

112TH CONGRESS
2D SESSION

H. R. 4119

AN ACT

To reduce the trafficking of drugs and to prevent human smuggling across the Southwest Border by deterring the construction and use of border tunnels.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Border Tunnel Preven-
3 tion Act of 2012”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Trafficking and smuggling organizations are
7 intensifying their efforts to enter the United States
8 through tunnels and other subterranean passages
9 between Mexico and the United States.

10 (2) Border tunnels are most often used to
11 transport narcotics from Mexico to the United
12 States, but can also be used to transport people and
13 other contraband.

14 (3) From Fiscal Year 1990 to Fiscal Year
15 2011, law enforcement authorities discovered 149
16 cross-border tunnels along the border between Mex-
17 ico and the United States, 139 of which have been
18 discovered since Fiscal Year 2001. There has been
19 a dramatic increase in the number of cross-border
20 tunnels discovered in Arizona and California since
21 Fiscal Year 2006, with 40 tunnels discovered in
22 California and 74 tunnels discovered in Arizona.

23 (4) Section 551 of the Department of Home-
24 land Security Appropriations Act, 2007 (Public Law
25 109–295) added a new section to title 18, United
26 States Code (18 U.S.C. 555), which—

1 (A) criminalizes the construction or financ-
2 ing of an unauthorized tunnel or subterranean
3 passage across an international border into the
4 United States; and

5 (B) prohibits any person from recklessly
6 permitting others to construct or use an unau-
7 thorized tunnel or subterranean passage on the
8 person's land.

9 (5) Any person convicted of using a tunnel or
10 subterranean passage to smuggle aliens, weapons,
11 drugs, terrorists, or illegal goods is subject to an en-
12 hanced sentence for the underlying offense. Addi-
13 tional sentence enhancements would further deter
14 tunnel activities and increase prosecutorial options.

15 **SEC. 3. ATTEMPT OR CONSPIRACY TO USE, CONSTRUCT, OR**
16 **FINANCE A BORDER TUNNEL.**

17 Section 555 of title 18, United States Code, is
18 amended by adding at the end the following:

19 “(d) Any person who attempts or conspires to commit
20 any offense under subsection (a) or subsection (c) of this
21 section shall be subject to the same penalties as those pre-
22 scribed for the offense, the commission of which was the
23 object of the attempt or conspiracy.”.

1 **SEC. 4. AUTHORIZATION FOR INTERCEPTION OF WIRE,**
2 **ORAL, OR ELECTRONIC COMMUNICATIONS.**

3 Section 2516(1)(c) of title 18, United States Code,
4 is amended by inserting “, section 555 (relating to con-
5 struction or use of international border tunnels)” before
6 the semicolon at the end.

7 **SEC. 5. FORFEITURE.**

8 Section 982(a)(2)(B) of title 18, United States Code,
9 is amended by inserting “555,” after “545,”.

10 **SEC. 6. MONEY LAUNDERING DESIGNATION.**

11 Section 1956(c)(7)(D) of title 18, United States
12 Code, is amended by inserting “section 555 (relating to
13 border tunnels),” after “section 554 (relating to smug-
14 gling goods from the United States),”.

15 **SEC. 7. SENSE OF CONGRESS.**

16 It is the sense of Congress that—

17 (1) success in combating the construction and
18 use of cross-border tunnels requires cooperation be-
19 tween Federal, State, local, and tribal officials and
20 assistance from private land owners and tenants
21 across the border between Mexico and the United
22 States;

23 (2) the Department of Homeland Security is
24 currently engaging in outreach efforts in California
25 to certain landowners and tenants along the border

1 to educate them about cross-border tunnels and seek
2 their assistance in combating their construction; and

3 (3) the Department should continue its out-
4 reach efforts to both private and governmental land-
5 owners and tenants in areas along the border be-
6 tween Mexico and the United States with a high rate
7 of cross-border tunnels.

8 **SEC. 8. REPORT.**

9 (a) IN GENERAL.—The Secretary of Homeland Secu-
10 rity shall submit an annual report to the congressional
11 committees set forth in subsection (b) that includes a de-
12 scription of—

13 (1) the cross-border tunnels along the border
14 between Mexico and the United States discovered
15 during the preceding fiscal year; and

16 (2) the needs of the Department of Homeland
17 Security to effectively prevent, investigate and pros-
18 ecute border tunnel construction along the border
19 between Mexico and the United States.

20 (b) CONGRESSIONAL COMMITTEES.—The congres-
21 sional committees set forth in this subsection are—

22 (1) the Committee on Homeland Security and
23 Governmental Affairs of the Senate;

24 (2) the Committee on the Judiciary of the Sen-
25 ate;

1 (3) the Committee on Appropriations of the
2 Senate;

3 (4) the Committee on Homeland Security of the
4 House of Representatives;

5 (5) the Committee on the Judiciary of the
6 House of Representatives; and

7 (6) the Committee on Appropriations of the
8 House of Representatives.

Passed the House of Representatives May 16, 2012.

Attest:

Clerk.

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