

110TH CONGRESS  
1ST SESSION

# S. 35

To amend section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 22, 2007

Mr. COLEMAN (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Western Hemisphere  
5 Traveler Improvement Act of 2007”.

6 **SEC. 2. CERTIFICATIONS.**

7 Section 7209(b)(1) of the Intelligence Reform and  
8 Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note)  
9 is amended—

10 (1) in subparagraph (B)—

1 (A) in clause (v)—

2 (i) by striking “process” and inserting  
3 “read”; and

4 (ii) inserting “at all ports of entry”  
5 after “installed”;

6 (B) in clause (vi), by striking “and” at the  
7 end;

8 (C) in clause (vii), by striking the period at  
9 the end and inserting a semicolon; and

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

11 “(viii) a pilot program in which not  
12 fewer than 1 State has been initiated and  
13 evaluated to determine if an enhanced driv-  
14 er’s license, which is machine-readable and  
15 tamper-proof, not valid for certification of  
16 citizenship for any purpose other than ad-  
17 mission into the United States from Can-  
18 ada, and issued by such State to an indi-  
19 vidual, may permit the individual to use  
20 the individual’s driver’s license to meet the  
21 documentation requirements under sub-  
22 paragraph (A) for entry into the United  
23 States from Canada at the land and sea  
24 ports of entry;

1 “(ix) the report described in subpara-  
2 graph (C) has been submitted to the ap-  
3 propriate congressional committees;

4 “(x) a study has been conducted to  
5 determine the number of passports and  
6 passport cards that will be issued as a con-  
7 sequence of the documentation require-  
8 ments under subparagraph (A); and

9 “(xi) sufficient passport adjudication  
10 personnel have been hired or contracted—

11 “(I) to accommodate—

12 “(aa) increased demand for  
13 passports as a consequence of the  
14 documentation requirements  
15 under subparagraph (A); and

16 “(bb) a surge in such de-  
17 mand during seasonal peak travel  
18 times; and

19 “(II) to ensure that the time re-  
20 quired to issue a passport or passport  
21 card is not anticipated to exceed 8  
22 weeks.”; and

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

24 “(C) REPORT.—Not later than 180 days  
25 after the initiation of the pilot program de-

1 scribed in subparagraph (B)(viii), the Secretary  
2 of Homeland Security and the Secretary of  
3 State shall submit to the appropriate congress-  
4 sional committees a report, which includes—

5 “(i) an analysis of the impact of the  
6 pilot program on national security;

7 “(ii) recommendations on how to ex-  
8 pand the pilot program to other States;

9 “(iii) any appropriate statutory  
10 changes to facilitate the expansion of the  
11 pilot program to additional States and to  
12 citizens of Canada;

13 “(iv) a plan to scan individuals par-  
14 ticipating in the pilot program against  
15 United States terrorist watch lists;

16 “(v) an evaluation of and rec-  
17 ommendations for the type of machine-  
18 readable technology that should be used in  
19 enhanced driver’s licenses, based on indi-  
20 vidual privacy considerations and the costs  
21 and feasibility of incorporating any new  
22 technology into existing driver’s licenses;

23 “(vi) recommendations for improving  
24 the pilot program; and

1           “(vii) an analysis of any cost savings  
2           for a citizen of the United States partici-  
3           pating in an enhanced driver’s license pro-  
4           gram as compared with participating in an  
5           alternative program.”.

6 **SEC. 3. SPECIAL RULE FOR MINORS.**

7           Section 7209(b) of the Intelligence Reform and Ter-  
8           rorism Prevention Act of 2004 (Public Law 108–458; 8  
9           U.S.C. 1185 note) is amended by adding at the end the  
10          following new paragraph:

11           “(3) SPECIAL RULE FOR MINORS.—Notwith-  
12          standing any other provision of law, the Secretary of  
13          Homeland Security shall permit an individual to  
14          enter the United States without providing any evi-  
15          dence of citizenship if the individual—

16                   “(A)(i) is less than 16 years old;

17                   “(ii) is accompanied by the individual’s  
18          legal guardian;

19                   “(iii) is entering the United States from  
20          Canada or Mexico;

21                   “(iv) is a citizen of the United States or  
22          Canada; and

23                   “(v) provides a birth certificate; or

24                   “(B)(i) is less than 18 years old;

1           “(ii) is traveling under adult supervision  
2           with a public or private school group, religious  
3           group, social or cultural organization, or team  
4           associated with a youth athletics organization;  
5           and

6           “(iii) provides a birth certificate.”.

