

112TH CONGRESS
2D SESSION

H. R. 5889

To amend title 18, United States Code, to provide for protection of maritime navigation and prevention of nuclear terrorism, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2012

Mr. SMITH of Texas (for himself, Mr. CONYERS, Mr. SENSENBRENNER, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide for protection of maritime navigation and prevention of nuclear terrorism, 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 “Nuclear Terrorism
5 Conventions Implementation and Safety of Maritime Navi-
6 gation Act of 2012”.

1 **TITLE I—SAFETY OF MARITIME**
2 **NAVIGATION**

3 **SEC. 101. AMENDMENT TO SECTION 2280 OF TITLE 18,**
4 **UNITED STATES CODE.**

5 Section 2280 of title 18, United States Code, is
6 amended—

7 (1) in subsection (b)—

8 (A) in paragraph (1)(A)(i), by striking “a
9 ship flying the flag of the United States” and
10 inserting “a vessel of the United States or a
11 vessel subject to the jurisdiction of the United
12 States (as defined in section 70502 of title
13 46)”;

14 (B) in paragraph (1)(A)(ii), by inserting “,
15 including the territorial seas” after “in the
16 United States”; and

17 (C) in paragraph (1)(A)(iii), by inserting
18 “, by a United States corporation or legal enti-
19 ty,” after “by a national of the United States”;

20 (2) in subsection (c), by striking “section 2(c)”
21 and inserting “section 13(c)”;

22 (3) by striking subsection (d);

23 (4) by striking subsection (e) and inserting
24 after subsection (c):

1 “(d) DEFINITIONS.—As used in this section, section
2 2280a, section 2281, and section 2281a, the term—

3 “(1) ‘applicable treaty’ means—

4 “(A) the Convention for the Suppression of
5 Unlawful Seizure of Aircraft, done at The
6 Hague on 16 December 1970;

7 “(B) the Convention for the Suppression of
8 Unlawful Acts against the Safety of Civil Avia-
9 tion, done at Montreal on 23 September 1971;

10 “(C) the Convention on the Prevention and
11 Punishment of Crimes against Internationally
12 Protected Persons, including Diplomatic
13 Agents, adopted by the General Assembly of the
14 United Nations on 14 December 1973;

15 “(D) International Convention against the
16 Taking of Hostages, adopted by the General
17 Assembly of the United Nations on 17 Decem-
18 ber 1979;

19 “(E) the Convention on the Physical Pro-
20 tection of Nuclear Material, done at Vienna on
21 26 October 1979;

22 “(F) the Protocol for the Suppression of
23 Unlawful Acts of Violence at Airports Serving
24 International Civil Aviation, supplementary to
25 the Convention for the Suppression of Unlawful

1 Acts against the Safety of Civil Aviation, done
2 at Montreal on 24 February 1988;

3 “(G) the Protocol for the Suppression of
4 Unlawful Acts against the Safety of Fixed Plat-
5 forms Located on the Continental Shelf, done
6 at Rome on 10 March 1988;

7 “(H) International Convention for the
8 Suppression of Terrorist Bombings, adopted by
9 the General Assembly of the United Nations on
10 15 December 1997; and

11 “(I) International Convention for the Sup-
12 pression of the Financing of Terrorism, adopted
13 by the General Assembly of the United Nations
14 on 9 December 1999;

15 “(2) ‘armed conflict’ does not include internal
16 disturbances and tensions, such as riots, isolated
17 and sporadic acts of violence, and other acts of a
18 similar nature;

19 “(3) ‘biological weapon’ means—

20 “(A) microbial or other biological agents,
21 or toxins whatever their origin or method of
22 production, of types and in quantities that have
23 no justification for prophylactic, protective, or
24 other peaceful purposes; or

1 “(B) weapons, equipment, or means of de-
2 livery designed to use such agents or toxins for
3 hostile purposes or in armed conflict;

4 “(4) ‘chemical weapon’ means, together or sepa-
5 rately—

6 “(A) toxic chemicals and their precursors,
7 except where intended for—

8 “(i) industrial, agricultural, research,
9 medical, pharmaceutical, or other peaceful
10 purposes;

11 “(ii) protective purposes, namely those
12 purposes directly related to protection
13 against toxic chemicals and to protection
14 against chemical weapons;

