

Calendar No. 320

113TH CONGRESS
2^D SESSION

S. 1410

To focus limited Federal resources on the most serious offenders.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2013

Mr. DURBIN (for himself, Mr. LEE, Mr. LEAHY, Mr. WHITEHOUSE, Mr. PAUL, Mr. KING, Mr. HEINRICH, Mr. LEVIN, Mr. FLAKE, Mr. CRUZ, Mrs. GILLIBRAND, Mr. CARDIN, Mr. MURPHY, Mr. UDALL of New Mexico, and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MARCH 11, 2014

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To focus limited Federal resources on the most serious offenders.

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 “Smarter Sentencing
5 Act of 2013”.

1 **SEC. 2. APPLICABILITY OF STATUTORY MINIMUMS.**

2 Section 3553(f)(1) of title 18, United States Code,
3 is amended by striking “defendant” and all that follows
4 through “point” and inserting “criminal history category
5 for the defendant is not higher than category 2”.

6 **SEC. 3. CLARIFICATION OF APPLICABILITY OF THE FAIR**
7 **SENTENCING ACT.**

8 (a) **DEFINITION OF COVERED OFFENSE.**—In this
9 section, the term “covered offense” means a violation of
10 a Federal criminal statute, the statutory penalties for
11 which were modified by section 2 or 3 of the Fair Sen-
12 tencing Act of 2010 (Public Law 111–220; 124 Stat.
13 2372), that was committed before August 3, 2010.

14 (b) **DEFENDANTS PREVIOUSLY SENTENCED.**—A
15 court that imposed a sentence for a covered offense, may,
16 on motion of the defendant, the Director of the Bureau
17 of Prisons, the attorney for the Government, or the court,
18 impose a reduced sentence as if sections 2 and 3 of the
19 Fair Sentencing Act of 2010 (Public Law 111–220; 124
20 Stat. 2372) were in effect at the time the covered offense
21 was committed.

22 (c) **LIMITATIONS.**—No court shall entertain a motion
23 made under this section to reduce a sentence if the sen-
24 tence was previously imposed or previously reduced in ac-
25 cordance with the amendments made by sections 2 and
26 3 of the Fair Sentencing Act of 2010 (Public Law 111–

1 ~~220, 124 Stat. 2372)~~ or if a motion made under this sec-
2 tion to reduce the sentence was previously denied. Nothing
3 in this section shall be construed to require a court to re-
4 duce any sentence pursuant to this section.

5 **SEC. 4. SENTENCING MODIFICATIONS FOR CERTAIN DRUG**
6 **OFFENSES.**

7 (a) **CONTROLLED SUBSTANCES ACT.**—Section
8 401(b)(1) of the Controlled Substances Act (21 U.S.C.
9 841(b)(1)) is amended—

10 (1) in subparagraph (A), in the flush text fol-
11 lowing clause (viii)—

12 (A) by striking “10 years or more” and in-
13 serting “5 years or more”; and

14 (B) by striking “such person shall be sen-
15 tenced to a term of imprisonment which may
16 not be less than 20 years and” and inserting
17 “such person shall be sentenced to a term of
18 imprisonment which may not be less than 10
19 years and”; and

20 (2) in subparagraph (B), in the flush text fol-
21 lowing clause (viii)—

22 (A) by striking “5 years” and inserting “2
23 years”; and

24 (B) by striking “not be less than 10 years”
25 and inserting “not be less than 5 years”.

1 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
 2 ACT.—Section 1010(b) of the Controlled Substances Im-
 3 port and Export Act (21 U.S.C. 960(b)) is amended—

4 (1) in paragraph (1), in the flush text following
 5 subparagraph (H)—

6 (A) by striking “not less than 10 years”
 7 and inserting “not less than 5 years”; and

8 (B) by striking “such person shall be sen-
 9 tenced to a term of imprisonment of not less
 10 than 20 years” and inserting “such person shall
 11 be sentenced to a term of imprisonment of not
 12 less than 10 years”; and

13 (2) in paragraph (2), in the flush text following
 14 subparagraph (H)—

15 (A) by striking “5 years” and inserting “2
 16 years”; and

17 (B) by striking “10 years” and inserting
 18 “5 years”.