7 **SEC. 4. TRAVEL FACILITATION INITIATIVES.**

8           Section 7209 of the Intelligence Reform and Ter-  
9           rorism Prevention Act of 2004 (Public Law 108–458; 8  
10          U.S.C. 1185 note) is amended by adding at the end the  
11          following new subsections:

12          “(e) STATE DRIVER’S LICENSE AND IDENTIFICATION  
13          CARD ENROLLMENT PROGRAM.—

14                 “(1) IN GENERAL.—Notwithstanding any other  
15                 provision of law and not later than 180 days after  
16                 the submission of the report described in subsection  
17                 (b)(1)(C), the Secretary of State and the Secretary  
18                 of Homeland Security shall issue regulations to es-  
19                 tablish a State Driver’s License and Identity Card  
20                 Enrollment Program as described in this subsection  
21                 (hereinafter in this subsection referred to as the  
22                 ‘Program’) and which allows the Secretary of Home-  
23                 land Security to enter into a memorandum of under-  
24                 standing with an appropriate official of each State  
25                 that elects to participate in the Program.

1           “(2) PURPOSE.—The purpose of the Program  
2 is to permit a citizen of the United States who pro-  
3 duces a driver’s license or identity card that meets  
4 the requirements of paragraph (3) or a citizen of  
5 Canada who produces a document described in para-  
6 graph (4) to enter the United States from Canada  
7 by land or sea without providing any other docu-  
8 mentation or evidence of citizenship.

9           “(3) ADMISSION OF CITIZENS OF THE UNITED  
10 STATES.—A driver’s license or identity card meets  
11 the requirements of this paragraph if—

12                   “(A) the license or card—

13                           “(i) was issued by a State that is par-  
14 ticipating in the Program; and

15                           “(ii) is tamper-proof and machine  
16 readable; and

17                   “(B) the State that issued the license or  
18 card—

19                           “(i) has a mechanism to verify the  
20 United States citizenship status of an ap-  
21 plicant for such a license or card;

22                           “(ii) does not require an individual to  
23 include the individual’s citizenship status  
24 on such a license or card; and

1           “(iii) manages all information regard-  
2           ing an applicant’s United States citizen-  
3           ship status in the same manner as such in-  
4           formation collected through the United  
5           States passport application process and  
6           prohibits any other use or distribution of  
7           such information.

8           “(4) ADMISSION OF CITIZENS OF CANADA.—

9           “(A) IN GENERAL.—Notwithstanding any  
10          other provision of law, if the Secretary of State  
11          and the Secretary of Homeland Security deter-  
12          mine that an identity document issued by the  
13          Government of Canada or by the Government  
14          of a Province or Territory of Canada meets se-  
15          curity and information requirements com-  
16          parable to the requirements for a driver’s li-  
17          cense or identity card described in paragraph  
18          (3), the Secretary of Homeland Security shall  
19          permit a citizen of Canada to enter the United  
20          States from Canada using such a document  
21          without providing any other documentation or  
22          evidence of Canadian citizenship.

23          “(B) TECHNOLOGY STANDARDS.—The  
24          Secretary of Homeland Security shall work, to  
25          the maximum extent possible, to ensure that an

1 identification document issued by Canada that  
2 permits entry into the United States under sub-  
3 paragraph (A) utilizes technology similar to the  
4 technology utilized by identification documents  
5 issued by the United States or any State.

6 “(5) AUTHORITY TO EXPAND.—Notwith-  
7 standing any other provision of law, the Secretary of  
8 State and the Secretary of Homeland Security may  
9 expand the Program to permit an individual to enter  
10 the United States—

11 “(A) from a country other than Canada; or

12 “(B) using evidence of citizenship other  
13 than a driver’s license or identity card described  
14 in paragraph (3) or a document described in  
15 paragraph (4).