15 “(iii) military purposes not connected
16 with the use of chemical weapons and not
17 dependent on the use of the toxic prop-
18 erties of chemicals as a method of warfare;
19 or

20 “(iv) law enforcement including do-
21 mestic riot control purposes,
22 as long as the types and quantities are con-
23 sistent with such purposes;

24 “(B) munitions and devices, specifically de-
25 signed to cause death or other harm through

1 the toxic properties of those toxic chemicals
2 specified in subparagraph (A), which would be
3 released as a result of the employment of such
4 munitions and devices; and

5 “(C) any equipment specifically designed
6 for use directly in connection with the employ-
7 ment of munitions and devices specified in sub-
8 paragraph (B);

9 “(5) ‘covered ship’ means a ship that is navi-
10 gating or is scheduled to navigate into, through or
11 from waters beyond the outer limit of the territorial
12 sea of a single country or a lateral limit of that
13 country’s territorial sea with an adjacent country;

14 “(6) ‘explosive material’ has the meaning given
15 the term in section 841(c) and includes explosive as
16 defined in section 844(j) of this title;

17 “(7) ‘infrastructure facility’ has the meaning
18 given the term in section 2332f(e)(5) of this title;

19 “(8) ‘international organization’ has the mean-
20 ing given the term in section 831(f)(3) of this title;

21 “(9) ‘military forces of a state’ means the
22 armed forces of a state which are organized, trained,
23 and equipped under its internal law for the primary
24 purpose of national defense or security, and persons
25 acting in support of those armed forces who are

1 under their formal command, control, and responsi-
2 bility;

3 “(10) ‘national of the United States’ has the
4 meaning stated in section 101(a)(22) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1101(a)(22));

6 “(11) ‘Non-Proliferation Treaty’ means the
7 Treaty on the Non-Proliferation of Nuclear Weap-
8 ons, done at Washington, London, and Moscow on
9 1 July 1968;

10 “(12) ‘Non-Proliferation Treaty State Party’
11 means any State Party to the Non-Proliferation
12 Treaty, to include Taiwan, which shall be considered
13 to have the obligations under the Non-Proliferation
14 Treaty of a party to that treaty other than a Nu-
15 clear Weapon State Party to the Non-Proliferation
16 Treaty;

17 “(13) ‘Nuclear Weapon State Party to the Non-
18 Proliferation Treaty’ means a State Party to the
19 Non-Proliferation Treaty that is a nuclear-weapon
20 State, as that term is defined in Article IX(3) of the
21 Non-Proliferation Treaty;

22 “(14) ‘place of public use’ has the meaning
23 given the term in section 2332f(e)(6) of this title;

24 “(15) ‘precursor’ has the meaning given the
25 term in section 229F(6)(A) of this title;

1 “(16) ‘public transport system’ has the meaning
2 given the term in section 2332f(e)(6) of this title;

3 “(17) ‘serious injury or damage’ means—

4 “(A) serious bodily injury,

5 “(B) extensive destruction of a place of
6 public use, State or government facility, infra-
7 structure facility, or public transportation sys-
8 tem, resulting in major economic loss, or

9 “(C) substantial damage to the environ-
10 ment, including air, soil, water, fauna, or flora;

11 “(18) ‘ship’ means a vessel of any type whatso-
12 ever not permanently attached to the sea-bed, in-
13 cluding dynamically supported craft, submersibles,
14 or any other floating craft, but does not include a
15 warship, a ship owned or operated by a government
16 when being used as a naval auxiliary or for customs
17 or police purposes, or a ship which has been with-
18 drawn from navigation or laid up;

19 “(19) ‘source material’ has the meaning given
20 that term in the International Atomic Energy Agen-
21 cy Statute, done at New York on 26 October 1956;

22 “(20) ‘special fissionable material’ has the
23 meaning given that term in the International Atomic
24 Energy Agency Statute, done at New York on 26
25 October 1956;

1 “(21) ‘territorial sea of the United States’
2 means all waters extending seaward to 12 nautical
3 miles from the baselines of the United States deter-
4 mined in accordance with international law;

5 “(22) ‘toxic chemical’ has the meaning given
6 the term in section 229F(8)(A) of this title;