19 **SEC. 5. DIRECTIVE TO THE SENTENCING COMMISSION.**

20 (a) DIRECTIVE TO SENTENCING COMMISSION.—Pur-
 21 suant to its authority under section 994(p) of title 28,
 22 United States Code, and in accordance with this section,
 23 the United States Sentencing Commission shall review and
 24 amend, if appropriate, its guidelines and its policy state-
 25 ments applicable to persons convicted of an offense under

1 section 401 of the Controlled Substances Act (21 U.S.C.
2 841) or section 1010 of the Controlled Substances Import
3 and Export Act (21 U.S.C. 960) to ensure that the guide-
4 lines and policy statements are consistent with the amend-
5 ments made by sections 2 and 4 of this Act and reflect
6 the intent of Congress that such penalties be decreased
7 in accordance with the amendments made by section 4 of
8 this Act.

9 (b) CONSIDERATIONS.—In carrying out this section,
10 the United States Sentencing Commission shall con-
11 sider—

12 (1) the mandate of the United States Sen-
13 tencing Commission, under section 994(g) of title
14 28, United States Code, to formulate the sentencing
15 guidelines in such a way as to “minimize the likeli-
16 hood that the Federal prison population will exceed
17 the capacity of the Federal prisons”;

18 (2) the findings and conclusions of the United
19 States Sentencing Commission in its October 2011
20 report to Congress entitled, Mandatory Minimum
21 Penalties in the Federal Criminal Justice System;

22 (3) the fiscal implications of any amendments
23 or revisions to the sentencing guidelines or policy
24 statements made by the United States Sentencing
25 Commission;

1 (4) the relevant public safety concerns involved
2 in the considerations before the United States Sen-
3 tencing Commission;

4 (5) the intent of Congress that penalties for
5 violent and serious drug traffickers who present pub-
6 lic safety risks remain appropriately severe; and

7 (6) the need to reduce and prevent racial dis-
8 parities in Federal sentencing.

9 (c) EMERGENCY AUTHORITY.—The United States
10 Sentencing Commission shall—

11 (1) promulgate the guidelines, policy state-
12 ments, or amendments provided for in this Act as
13 soon as practicable, and in any event not later than
14 120 days after the date of enactment of this Act, in
15 accordance with the procedure set forth in section
16 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994
17 note), as though the authority under that Act had
18 not expired; and

19 (2) pursuant to the emergency authority pro-
20 vided under paragraph (1), make such conforming
21 amendments to the Federal sentencing guidelines as
22 the Commission determines necessary to achieve
23 consistency with other guideline provisions and ap-
24 plicable law.

1 **SEC. 6. REPORT BY ATTORNEY GENERAL.**

2 Not later than 6 months after the date of enactment
 3 of this Act, the Attorney General shall submit to the Com-
 4 mittees on the Judiciary of the House of Representatives
 5 and the Senate a report outlining how the reduced expend-
 6 itures on Federal corrections and the cost savings result-
 7 ing from this Act will be used to help reduce overcrowding
 8 in the Federal Bureau of Prisons, help increase proper in-
 9 vestment in law enforcement and crime prevention, and
 10 help reduce criminal recidivism, thereby increasing the ef-
 11 fectiveness of Federal criminal justice spending.

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “Smarter Sentencing Act*
 14 *of 2014”.*

15 **SEC. 2. APPLICABILITY OF STATUTORY MINIMUMS.**

16 *Section 3553(f)(1) of title 18, United States Code, is*
 17 *amended to read as follows:*

18 *“(1) the defendant—*

19 *“(A) does not have more than 1 criminal*
 20 *history point, as determined under the sen-*
 21 *tencing guidelines; or*

22 *“(B)(i) does not have more than 2 criminal*
 23 *history points, as determined under the sen-*
 24 *tencing guidelines;*

25 *“(ii) has no prior convictions for any of-*
 26 *fense that has as an element the use, attempted*

1 use, or threatened use of physical force against
 2 the person of another; and

3 “(iii) has not been convicted of—

4 “(I) a firearm offense under section
 5 922 or 924;

6 “(II) a sex offense (as defined in sec-
 7 tion 111 of the Adam Walsh Child Protec-
 8 tion and Safety Act of 2006 (42 U.S.C.
 9 16911));

10 “(III) a Federal crime of terrorism (as
 11 defined in section 2332b(g)(5));

12 “(IV) a racketeering offense under sec-
 13 tion 1962; or

14 “(V) conspiring to use and invest il-
 15 licit drug profits under section 414 of the
 16 Controlled Substances Act (21 U.S.C.
 17 854);”.

