

ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996

[[Page 110 STAT. 1214]]

Public Law 104-132

104th Congress

An Act

To deter terrorism, provide justice for victims, provide for an effective death penalty, and for other purposes. <<NOTE: Apr. 24, 1996 - [S. 735]>>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <<NOTE: Antiterrorism and Effective Death Penalty Act of 1996.>>

SECTION 1. <<NOTE: 18 USC 1 note.>> SHORT TITLE.

This Act may be cited as the ``Antiterrorism and Effective Death Penalty Act of 1996''.

**TITLE VI--IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION**

Sec. 601. Findings and purposes.

Sec. 602. Definitions.

Sec. 603. Requirement of detection agents for plastic explosives.

Sec. 604. Criminal sanctions.

Sec. 605. Exceptions.

Sec. 606. Seizure and forfeiture of plastic explosives.

Sec. 607. Effective date.

**TITLE VI--IMPLEMENTATION OF PLASTIC EXPLOSIVES CONVENTION**

SEC. 601. <<NOTE: 18 USC 841 note.>> FINDINGS AND PURPOSES.

(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 is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

#### SEC. 602. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following new subsections:

“(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),  
 $C_2H_4(NO_2)_2$ ,  
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 Secretary, 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."

#### SEC. 603. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following new subsections:

“(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 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 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 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, to fail to report to the Secretary 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

Secretary may prescribe by regulation."

#### SEC. 604. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

“(a) Any person who 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.”.

#### SEC. 605. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended--

(1) in subsection (a)--

(A) by inserting “(l), (m), (n), or (o) of section 842 and subsections” after “subsections”; and

(B) in paragraph (1), by inserting before the semicolon “, and which pertain to safety”; and

(2) by adding at the end the following new subsection:

“(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, 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.”.

SEC. 606. SEIZURE AND FORFEITURE OF PLASTIC EXPLOSIVES.

Section 596(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)(1)) is amended--

- (1) in subparagraph (B), by striking "or" at the end;
- (2) in subparagraph (C), by striking the period and inserting "; or"; and
- (3) by adding at the end the following new subparagraph:  
    "(D) is a plastic explosive, as defined in section 841(q) of title 18, United States Code, which does not contain a detection agent, as defined in section 841(p) of such title."

SEC. 607. <<NOTE: 18 USC 841 note.>> EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.