7 “(23) ‘transport’ means to initiate, arrange or
8 exercise effective control, including decisionmaking
9 authority, over the movement of a person or item;
10 and

11 “(24) ‘United States’, when used in a geo-
12 graphical sense, includes the Commonwealth of
13 Puerto Rico, the Commonwealth of the Northern
14 Mariana Islands, and all territories and possessions
15 of the United States.”; and

16 (5) inserting after subsection (d) (as added by
17 paragraph (4) of this section) the following:

18 “(e) EXCEPTIONS.—This section shall not apply to—

19 “(1) the activities of armed forces during an
20 armed conflict, as those terms are understood under
21 the law of war, which are governed by that law; or

22 “(2) activities undertaken by military forces of
23 a state in the exercise of their official duties.

24 “(f) DELIVERY OF SUSPECTED OFFENDER.—The
25 master of a covered ship flying the flag of the United

1 States who has reasonable grounds to believe that there
2 is on board that ship any person who has committed an
3 offense under section 2280 or section 2280a may deliver
4 such person to the authorities of a country that is a party
5 to the Convention for the Suppression of Unlawful Acts
6 against the Safety of Maritime Navigation. Before deliv-
7 ering such person to the authorities of another country,
8 the master shall notify in an appropriate manner the At-
9 torney General of the United States of the alleged offense
10 and await instructions from the Attorney General as to
11 what action to take. When delivering the person to a coun-
12 try which is a state party to the Convention, the master
13 shall, whenever practicable, and if possible before entering
14 the territorial sea of such country, notify the authorities
15 of such country of the master's intention to deliver such
16 person and the reasons therefor. If the master delivers
17 such person, the master shall furnish to the authorities
18 of such country the evidence in the master's possession
19 that pertains to the alleged offense.

20 “(g)(1) CIVIL FORFEITURE.—Any real or personal
21 property used or intended to be used to commit or to fa-
22 cilitate the commission of a violation of this section, the
23 gross proceeds of such violation, and any real or personal
24 property traceable to such property or proceeds, shall be
25 subject to forfeiture.

1 “(2) APPLICABLE PROCEDURES.—Seizures and for-
 2 feitures under this section shall be governed by the provi-
 3 sions of chapter 46 of title 18, United States Code, relat-
 4 ing to civil forfeitures, except that such duties as are im-
 5 posed upon the Secretary of the Treasury under the cus-
 6 toms laws described in section 981(d) shall be performed
 7 by such officers, agents, and other persons as may be des-
 8 ignated for that purpose by the Secretary of Homeland
 9 Security, the Attorney General, or the Secretary of De-
 10 fense.”.

11 **SEC. 102. NEW SECTION 2280a OF TITLE 18, UNITED STATES**
 12 **CODE.**

13 Chapter 111 of title 18, United States Code, is
 14 amended by adding after section 2280 the following new
 15 section:

16 **“§ 2280a. Violence against maritime navigation and**
 17 **maritime transport involving weapons of**
 18 **mass destruction**

19 “(a) OFFENSES.—

20 “(1) IN GENERAL.—Subject to the exceptions in
 21 subsection (c), a person who unlawfully and inten-
 22 tionally—

23 “(A) when the purpose of the act, by its
 24 nature or context, is to intimidate a population,
 25 or to compel a government or an international

1 organization to do or to abstain from doing any
2 act—

3 “(i) uses against or on a ship or dis-
4 charges from a ship any explosive or radio-
5 active material, biological, chemical, or nu-
6 clear weapon or other nuclear explosive de-
7 vice in a manner that causes or is likely to
8 cause death to any person or serious injury
9 or damage;

10 “(ii) discharges from a ship oil, lique-
11 fied natural gas, or another hazardous or
12 noxious substance that is not covered by
13 clause (i), in such quantity or concentra-
14 tion that causes or is likely to cause death
15 to any person or serious injury or damage;
16 or

17 “(iii) uses a ship in a manner that
18 causes death to any person or serious in-
19 jury or damage;

20 “(B) transports on board a ship—

21 “(i) any explosive or radioactive mate-
22 rial, knowing that it is intended to be used
23 to cause, or in a threat to cause, death to
24 any person or serious injury or damage for
25 the purpose of intimidating a population,

