AN ACT

To amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or reckless permitting (on one’s land) the construction or use of a tunnel or subterranean passageway between the United States and another country.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Border Tunnel Prevention Act of 2006”.

SEC. 2. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) In General.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§ 554. Border tunnels and passages

“(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be imprisoned for not more than 20 years.

“(b) Any person who recklessly permits the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be imprisoned for not more than 10 years.

“(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Na-
tionality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to twice the penalty that would have otherwise been imposed had the unlawful activity not made use of such a tunnel or passage.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“Sec. 554. Border tunnels and passages.”.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting “554,” before “1425,”.

SEC. 3. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 1.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for ag-
gressive and appropriate law enforcement action to
prevent such offenses;

(2) provide adequate base offense levels for off-
fenses under such section;

(3) account for any aggravating or mitigating
circumstances that might justify exceptions, includ-
ing—

(A) the use of a tunnel or passage de-
scribed in subsection (a) of such section to fa-
cilitate other felonies; and

(B) the circumstances for which the sen-
tencing guidelines currently provide applicable
sentencing enhancements;

(4) ensure reasonable consistency with other
relevant directives, other sentencing guidelines, and
statutes;

(5) make any necessary and conforming
changes to the sentencing guidelines and policy
statements; and
(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code. Passed the House of Representatives September 21, 2006.

Attest:

Clerk.
AN ACT

To amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or reckless permitting (on one's land) of a tunnel or subterranean passageway between the United States and another country.

AN ACT

H. R. 4830

109TH CONGRESS

2D SESSION