To amend the Immigration and Nationality Act and other Acts to strengthen the enforcement of the immigration laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

November 7, 2005

Mr. Hostettler introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To amend the Immigration and Nationality Act and other Acts to strengthen the enforcement of the immigration laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Secure America Act of 2005”.
(b) Amendments to Immigration and Nationality Act.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Immigration and Nationality Act.

c) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; amendments to Immigration and Nationality Act; table of contents.
Sec. 2. Expedited removal.
Sec. 3. Increased criminal sentences and fines for alien smuggling.
Sec. 4. Enhanced penalties for persons committing offenses while armed.
Sec. 5. Use of Army and Air Force to secure the border.
Sec. 6. Mandatory sentencing ranges for reentering aliens.
Sec. 7. Penalty for countries that do not accept return of nationals.
Sec. 8. Bureau of Immigration Enforcement.

SEC. 2. EXPEDITED REMOVAL.

(a) In General.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(1) in subclause (I), by striking “Attorney General” and inserting “Secretary of Homeland Security” each place it appears; and

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

“(III) Exception.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien
described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.”.

(b) EXCEPTIONS.—Section 235(b)(1)(F) (8 U.S.C. 1225(b)(1)(F)) is amended by inserting before the period at the end the following: “or in any manner at or between a land border port of entry”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended on or after such date.

SEC. 3. INCREASED CRIMINAL SENTENCES AND FINES FOR ALIEN SMUGGLING.

(a) IN GENERAL.—Subject to subsection (b), pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for smuggling, transporting, harboring, or inducing aliens under sections 274(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A)) so as to—
(1) triple the minimum term of imprisonment under that section for offenses involving the smuggling, transporting, harboring, or inducing of—

(A) 1 to 5 aliens from 10 months to 30 months;

(B) 6 to 24 aliens from 18 months to 54 months;

(C) 25 to 100 aliens from 27 months to 81 months; and

(D) 101 or more aliens from 37 months to 111 months;

(2) increase the minimum level of fines for each of the offenses described in subparagraphs (A) through (D) of paragraph (1) to the greater of $25,000 per alien or 3 times the amount the defendant received or expected to receive as compensation for the illegal activity;

(3) increase by at least 2 offense levels above the applicable enhancement in effect on the date of the enactment of this Act the sentencing enhancements for intentionally or recklessly creating a substantial risk of serious bodily injury or causing bodily injury, serious injury, or permanent or life threatening injury;
(4) for actions causing death, increase the offense level to be equivalent to that for involuntary manslaughter under section 1112 of title 28, United States Code; and

(5) for corporations or other business entities that knowingly benefit from such offenses, increase the minimum level of fines for each of the offenses described in subparagraphs (A) through (D) of paragraph (1) to $50,000 per alien employed directly, or indirectly through contract, by the corporation or entity.

(b) EXCEPTION.—Subsection (a) shall not apply to an offense that involved the smuggling, transporting, or harboring only of the defendant’s spouse or child (or both the defendant’s spouse and child).

(e) DEADLINE.—The United States Sentencing Commission shall carry out subsection (a) not later than the date that is 6 months after the date of the enactment of this Act.

(d) AMENDMENTS TO CRIMINAL PENALTIES.—Section 274(a) (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)(B)—

(A) in clause (i), by striking “10 years” and inserting “15 years”;
(B) in clause (ii), by striking “5 years” and inserting “10 years”; and

(C) in clause (iii), by striking “20 years” and inserting “40 years”;

(2) in paragraph (2)—

(A) in subparagraph (A), by striking “one year, or both; or” and inserting “3 years, or both;”;

(B) in subparagraph (B)—

(i) in clause (i), by adding at the end the following: “be fined under title 18, United State Code, and imprisoned not less than 5 years nor more than 25 years;”; 

(ii) in clause (ii), by striking “or” at the end and inserting the following: “be fined under title 18, United States Code, and imprisoned not less than 3 years nor more than 20 years; or”; and

(iii) in clause (iii), by adding at the end the following: “be fined under title 18, United States Code, and imprisoned not more than 15 years; or”; and

(C) by striking the matter following clause (iii) and inserting the following:
“(C) in the case of a third or subsequent offense described in subparagraph (B) and for any other violation, shall be fined under title 18, United States Code, and imprisoned not less than 5 years nor more than 15 years.”;

(3) in paragraph (3)(A), by striking “5 years” and inserting “10 years”; and

(4) in paragraph (4), by striking “10 years” and inserting “20 years”.

(e) EFFECTIVE DATE.—The amendments made by subsection (d) shall take effect on the date of enactment of this Act and shall apply to offenses committed after such date.

SEC. 4. ENHANCED PENALTIES FOR PERSONS COMMITTING OFFENSES WHILE ARMED.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting after “device)” the following: “or any violation of section 274(a)(1)(A) of the Immigration and Nationality Act”; and

(B) by striking “or drug trafficking crime—” and inserting “, drug trafficking
crime, or violation of section 274(a)(1)(A) of
the Immigration and Nationality Act—’; and
(2) in subparagraph (D)(ii), by striking “or
drug trafficking crime” and inserting “, drug traf-
ficking crime, or violation of section 274(a)(1)(A) of
the Immigration and Nationality Act”.

(b) EFFECTIVE DATE.—The amendments made by
subsection (a) shall take effect on the date of the enact-
ment of this Act and shall apply to offenses committed
after such date.