1 or compelling a government or an inter-
2 national organization to do or to abstain
3 from doing any act;

4 “(ii) any biological, chemical, or nu-
5 clear weapon or other nuclear explosive de-
6 vice, knowing it to be a biological, chem-
7 ical, or nuclear weapon or other nuclear
8 explosive device;

9 “(iii) any source material, special fis-
10 sionable material, or equipment or material
11 especially designed or prepared for the
12 processing, use, or production of special
13 fissionable material, knowing that it is in-
14 tended to be used in a nuclear explosive ac-
15 tivity or in any other nuclear activity not
16 under safeguards pursuant to an Inter-
17 national Atomic Energy Agency com-
18 prehensive safeguards agreement, except
19 where—

20 “(I) such item is transported to
21 or from the territory of, or otherwise
22 under the control of, a Non-Prolifera-
23 tion Treaty State Party; and

24 “(II) the resulting transfer or re-
25 ceipt (including internal to a country)

1 is not contrary to the obligations
2 under the Non-Proliferation Treaty of
3 the Non-Proliferation Treaty State
4 Party from which, to the territory of
5 which, or otherwise under the control
6 of which such item is transferred;

7 “(iv) any equipment, materials, or
8 software or related technology that signifi-
9 cantly contributes to the design or manu-
10 facture of a nuclear weapon or other nu-
11 clear explosive device, with the intention
12 that it will be used for such purpose, ex-
13 cept where—

14 “(I) the country to the territory
15 of which or under the control of which
16 such item is transferred is a Nuclear
17 Weapon State Party to the Non-Pro-
18 liferation Treaty; and

19 “(II) the resulting transfer or re-
20 ceipt (including internal to a country)
21 is not contrary to the obligations
22 under the Non-Proliferation Treaty of
23 a Non-Proliferation Treaty State
24 Party from which, to the territory of

1 which, or otherwise under the control
2 of which such item is transferred;

3 “(v) any equipment, materials, or
4 software or related technology that signifi-
5 cantly contributes to the delivery of a nu-
6 clear weapon or other nuclear explosive de-
7 vice, with the intention that it will be used
8 for such purpose, except where—

9 “(I) such item is transported to
10 or from the territory of, or otherwise
11 under the control of, a Non-Prolifera-
12 tion Treaty State Party; and

13 “(II) such item is intended for
14 the delivery system of a nuclear weap-
15 on or other nuclear explosive device of
16 a Nuclear Weapon State Party to the
17 Non-Proliferation Treaty; or

18 “(vi) any equipment, materials, or
19 software or related technology that signifi-
20 cantly contributes to the design, manufac-
21 ture, or delivery of a biological or chemical
22 weapon, with the intention that it will be
23 used for such purpose;

24 “(C) transports another person on board a
25 ship knowing that the person has committed an

1 act that constitutes an offense under section
2 2280 or subparagraphs (A), (B), (D), or (E) of
3 this section or an offense set forth in an appli-
4 cable treaty, as specified in section 2280(d)(1),
5 and intending to assist that person to evade
6 criminal prosecution;

7 “(D) injures or kills any person in connec-
8 tion with the commission or the attempted com-
9 mission of any of the offenses set forth in sub-
10 subparagraphs (A) through (C), or subsection
11 (a)(2), to the extent that the subsection (a)(2)
12 offense pertains to subparagraph (A); or

13 “(E) attempts to do any act prohibited
14 under subparagraphs (A), (B) or (D), or con-
15 spires to do any act prohibited by subpara-
16 graphs (A) through (E) or subsection (a)(2),
17 shall be fined under this title, imprisoned not more
18 than 20 years, or both; and if the death of any per-
19 son results from conduct prohibited by this para-
20 graph, shall be imprisoned for any term of years or
21 for life.

22 “(2) THREATS.—A person who threatens, with
23 apparent determination and will to carry the threat
24 into execution, to do any act prohibited under para-

1 graph (1)(A) shall be fined under this title, impris-
2 oned not more than 5 years, or both.