16 “(6) RELATIONSHIP TO OTHER REQUIRE-  
17 MENTS.—Nothing in this subsection shall have the  
18 effect of creating a national identity card or a cer-  
19 tification of citizenship for any purpose other than  
20 admission into the United States as described in this  
21 subsection.

22 “(7) STATE DEFINED.—In this subsection, the  
23 term ‘State’ means any of the several States of the  
24 United States, the Commonwealth of the Northern  
25 Mariana Islands, the Commonwealth of Puerto Rico,

1 the District of Columbia, Guam, the Virgin Islands  
2 of the United States, or any other territory or pos-  
3 session of the United States.

4 “(f) WAIVER FOR INTRASTATE TRAVEL.—The Sec-  
5 retary of Homeland Security shall accept a birth certifi-  
6 cate as proof of citizenship for any United States citizen  
7 who is traveling directly from one part of a State to a  
8 noncontiguous part of that State through Canada, if such  
9 citizen cannot travel by land to such part of the State  
10 without traveling through Canada, and such travel in Can-  
11 ada is limited to no more than 2 hours.

12 “(g) WAIVER OF PASS CARD AND PASSPORT EXECU-  
13 TION FEES.—

14 “(1) IN GENERAL.—Notwithstanding any other  
15 provision of law, during the 2-year period beginning  
16 on the date on which the Secretary of Homeland Se-  
17 curity publishes a final rule in the Federal Register  
18 to carry out subsection (b), the Secretary of State  
19 shall—

20 “(A) designate 1 facility in each city or  
21 port of entry designated under paragraph (2),  
22 including a State Department of Motor Vehicles  
23 facility located in such city or port of entry if  
24 the Secretary determines appropriate, in which  
25 a passport or passport card may be procured

1 without an execution fee during such period;  
2 and

3 “(B) develop not fewer than 6 mobile en-  
4 rollment teams that—

5 “(i) are able to issue passports or  
6 other identity documents issued by the  
7 Secretary of State without an execution fee  
8 during such period;

9 “(ii) are operated along the northern  
10 and southern borders of the United States;  
11 and

12 “(iii) focus on providing passports and  
13 other such documents to citizens of the  
14 United States who live in areas of the  
15 United States that are near such an inter-  
16 national border and that have relatively  
17 low population density.

18 “(2) DESIGNATION OF CITIES AND PORTS OF  
19 ENTRY.—The Secretary of State shall designate cit-  
20 ies and ports of entry for purposes of paragraph  
21 (1)(A) as follows:

22 “(A) The Secretary shall designate not  
23 fewer than 3 cities or ports of entry that are  
24 100 miles or less from the northern border of  
25 the United States.

1           “(B) The Secretary shall designate not  
2           fewer than 3 cities or ports of entry that are  
3           100 miles or less from the southern border of  
4           the United States.

5           “(h) COST-BENEFIT ANALYSIS.—Prior to publishing  
6 a final rule in the Federal Register to carry out subsection  
7 (b), the Secretary of Homeland Security shall conduct a  
8 complete cost-benefit analysis of carrying out this section.  
9 Such analysis shall include analysis of—

10           “(1) any potential costs of carrying out this  
11 section on trade, travel, and the tourism industry;  
12 and

13           “(2) any potential savings that would result  
14 from the implementation of the State Driver’s Li-  
15 cense and Identity Card Enrollment Program estab-  
16 lished under subsection (e) as an alternative to pass-  
17 ports and passport cards.

18           “(i) REPORT.—During the 2-year period beginning  
19 on the date that is the 3 months after the date on which  
20 the Secretary of Homeland Security begins implementa-  
21 tion of subsection (b)(1)—

22           “(1) the Secretary of Homeland Security shall  
23 submit to the appropriate congressional committees  
24 a report not less than once every 3 months on—

1           “(A) the average delay at border crossings;  
2           and

3           “(B) the average processing time for a  
4           NEXUS card, FAST card, or SENTRI card;  
5           and

6           “(2) the Secretary of State shall submit to the  
7           appropriate congressional committees a report not  
8           less than once every 3 months on the average pro-  
9           cessing time for a passport or passport card.

