

MOTION TO RECOMMIT WITH INSTRUCTIONS

_____ moves to recommit the bill H.R. 2130 to the Committee on Natural Resources with instructions to report the same back to the House forthwith, with the following amendment:

After section 8, add the following (and redesignate the subsequent section accordingly):

1 **SEC. 9. 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:

1 **“§ 922A. Attorney General’s discretion to deny trans-**
2 **fer of a firearm**

3 “The Attorney General may deny the transfer of a
4 firearm pursuant to section 922(t)(1)(B)(ii) if the Attor-
5 ney General determines that the transferee is known (or
6 appropriately suspected) to be or have been engaged in
7 conduct constituting, in preparation for, in aid of, or re-
8 lated to terrorism, or providing material support thereof,
9 and the Attorney General has a reasonable belief that the
10 prospective transferee may use a firearm in connection
11 with terrorism.”;

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

14 **“§ 922B. Attorney General’s discretion regarding ap-**
15 **plicants for firearm permits which would**
16 **qualify for the exemption provided under**
17 **section 922(t)(3)**

18 “The Attorney General may determine that an appli-
19 cant for a firearm permit which would qualify for an ex-
20 emption under section 922(t)(3) is known (or appro-
21 priately suspected) to be or have been engaged in conduct
22 constituting, in preparation for, in aid of, or related to
23 terrorism, or providing material support thereof, and the
24 Attorney General has a reasonable belief that the appli-
25 cant may use a firearm in connection with terrorism.”;
26 and

1 (3) in section 921(a), by adding at the end the
2 following:

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

6 “(37) The term ‘material support’ means ‘material
7 support or resources’ within the meaning of section 2339A
8 or 2339B.

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

13 (b) EFFECT OF ATTORNEY GENERAL DISCRE-
14 TIONARY DENIAL THROUGH THE NATIONAL INSTANT
15 CRIMINAL BACKGROUND CHECK SYSTEM (NICS) ON
16 FIREARMS PERMITS.—Section 922(t) of such title is
17 amended—

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

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

1 (3) in paragraph (3)(A)(i)—

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

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

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

7 (4) in paragraph (3)(A)—

8 (A) by adding “and” at the end of clause
9 (ii); and

10 (B) by adding after and below the end the
11 following:

12 “(iii) the State issuing the permit
13 agrees to deny the permit application if
14 such other person is the subject of a deter-
15 mination by the Attorney General pursuant
16 to section 922B;”;

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

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

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

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

6 (2) by striking the period 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) has been the subject of a determination
11 by the Attorney General pursuant to section 922A,
12 922B, 923(d)(1)(H), or 923(e) of this title.”.

13 (d) ATTORNEY GENERAL DISCRETIONARY DENIAL
14 AS PROHIBITOR.—Section 922(g) of such title is amend-
15 ed—

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

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

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

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

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

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

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

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

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

11 “(H) The Attorney General may deny a li-
12 cense application if the Attorney General deter-
13 mines that the applicant (including any respon-
14 sible person) is known (or appropriately sus-
15 pected) to be or have been engaged in conduct
16 constituting, in preparation for, in aid of, or re-
17 lated to terrorism, or providing material sup-
18 port thereof, and the Attorney General has a
19 reasonable belief that the applicant may use a
20 firearm in connection with terrorism.”.

21 (f) DISCRETIONARY REVOCATION OF FEDERAL FIRE-
22 ARMS LICENSES.—Section 923(e) of such title is amend-
23 ed—

24 (1) in the 1st sentence—

1 (A) by inserting after “revoke” the fol-
2 lowing: “—(1)”; and

3 (B) by striking the period and inserting a
4 semicolon;
5 (2) in the 2nd sentence—

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

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

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

12 “(3) any license issued under this section if the
13 Attorney General determines that the holder of the
14 license (including any responsible person) is known
15 (or appropriately suspected) to be or have been en-
16 gaged in conduct constituting, in preparation for, in
17 aid of, or related to terrorism, or providing material
18 support thereof, and the Attorney General has a rea-
19 sonable belief that the applicant may use a firearm
20 in connection with terrorism.”.

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

24 (1) in the 1st sentence of paragraph (1), by in-
25 serting “, except that if the denial or revocation is

1 pursuant to subsection (d)(1)(H) or (e)(3), then any
2 information on which the Attorney General relied for
3 this determination may be withheld from the peti-
4 tioner if the Attorney General determines that dis-
5 closure of the information would likely compromise
6 national security” before the period; and

7 (2) in paragraph (3), by inserting after the 3rd
8 sentence the following: “With respect to any infor-
9 mation withheld from the aggrieved party under
10 paragraph (1), the United States may submit, and
11 the court may rely on, summaries or redacted
12 versions of documents containing information the
13 disclosure of which the Attorney General has deter-
14 mined would likely compromise national security.”.

15 (h) ATTORNEY GENERAL’S ABILITY TO WITHHOLD
16 INFORMATION IN RELIEF FROM DISABILITIES LAW-
17 SUITS.—Section 925(c) of such title is amended by insert-
18 ing after the 3rd sentence the following: “If receipt of a
19 firearm by the person would violate section 922(g)(10),
20 any information which the Attorney General relied on for
21 this determination may be withheld from the applicant if
22 the Attorney General determines that disclosure of the in-
23 formation would likely compromise national security. In
24 responding to the petition, the United States may submit,
25 and the court may rely on, summaries or redacted versions

1 of documents containing information the disclosure of
2 which the Attorney General has determined would likely
3 compromise national security.”.