3 “(b) JURISDICTION.—There is jurisdiction over the
4 activity prohibited in subsection (a)—

5 “(1) in the case of a covered ship, if—

6 “(A) such activity is committed—

7 “(i) against or on board a vessel of
8 the United States or a vessel subject to the
9 jurisdiction of the United States (as de-
10 fined in section 70502 of title 46) at the
11 time the prohibited activity is committed;

12 “(ii) in the United States, including
13 the territorial seas; or

14 “(iii) by a national of the United
15 States, by a United States corporation or
16 legal entity, or by a stateless person whose
17 habitual residence is in the United States;

18 “(B) during the commission of such activ-
19 ity, a national of the United States is seized,
20 threatened, injured, or killed; or

21 “(C) the offender is later found in the
22 United States after such activity is committed;

23 “(2) in the case of a ship navigating or sched-
24 uled to navigate solely within the territorial sea or
25 internal waters of a country other than the United

1 States, if the offender is later found in the United
2 States after such activity is committed; or

3 “(3) in the case of any vessel, if such activity
4 is committed in an attempt to compel the United
5 States to do or abstain from doing any act.

6 “(c) EXCEPTIONS.—This section shall not apply to—

7 “(1) the activities of armed forces during an
8 armed conflict, as those terms are understood under
9 the law of war, which are governed by that law; or

10 “(2) activities undertaken by military forces of
11 a state in the exercise of their official duties.

12 “(d)(1) CIVIL FORFEITURE.—Any real or personal
13 property used or intended to be used to commit or to fa-
14 cilitate the commission of a violation of this section, the
15 gross proceeds of such violation, and any real or personal
16 property traceable to such property or proceeds, shall be
17 subject to forfeiture.

18 “(2) APPLICABLE PROCEDURES.—Seizures and for-
19 feitures under this section shall be governed by the provi-
20 sions of chapter 46 of title 18, United States Code, relat-
21 ing to civil forfeitures, except that such duties as are im-
22 posed upon the Secretary of the Treasury under the cus-
23 toms laws described in section 981(d) shall be performed
24 by such officers, agents, and other persons as may be des-
25 igned for that purpose by the Secretary of Homeland

1 Security, the Attorney General, or the Secretary of De-
2 fense.”.

3 **SEC. 103. AMENDMENTS TO SECTION 2281 OF TITLE 18,**
4 **UNITED STATES CODE.**

5 Section 2281 of title 18, United States Code, is
6 amended—

7 (1) in subsection (c), by striking “section 2(c)”
8 and inserting “section 13(c)”;

9 (2) in subsection (d), by striking the definitions
10 of “national of the United States,” “territorial sea
11 of the United States,” and “United States”; and

12 (3) by inserting after subsection (d) the fol-
13 lowing:

14 “(e) EXCEPTIONS.—This section does not apply to—

15 “(1) the activities of armed forces during an
16 armed conflict, as those terms are understood under
17 the law of war, which are governed by that law; or

18 “(2) activities undertaken by military forces of
19 a state in the exercise of their official duties.”.

20 **SEC. 104. NEW SECTION 2281a OF TITLE 18, UNITED STATES**
21 **CODE.**

22 Chapter 111 of title 18, United States Code, is
23 amended by adding after section 2281 the following new
24 section:

1 **“§ 2281a. Additional offenses against maritime fixed**
2 **platforms**

3 “(a) OFFENSES.—

4 “(1) IN GENERAL.—A person who unlawfully
5 and intentionally—

6 “(A) when the purpose of the act, by its
7 nature or context, is to intimidate a population,
8 or to compel a government or an international
9 organization to do or to abstain from doing any
10 act—

11 “(i) uses against or on a fixed plat-
12 form or discharges from a fixed platform
13 any explosive or radioactive material, bio-
14 logical, chemical, or nuclear weapon in a
15 manner that causes or is likely to cause
16 death or serious injury or damage; or

17 “(ii) discharges from a fixed platform
18 oil, liquefied natural gas, or another haz-
19 ardous or noxious substance that is not
20 covered by clause (i), in such quantity or
21 concentration that causes or is likely to
22 cause death or serious injury or damage;

23 “(B) injures or kills any person in connec-
24 tion with the commission or the attempted com-
25 mission of any of the offenses set forth in sub-
26 paragraph (A); or

1 “(C) attempts or conspires to do anything
2 prohibited under subparagraphs (A) or (B),
3 shall be fined under this title, imprisoned not more
4 than 20 years, or both; and if death results to any
5 person from conduct prohibited by this paragraph,
6 shall be imprisoned for any term of years or for life.