10          “(j) APPROPRIATE CONGRESSIONAL COMMITTEES  
11          DEFINED.—In this section, the term ‘appropriate congres-  
12          sional committees’ means—

13               “(1) the Committee on Appropriations, the  
14               Committee on Homeland Security and Governmental  
15               Affairs, and the Committee on the Judiciary of the  
16               Senate; and

17               “(2) the Committee on Appropriations, the  
18               Committee on Homeland Security, and the Com-  
19               mittee on the Judiciary of the House of Representa-  
20               tives.”.

21          **SEC. 5. SENSE OF CONGRESS REGARDING IMPLEMENTA-**  
22                               **TION OF THE WESTERN HEMISPHERE TRAV-**  
23                               **EL INITIATIVE.**

24               The intent of Congress in enacting section 546 of the  
25          Department of Homeland Security Appropriations Act,

1 2007 (Public Law 109–295; 120 Stat. 1386) was to pre-  
2 vent the Secretary of Homeland Security from imple-  
3 menting the plan described in section 7209(b)(1) of the  
4 Intelligence Reform and Terrorism Prevention Act of  
5 2004 (8 U.S.C. 1185 note) before the earlier of June 1,  
6 2009, or the date on which the Secretary certifies to Con-  
7 gress that an alternative travel document, known as a  
8 passport card, has been developed and widely distributed  
9 to eligible citizens of the United States.

10 **SEC. 6. PASSPORT PROCESSING STAFF AUTHORITIES.**

11 (a) REEMPLOYMENT OF CIVIL SERVICE ANNU-  
12 ITANTS.—Section 61(a) of the State Department Basic  
13 Authorities Act of 1956 (22 U.S.C. 2733(a)) is amend-  
14 ed—

15 (1) in paragraph (1), by striking “To facilitate”  
16 and all that follows through “, the Secretary” and  
17 inserting “The Secretary”; and

18 (2) in paragraph (2), by striking “2008” and  
19 inserting “2010”.

20 (b) REEMPLOYMENT OF FOREIGN SERVICE ANNU-  
21 ITANTS.—Section 824(g) of the Foreign Service Act of  
22 1980 (22 U.S.C. 4064(g)) is amended—

23 (1) in paragraph (1)(B), by striking “to facili-  
24 tate” and all that follows through “Afghanistan,”;  
25 and

1           (2) in paragraph (2), by striking “2008” and  
2           inserting “2010”.

3 **SEC. 7. REPORT ON BORDER INFRASTRUCTURE.**

4           (a) IN GENERAL.—Not later than 180 days after the  
5           date of enactment of this Act, the Secretary of Transpor-  
6           tation, in consultation with the Secretary of Homeland Se-  
7           curity, shall submit to the appropriate congressional com-  
8           mittees a report on the adequacy of the infrastructure of  
9           the United States to manage cross-border travel associ-  
10          ated with the NEXUS, FAST, and SENTRI programs.  
11          Such report shall include consideration of—

12                 (1) the ability of frequent travelers to access  
13                 dedicated lanes for such travel;

14                 (2) the total time required for border crossing,  
15                 including time spent prior to ports of entry;

16                 (3) the frequency, adequacy of facilities and any  
17                 additional delays associated with secondary inspec-  
18                 tions; and

19                 (4) the adequacy of readers to rapidly read  
20                 identity documents of such individuals.

21          (b) APPROPRIATE CONGRESSIONAL COMMITTEES  
22          DEFINED.—In this section, the term “appropriate con-  
23          gressional committees” means—

24                 (1) the Committee on Appropriations, the Com-  
25                 mittee on Homeland Security and Governmental Af-

1       fairs, and the Committee on the Judiciary of the  
2       Senate; and

3               (2) the Committee on Appropriations, the Com-  
4       mittee on Homeland Security, and the Committee on  
5       the Judiciary of the House of Representatives.

○