4 (i) PENALTIES.—Section 924(k) of such title is
5 amended—

6 (1) by striking “or” at the end of paragraph

7 (2);

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

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

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

15 (j) REMEDY FOR ERRONEOUS DENIAL OF FIREARM
16 OR FIREARM PERMIT EXEMPTION.—Section 925A of such
17 title is amended—

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

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

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

4 (3) by adding after and below the end the fol-
5 lowing:

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

1 mine whether the summaries or redacted versions, as the
2 case may be, are fair and accurate representations of the
3 underlying documents. The court shall not consider the
4 full, undisclosed documents in deciding whether the Attor-
5 ney General’s determination satisfies the requirements of
6 section 922A or 922B.”.

7 (k) PROVISION OF GROUNDS UNDERLYING INELIGI-
8 BILITY DETERMINATION BY THE NATIONAL INSTANT
9 CRIMINAL BACKGROUND CHECK SYSTEM.—Section 103
10 of the Brady Handgun Violence Prevention Act (Public
11 Law 103–159) is amended—

12 (1) in subsection (f)—

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

18 (B) by inserting after “the system shall
19 provide such reasons to the individual,” the fol-
20 lowing: “except for any information the disclo-
21 sure of which the Attorney General has deter-
22 mined would likely compromise national secu-
23 rity”; and

24 (2) in subsection (g)—

1 (A) in the 1st sentence, by inserting after
2 “subsection (g) or (n) of section 922 of title 18,
3 United States Code or State law” the following:
4 “or if the Attorney General has made a deter-
5 mination pursuant to section 922A or 922B of
6 such title,”;

7 (B) by inserting “, except any information
8 the disclosure of which the Attorney General
9 has determined would likely compromise na-
10 tional security” before the period; and

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

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

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

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

22 “(10) has received actual notice of the Attorney
23 General’s determination made pursuant to section
24 843(b)(8) or (d)(2) of this title.”.

1 (m) ATTORNEY GENERAL DISCRETIONARY DENIAL
2 AS PROHIBITOR.—Section 842(i) of such title is amend-
3 ed—

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

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

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

11 (n) ATTORNEY GENERAL DISCRETIONARY DENIAL
12 OF FEDERAL EXPLOSIVES LICENSES AND PERMITS.—
13 Section 843(b) of such title is amended—

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

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

19 “(8) The Attorney General may deny the
20 issuance of a permit or license to an applicant if the
21 Attorney General determines that the applicant or a
22 responsible person or employee possessor thereof is
23 known (or appropriately suspected) to be or have
24 been engaged in conduct constituting, in preparation
25 of, in aid of, or related to terrorism, or providing

1 material support thereof, and the Attorney General
2 has a reasonable belief that the person may use ex-
3 plosives in connection with terrorism.”.

4 (o) ATTORNEY GENERAL DISCRETIONARY REVOCA-
5 TION OF FEDERAL EXPLOSIVES LICENSES AND PER-
6 MITS.—Section 843(d) of such title is amended—

7 (1) by inserting “(1)” in the first sentence after
8 “if”; and

9 (2) by striking the period at the end of the first
10 sentence and inserting the following: “; or (2) the
11 Attorney General determines that the licensee or
12 holder (or any responsible person or employee pos-
13 sessor thereof) is known (or appropriately suspected)
14 to be or have been engaged in conduct constituting,
15 in preparation for, in aid of, or related to terrorism,
16 or providing material support thereof, and that the
17 Attorney General has a reasonable belief that the
18 person may use explosives in connection with ter-
19 rorism.”.

20 (p) ATTORNEY GENERAL’S ABILITY TO WITHHOLD
21 INFORMATION IN EXPLOSIVES LICENSE AND PERMIT DE-
22 NIAL AND REVOCATION SUITS.—Section 843(e) of such
23 title is amended—

24 (1) in the 1st sentence of paragraph (1), by in-
25 serting “except that if the denial or revocation is

1 based on a determination under subsection (b)(8) or
2 (d)(2), then any information which the Attorney
3 General relied on for the determination may be with-
4 held from the petitioner if the Attorney General de-
5 termines that disclosure of the information would
6 likely compromise national security” before the pe-
7 riod; and

8 (2) in paragraph (2), by adding at the end the
9 following: “In responding to any petition for review
10 of a denial or revocation based on a determination
11 under section 843(b)(8) or (d)(2), the United States
12 may submit, and the court may rely on, summaries
13 or redacted versions of documents containing infor-
14 mation the disclosure of which the Attorney General
15 has determined would likely compromise national se-
16 curity.”.

17 (q) ABILITY TO WITHHOLD INFORMATION IN COM-
18 MUNICATIONS TO EMPLOYERS.—Section 843(h)(2) of
19 such title is amended—

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

23 (2) in subparagraph (B)—

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

1 (B) in clause (ii), by inserting “, except
2 that any information that the Attorney General
3 relied on for a determination pursuant to sec-
4 tion 843(b)(8) may be withheld if the Attorney
5 General concludes that disclosure of the infor-
6 mation would likely compromise national secu-
7 rity” before the semicolon.

8 (r) CONFORMING AMENDMENT TO IMMIGRATION AND
9 NATIONALITY ACT.—Section 101(a)(43)(E)(ii) of the Im-
10 migration and Nationality Act (8 U.S.C.
11 1101(a)(43)(E)(ii)) is amended by striking “or (5)” and
12 inserting “(5), or (10)”.

