

**AMENDMENT TO 5611**  
**OFFERED BY MR. KING OF NEW YORK**

Strike section 5 of the bill and insert the following:

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

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

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

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

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

1 and the Attorney General has a reasonable belief that the  
2 prospective transferee may use a firearm in connection  
3 with terrorism.”;

4 (2) by inserting the following new section after  
5 section 922A:

6 **“§ 922B. Attorney General’s discretion regarding ap-  
7 plicants for firearm permits which would  
8 qualify for the exemption provided under  
9 section 922(t)(3)**

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

19 (3) in section 921(a), by adding at the end the  
20 following:

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

1           “(37) The term ‘material support’ means ‘material  
2 support or resources’ within the meaning of section 2339A  
3 or 2339B.

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

8           (b) EFFECT OF ATTORNEY GENERAL DISCRE-  
9 TIONARY DENIAL THROUGH THE NATIONAL INSTANT  
10 CRIMINAL BACKGROUND CHECK SYSTEM (NICS) ON  
11 FIREARMS PERMITS.—Section 922(t) of such title is  
12 amended—

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

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

21           (3) in paragraph (3)(A)(i)—

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

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

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

3 (4) in paragraph (3)(A)—

4 (A) by adding “and” at the end of clause  
5 (ii); and

6 (B) by adding after and below the end the  
7 following:

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

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

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

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

24 (1) by striking “or” at the end of paragraph  
25 (8);

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

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

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

8           (d) ATTORNEY GENERAL DISCRETIONARY DENIAL  
9 AS PROHIBITOR.—Section 922(g) of such title is amend-  
10 ed—

11           (1) by striking “or” at the end of paragraph  
12           (8);

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

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

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

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

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

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

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

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

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

16           (f) DISCRETIONARY REVOCATION OF FEDERAL FIRE-  
17   ARMS LICENSES.—Section 923(e) of such title is amend-  
18   ed—

19           (1) in the 1st sentence—

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

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

24           (2) in the 2nd sentence—

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

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

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

7 “(3) any license issued under this section if the  
8 Attorney General determines that the holder of the  
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 thereof, and the Attorney General has a rea-  
14 sonable belief that the applicant may use a firearm  
15 in connection with terrorism.”.

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

19 (1) in the 1st sentence of paragraph (1), by in-  
20 serting “, except that if the denial or revocation is  
21 pursuant to subsection (d)(1)(H) or (e)(3), then any  
22 information on which the Attorney General relied for  
23 this determination may be withheld from the peti-  
24 tioner if the Attorney General determines that dis-

1 closure of the information would likely compromise  
2 national security” before the period; and

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

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

1 (i) PENALTIES.—Section 924(k) of such title is  
2 amended—

3 (1) by striking “or” at the end of paragraph  
4 (2);

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

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

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

12 (j) REMEDY FOR ERRONEOUS DENIAL OF FIREARM  
13 OR FIREARM PERMIT EXEMPTION.—Section 925A of such  
14 title is amended—

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

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

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

24 (3) by adding after and below the end the fol-  
25 lowing:

1           “(b) In any case in which the Attorney General has  
2 denied the transfer of a firearm to a prospective transferee  
3 pursuant to section 922A or has made a determination  
4 regarding a firearm permit applicant pursuant to section  
5 922B, an action challenging the determination may be  
6 brought against the United States. The petition must be  
7 filed not later than 60 days after the petitioner has re-  
8 ceived actual notice of the Attorney General’s determina-  
9 tion made pursuant to section 922A or 922B. The court  
10 shall sustain the Attorney General’s determination on a  
11 showing by the United States by a preponderance of evi-  
12 dence that the Attorney General’s determination satisfied  
13 the requirements of section 922A or 922B. To make this  
14 showing, the United States may submit, and the court  
15 may rely on, summaries or redacted versions of documents  
16 containing information the disclosure of which the Attor-  
17 ney General has determined would likely compromise na-  
18 tional security. On request of the petitioner or the court’s  
19 own motion, the court may review the full, undisclosed  
20 documents ex parte and in camera. The court shall deter-  
21 mine whether the summaries or redacted versions, as the  
22 case may be, are fair and accurate representations of the  
23 underlying documents. The court shall not consider the  
24 full, undisclosed documents in deciding whether the Attor-

1 ney General’s determination satisfies the requirements of  
2 section 922A or 922B.”.

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

8 (1) in subsection (f)—

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

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

20 (2) in subsection (g)—

21 (A) in the 1st sentence, by inserting after  
22 “subsection (g) or (n) of section 922 of title 18,  
23 United States Code or State law” the following:  
24 “or if the Attorney General has made a deter-

1           mination pursuant to section 922A or 922B of  
2           such title,”;

3           (B) by inserting “, except any information  
4           the disclosure of which the Attorney General  
5           has determined would likely compromise na-  
6           tional security” before the period; and

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

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

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

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

18           “(10) has received actual notice of the Attorney  
19          General’s determination made pursuant to section  
20          843(b)(8) or (d)(2) of this title.”.

21          (m) ATTORNEY GENERAL DISCRETIONARY DENIAL  
22          AS PROHIBITOR.—Section 842(i) of such title is amend-  
23          ed—

24           (1) by adding “; or” at the end of paragraph

25          (7); and

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

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

6           (n) ATTORNEY GENERAL DISCRETIONARY DENIAL  
7           OF FEDERAL EXPLOSIVES LICENSES AND PERMITS.—  
8           Section 843(b) of such title is amended—

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

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

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

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

4 (1) by inserting “(1)” in the first sentence after  
5 “if”; and

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

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

21 (1) in the 1st sentence of paragraph (1), by in-  
22 serting “except that if the denial or revocation is  
23 based on a determination under subsection (b)(8) or  
24 (d)(2), then any information which the Attorney  
25 General relied on for the determination may be with-

1 held from the petitioner if the Attorney General de-  
2 termines that disclosure of the information would  
3 likely compromise national security” before the pe-  
4 riod; and

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

14 (q) ABILITY TO WITHHOLD INFORMATION IN COM-  
15 MUNICATIONS TO EMPLOYERS.—Section 843(h)(2) of  
16 such title is amended—

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

20 (2) in subparagraph (B)—

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

23 (B) in clause (ii), by inserting “, except  
24 that any information that the Attorney General  
25 relied on for a determination pursuant to sec-

1           tion 843(b)(8) may be withheld if the Attorney  
2           General concludes that disclosure of the infor-  
3           mation would likely compromise national secu-  
4           rity” before the semicolon.

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