SEC. 5. USE OF ARMY AND AIR FORCE TO SECURE THE
BORDER.

(a) IN GENERAL.—Section 1385 of title 18, United
States Code, is amended by inserting after “execute the
laws” the following: “other than at or near a border of
the United States in order to prevent aliens not permitted
by law to enter the United States, terrorists, and drug
smugglers from entering the United States”.

(b) EFFECTIVE DATE.—The amendment made by
subsection (a) shall take effect on the date of the enact-
ment this Act.
SEC. 6. MANDATORY SENTENCING RANGES FOR REENTERING ALIENS.

(a) MANDATORY SENTENCING RANGES FOR REENTERING ALIENS.—Section 276 (8 U.S.C. 1326) is amended—

(1) in subsection (a), in the matter following paragraph (2), by striking “imprisoned not more than 2 years,” and inserting “imprisoned for a term of not less than 1 year and not more than 2 years,”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “imprisoned not more than 10 years,” and inserting “imprisoned for a term of not less than 5 years and not more than 10 years,”;

(B) in paragraph (2), by striking “imprisoned not more than 20 years,” and inserting “imprisoned for a term of not less than 10 years and not more than 20 years,”; and

(C) in paragraph (4), by striking “imprisoned for not more than 10 years,” and inserting “imprisoned for a term of not less than 5 years and not more than 10 years,”.

(b) MANDATORY SENTENCING RANGES FOR PERSONS AIDING OR ASSISTING CERTAIN REENTERING ALIENS.—Section 277 (8 U.S.C. 1327) is amended—
(1) by striking "Any person" and inserting "(a) Subject to subsection (b), any person"; and
(2) by adding at the end the following:
"(b)(1) Any person who knowingly aids or assists any alien violating section 276(b) to reenter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to reenter the United States, shall be fined under title 18, United States Code, or imprisoned for a term imposed under paragraph (2), or both.
"(2) The term of imprisonment imposed under paragraph (1) shall be within the range to which the reentering alien is subject under section 276(b)."
(e) EFFECTIVE DATE.—The amendments made by this section are effective on the date of enactment of this Act and shall apply to sentences entered on or after such date.
SEC. 7. PENALTY FOR COUNTRIES THAT DO NOT ACCEPT RETURN OF NATIONALS.
(a) IN GENERAL.— Section 243(d) (8 U.S.C. 1253(d)) is amended—
(1) by striking "On being notified" and inserting the following:
"(1) IN GENERAL.—Upon notification";
(2) by striking “Attorney General” and inserting “Secretary of Homeland Security” each place it appears; and

(3) by adding at the end the following:

“(2) DENIAL OF ADMISSION.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may deny admission to any citizen, subject, national or resident of that country until the country accepts the alien that was ordered removed.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) effective on the date of enactment of this Act.

SEC. 8. BUREAU OF IMMIGRATION ENFORCEMENT.

(a) IN GENERAL.—Section 442 of Public Law 107–296 is amended—

(1) by striking the heading and inserting the following:
“SEC. 442. ESTABLISHMENT OF BUREAU OF IMMIGRATION ENFORCEMENT.”;

(2) by striking subsection (a)(1) and inserting the following:

“(1) IN GENERAL.—There shall be in the Department of Homeland Security a bureau to be known as the ‘Bureau of Immigration Enforcement’. The Bureau shall perform only those functions described in section 441 and no other functions, including no functions described in sections 403 and 421.”;

(3) by striking subsection (a)(2) and inserting the following:

“(2) ASSISTANT SECRETARY.—The head of the Bureau of Immigration Enforcement shall be the Assistant Secretary of the Bureau of Immigration Enforcement, who—

“(A) shall report directly to the Under Secretary for Border and Transportation Security; and

“(B) shall have a minimum of 5 years professional experience in immigration law enforcement, and a minimum of 5 years of management experience.”;

(4) in subsection (a)(3)—
(A) by striking “Assistant Secretary of the Bureau of Border Security” and inserting “Assistant Secretary of the Bureau of Immigration Enforcement”;

(B) by striking “Bureau of Border Security” and inserting “Bureau of Immigration Enforcement”;

(C) by striking “or” and the end of subparagraph (A)(i); and

(D) by striking clause (ii) of subparagraph (A));

(5) in subsection (a)(4), by striking “Assistant Secretary of the Bureau of Border Security” and inserting “Assistant Secretary of the Bureau of Immigration Enforcement”;

(6) in subsection (a)(5), by striking “Assistant Secretary of the Bureau of Border Security” and inserting “Assistant Secretary of the Bureau of Immigration Enforcement”;

(7) in subsection (b), by striking “Bureau of Border Security” and inserting “Bureau of Immigration Enforcement” each place it appears; and

(8) in subsection (c), by striking “Assistant Secretary of the Bureau of Border Security” and in-
serting “Assistant Secretary of Immigration En-
forcement” each place it appears.

(b) CONFORMING AMENDMENTS.—Sections 443,
444, 451, and 471 of such Public Law are each amended
by striking “Bureau of Border Security” and inserting
“Bureau of Immigration Enforcement” each place it ap-
ppears.

(c) LIMITATION ON FUNCTIONS.—Section 471(b) of
such Public Law, as amended by this section, is further
amended by adding at the end the following: “In addition,
the authority provided by section 1502 may not be used
to add functions of the Bureau of Immigration Enforce-
ment not listed in section 441 to the Bureau of Immigra-
tion Enforcement.”.