7 “(2) THREAT TO SAFETY.—A person who
8 threatens, with apparent determination and will to
9 carry the threat into execution, to do any act prohib-
10 ited under paragraph (1)(A), shall be fined under
11 this title, imprisoned not more than 5 years, or both.

12 “(b) JURISDICTION.—There is jurisdiction over the
13 activity prohibited in subsection (a) if—

14 “(1) such activity is committed against or on
15 board a fixed platform—

16 “(A) that is located on the continental
17 shelf of the United States;

18 “(B) that is located on the continental
19 shelf of another country, by a national of the
20 United States or by a stateless person whose
21 habitual residence is in the United States; or

22 “(C) in an attempt to compel the United
23 States to do or abstain from doing any act;

24 “(2) during the commission of such activity
25 against or on board a fixed platform located on a

1 continental shelf, a national of the United States is
2 seized, threatened, injured, or killed; or

3 “(3) such activity is committed against or on
4 board a fixed platform located outside the United
5 States and beyond the continental shelf of the
6 United States and the offender is later found in the
7 United States.

8 “(c) EXCEPTIONS.—This section does not apply to—

9 “(1) the activities of armed forces during an
10 armed conflict, as those terms are understood under
11 the law of war, which are governed by that law; or

12 “(2) activities undertaken by military forces of
13 a state in the exercise of their official duties.

14 “(d) DEFINITIONS.—In this section—

15 “(1) ‘continental shelf’ means the sea-bed and
16 subsoil of the submarine areas that extend beyond a
17 country’s territorial sea to the limits provided by
18 customary international law as reflected in Article
19 76 of the 1982 Convention on the Law of the Sea;
20 and

21 “(2) ‘fixed platform’ means an artificial island,
22 installation, or structure permanently attached to
23 the sea-bed for the purpose of exploration or exploi-
24 tation of resources or for other economic purposes.”.

1 **SEC. 105. ANCILLARY MEASURE.**

2 Section 2332b(g)(5)(B) of title 18, United States
3 Code, is amended by inserting “2280a (relating to mari-
4 time safety)” before “2281”, and by striking “2281” and
5 inserting “2281 through 2281a”.

6 **TITLE II—PREVENTION OF**
7 **NUCLEAR TERRORISM**

8 **SEC. 201. NEW SECTION 2332I OF TITLE 18.**

9 (a) IN GENERAL.—Chapter 113B of title 18, United
10 States Code, is amended by adding after section 2332h
11 the following:

12 **“§ 2332i. Acts of nuclear terrorism**

13 “(a) OFFENSES.—

14 “(1) IN GENERAL.—Whoever knowingly and
15 unlawfully—

16 “(A) possesses radioactive material or
17 makes or possesses a device—

18 “(i) with the intent to cause death or
19 serious bodily injury; or

20 “(ii) with the intent to cause substan-
21 tial damage to property or the environ-
22 ment; or

23 “(B) uses in any way radioactive material
24 or a device, or uses or damages or interferes
25 with the operation of a nuclear facility in a
26 manner that causes the release of or increases

1 the risk of the release of radioactive material,
2 or causes radioactive contamination or exposure
3 to radiation—

4 “(i) with the intent to cause death or
5 serious bodily injury or with the knowledge
6 that such act is likely to cause death or se-
7 rious bodily injury;

8 “(ii) with the intent to cause substan-
9 tial damage to property or the environment
10 or with the knowledge that such act is like-
11 ly to cause substantial damage to property
12 or the environment; or

13 “(iii) with the intent to compel a per-
14 son, an international organization or a
15 country to do or refrain from doing an act,
16 shall be punished as prescribed in subsection
17 (c).

18 “(2) THREATS.—Whoever, under circumstances
19 in which the threat may reasonably be believed,
20 threatens to commit an offense under paragraph (1)
21 shall be punished as prescribed in subsection (c).
22 Whoever demands possession of or access to radio-
23 active material, a device or a nuclear facility by
24 threat or by use of force shall be punished as pre-
25 scribed in subsection (c).

