. 104-208, div. A, title I, §101(a) [title I, §113], Sept. 30, 1996, 110 Stat. 3009, 3009-21; Pub. L. 105-61, title I, Oct. 10, 1997, 111 Stat. 1272, required study by the Secretary of the Treasury of the marking, rendering inert, and licensing of explosive materials not later than 12 months after Apr. 24, 1996, report to Congress on results and recommendations, hearings by Congress to review study results, promulgation of regulations, and special study on the tagging of smokeless and black powder and report two years after Sept. 30, 1996.

#### CONGRESSIONAL DECLARATION OF PURPOSE

Pub. L. 91-452, title XI, §1101, Oct. 15, 1970, 84 Stat. 952, provided that: “The Congress hereby declares that the purpose of this title [enacting this chapter amending section 2516 of this title, repealing section 837 of this title and sections 121 to 144 of Title 50, War and National Defense, and enacting provisions set out as notes under this section] 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

<sup>2</sup>So in original. The second closing parenthesis probably should not appear.

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.”

#### MODIFICATION OF OTHER PROVISIONS

Pub. L. 91-452, title XI, §1104, Oct. 15, 1970, 84 Stat. 959, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Nothing in this title [enacting this chapter, amending section 2516 of this title, repealing section 837 of this title and sections 121 to 144 of Title 50, War and National Defense, and enacting provisions set out as notes under this section] shall be construed as modifying or affecting any provision of—

“(a) The National Firearms Act (chapter 53 of the Internal Revenue Code of 1986);

“(b) Section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control;

“(c) Section 1716 of title 18, United States Code, relating to nonmailable materials;

“(d) Sections 831 through 836 of title 18, United States Code; or

“(e) Chapter 44 of title 18, United States Code.”

#### CONTINUATION IN BUSINESS OR OPERATION OF ANY PERSON ENGAGED IN BUSINESS OR OPERATION ON OCTOBER 15, 1970

Pub. L. 91-452, title XI, §1105(c), Oct. 15, 1970, 84 Stat. 960, provided that: “Any person (as defined in section 841(a) of title 18, United States Code) engaging in a business or operation requiring a license or permit under the provisions of chapter 40 of such title 18, who was engaged in such business or operation on the date of enactment of this Act [Oct. 15, 1970] and who has filed an application for a license or permit under the provisions of section 843 of such chapter 40 prior to the effective date of such section 843 [see Effective Date note set out above] may continue such business or operation pending final action on his application. All provisions of such chapter 40 shall apply to such applicant in the same manner and to the same extent as if he were a holder of a license or permit under such chapter 40.”

#### AUTHORIZATION OF APPROPRIATIONS

Pub. L. 91-452, title XI, §1107, Oct. 15, 1970, 84 Stat. 960, provided that: “There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this title [enacting this chapter, amending section 2516 of this title, repealing section 837 of this title and sections 121 to 144 of Title 50, War and National Defense, and enacting provisions set as notes under this section].”

### § 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—

(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 (21 U.S.C. 802));

(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 (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary<sup>1</sup> in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting,

<sup>1</sup> So in original. Probably should be “Attorney General”.