1 “(3) ATTEMPTS AND CONSPIRACIES.—Whoever
2 attempts to commit an offense under paragraph (1)
3 or conspires to commit an offense under paragraphs
4 (1) or (2) shall be punished as prescribed in sub-
5 section (c).

6 “(b) JURISDICTION.—Conduct prohibited by sub-
7 section (a) is within the jurisdiction of the United States
8 if—

9 “(1) the prohibited conduct takes place in the
10 United States or the special aircraft jurisdiction of
11 the United States;

12 “(2) the prohibited conduct takes place outside
13 of the United States and—

14 “(A) is committed by a national of the
15 United States, a United States corporation or
16 legal entity or a stateless person whose habitual
17 residence is in the United States;

18 “(B) is committed on board a vessel of the
19 United States or a vessel subject to the jurisdic-
20 tion of the United States (as defined in section
21 70502 of title 46) or on board an aircraft that
22 is registered under United States law, at the
23 time the offense is committed; or

24 “(C) is committed in an attempt to compel
25 the United States to do or abstain from doing

1 any act, or constitutes a threat directed at the
2 United States;

3 “(3) the prohibited conduct takes place outside
4 of the United States and a victim or an intended vic-
5 tim is a national of the United States or a United
6 States corporation or legal entity, or the offense is
7 committed against any state or government facility
8 of the United States; or

9 “(4) a perpetrator of the prohibited conduct is
10 found in the United States.

11 “(c) PENALTIES.—Whoever violates this section shall
12 be fined not more than \$2,000,000 and shall be impris-
13 oned for any term of years or for life.

14 “(d) NONAPPLICABILITY.—This section does not
15 apply to—

16 “(1) the activities of armed forces during an
17 armed conflict, as those terms are understood under
18 the law of war, which are governed by that law; or

19 “(2) activities undertaken by military forces of
20 a state in the exercise of their official duties.

21 “(e) DEFINITIONS.—As used in this section, the
22 term—

23 “(1) ‘armed conflict’ has the meaning given
24 that term in section 2332f(e)(11) of this title;

25 “(2) ‘device’ means:

1 “(A) any nuclear explosive device; or

2 “(B) any radioactive material dispersal or
3 radiation-emitting device that may, owing to its
4 radiological properties, cause death, serious
5 bodily injury or substantial damage to property
6 or the environment;

7 “(3) ‘international organization’ has the mean-
8 ing given that term in section 831(f)(3) of this title;

9 “(4) ‘military forces of a state’ means the
10 armed forces of a country that are organized,
11 trained and equipped under its internal law for the
12 primary purpose of national defense or security and
13 persons acting in support of those armed forces who
14 are under their formal command, control and re-
15 sponsibility;

16 “(5) ‘national of the United States’ has the
17 meaning given that term in section 101(a)(22) of
18 the Immigration and Nationality Act (8 U.S.C.
19 1101(a)(22));

20 “(6) ‘nuclear facility’ means:

21 “(A) any nuclear reactor, including reac-
22 tors on vessels, vehicles, aircraft or space ob-
23 jects for use as an energy source in order to
24 propel such vessels, vehicles, aircraft or space
25 objects or for any other purpose;

1 “(B) any plant or conveyance being used
2 for the production, storage, processing or trans-
3 port of radioactive material; or

4 “(C) a facility (including associated build-
5 ings and equipment) in which nuclear material
6 is produced, processed, used, handled, stored or
7 disposed of, if damage to or interference with
8 such facility could lead to the release of signifi-
9 cant amounts of radiation or radioactive mate-
10 rial;

11 “(7) ‘nuclear material’ has the meaning given
12 that term in section 831(f)(1) of this title;

13 “(8) ‘radioactive material’ means nuclear mate-
14 rial and other radioactive substances that contain
15 nuclides that undergo spontaneous disintegration (a
16 process accompanied by emission of one or more
17 types of ionizing radiation, such as alpha-, beta-,
18 neutron particles and gamma rays) and that may,
19 owing to their radiological or fissile properties, cause
20 death, serious bodily injury or substantial damage to
21 property or to the environment;

22 “(9) ‘serious bodily injury’ has the meaning
23 given that term in section 831(f)(4) of this title;

1 “(10) ‘state’ has the same meaning as that
2 term has under international law, and includes all
3 political subdivisions thereof;

4 “(11) ‘state or government facility’ has the
5 meaning given that term in section 2332f(e)(3) of
6 this title;

7 “(12) ‘United States corporation or legal entity’
8 means any corporation or other entity organized
9 under the laws of the United States or any State,
10 Commonwealth, territory, possession or district of
11 the United States;

12 “(13) ‘vessel’ has the meaning given that term
13 in section 1502(19) of title 33; and

14 “(14) ‘vessel of the United States’ has the
15 meaning given that term in section 70502 of title
16 46.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of chapter 113B of title 18, United
19 States Code, is amended by inserting after section 2332h
20 the following:

“2332i. Acts of nuclear terrorism.”.

21 (c) DISCLAIMER.—Nothing contained in this section
22 is intended to affect the applicability of any other Federal
23 or State law that might pertain to the underlying conduct.

1 **SEC. 202. AMENDMENT TO SECTION 831 OF TITLE 18 OF THE**
2 **U.S. CODE.**

3 Section 831 of title 18, United States Code, is
4 amended—

5 (a) in subsection (a)—

6 (1) by redesignating paragraphs (3) through
7 (8) as (4) through (9);

8 (2) by inserting after paragraph (2) the fol-
9 lowing:

10 “(3) without lawful authority, intentionally car-
11 ries, sends or moves nuclear material into or out of
12 a country;”;

13 (3) in redesignated paragraph (8), by striking
14 “an offense under paragraph (1), (2), (3), or (4)”
15 and inserting “any act prohibited under paragraphs
16 (1) through (5)”; and

17 (4) in redesignated paragraph (9), by striking
18 “an offense under paragraph (1), (2), (3), or (4)”
19 and inserting “any act prohibited under paragraphs
20 (1) through (7)”; and

21 (b) in subsection (b)—

22 (1) in paragraph (1), by striking “(7)” and in-
23 serting “(8)”; and

24 (2) in paragraph (2), by striking “(8)” and in-
25 serting “(9)”; and

26 (c) in subsection (c)—

1 (1) in subparagraph (2)(A), by adding after
2 “United States” the following: “or a stateless person
3 whose habitual residence is in the United States”;

4 (2) by striking paragraph (5);

5 (3) in paragraph (4), by striking the final “or”;

6 (4) by inserting after paragraph (4):

7 “(5) the offense is committed on board a vessel
8 of the United States or a vessel subject to the juris-
9 diction of the United States (as defined in section
10 70502 of title 46) or on board an aircraft that is
11 registered under United States law, at the time the
12 offense is committed;

13 “(6) the offense is committed outside the
14 United States and against any state or government
15 facility of the United States; or

16 “(7) the offense is committed in an attempt to
17 compel the United States to do or abstain from
18 doing any act, or constitutes a threat directed at the
19 United States.”.

20 (d) redesignating subsections (d) through (f) as (e)
21 through (g), respectively;

22 (e) inserting after subsection (c):

23 “(d) NONAPPLICABILITY.—This section does not
24 apply to—

1 “(1) the activities of armed forces during an
2 armed conflict, as those terms are understood under
3 the law of war, which are governed by that law; or

4 “(2) activities undertaken by military forces of
5 a state in the exercise of their official duties.”; and
6 (f) in redesignated subsection (g)—

7 (1) in paragraph (6), by striking the final
8 “and”;

9 (2) in paragraph (7), by striking the final pe-
10 riod and inserting a semicolon; and

11 (3) by inserting after paragraph 7 the fol-
12 lowing:

13 “(8) the term ‘armed conflict’ has the meaning
14 given that term in section 2332f(e)(11) of this title;

15 “(9) the term ‘military forces of a state’ means
16 the armed forces of a country that are organized,
17 trained and equipped under its internal law for the
18 primary purpose of national defense or security and
19 persons acting in support of those armed forces who
20 are under their formal command, control and re-
21 sponsibility;

22 “(10) the term ‘state’ has the same meaning as
23 that term has under international law, and includes
24 all political subdivisions thereof;

1 “(11) the term ‘state or government facility’
2 has the meaning given that term in 2332f(e)(3) of
3 this title; and

4 “(12) the term ‘vessel of the United States’ has
5 the meaning given that term in section 70502 of
6 title 46.”.

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