18 **SEC. 3. CLARIFICATION OF APPLICABILITY OF THE FAIR**

19 **SENTENCING ACT.**

20 (a) *DEFINITION OF COVERED OFFENSE.*—In this sec-
 21 tion, the term “covered offense” means a violation of a Fed-
 22 eral criminal statute, the statutory penalties for which were
 23 modified by section 2 or 3 of the Fair Sentencing Act of
 24 2010 (Public Law 111–220; 124 Stat. 2372), that was com-
 25 mitted before August 3, 2010.

1 (b) *DEFENDANTS PREVIOUSLY SENTENCED.*—A court
 2 that imposed a sentence for a covered offense, may, on mo-
 3 tion of the defendant, the Director of the Bureau of Prisons,
 4 the attorney for the Government, or the court, impose a re-
 5 duced sentence as if sections 2 and 3 of the Fair Sentencing
 6 Act of 2010 (Public Law 111–220; 124 Stat. 2372) were
 7 in effect at the time the covered offense was committed.

8 (c) *LIMITATIONS.*—No court shall entertain a motion
 9 made under this section to reduce a sentence if the sentence
 10 was previously imposed or previously reduced in accord-
 11 ance with the amendments made by sections 2 and 3 of the
 12 Fair Sentencing Act of 2010 (Public Law 111–220; 124
 13 Stat. 2372) or if a motion made under this section to reduce
 14 the sentence was previously denied. Nothing in this section
 15 shall be construed to require a court to reduce any sentence
 16 pursuant to this section.

17 **SEC. 4. SENTENCING MODIFICATIONS FOR CERTAIN DRUG**
 18 **OFFENSES.**

19 (a) *CONTROLLED SUBSTANCES ACT.*—Section
 20 401(b)(1) of the Controlled Substances Act (21 U.S.C.
 21 841(b)(1)) is amended—

22 (1) in subparagraph (A), in the flush text fol-
 23 lowing clause (viii)—

24 (A) by striking “10 years or more” and in-
 25 serting “5 years or more”; and

1 (B) by striking “such person shall be sen-
2 tenced to a term of imprisonment which may not
3 be less than 20 years and” and inserting “such
4 person shall be sentenced to a term of imprison-
5 ment which may not be less than 10 years and”;
6 and

7 (2) in subparagraph (B), in the flush text fol-
8 lowing clause (viii)—

9 (A) by striking “5 years” and inserting “2
10 years”; and

11 (B) by striking “not be less than 10 years”
12 and inserting “not be less than 5 years”.

13 (b) *CONTROLLED SUBSTANCES IMPORT AND EXPORT*
14 *ACT.*—Section 1010(b) of the *Controlled Substances Import*
15 *and Export Act (21 U.S.C. 960(b))* is amended—

16 (1) in paragraph (1), in the flush text following
17 subparagraph (H)—

18 (A) by striking “not less than 10 years”
19 and inserting “not less than 5 years”; and

20 (B) by striking “such person shall be sen-
21 tenced to a term of imprisonment of not less
22 than 20 years” and inserting “such person shall
23 be sentenced to a term of imprisonment of not
24 less than 10 years”; and

1 (2) *in paragraph (2), in the flush text following*
2 *subparagraph (H)—*

3 (A) *by striking “5 years” and inserting “2*
4 *years”; and*

5 (B) *by striking “10 years” and inserting “5*
6 *years”.*

7 **SEC. 5. DIRECTIVE TO THE SENTENCING COMMISSION.**

8 (a) *DIRECTIVE TO SENTENCING COMMISSION.—Pursu-*
9 *ant to its authority under section 994(p) of title 28, United*
10 *States Code, and in accordance with this section, the United*
11 *States Sentencing Commission shall review and amend, if*
12 *appropriate, its guidelines and its policy statements appli-*
13 *able to persons convicted of an offense under section 401*
14 *of the Controlled Substances Act (21 U.S.C. 841) or section*
15 *1010 of the Controlled Substances Import and Export Act*
16 *(21 U.S.C. 960) to ensure that the guidelines and policy*
17 *statements are consistent with the amendments made by sec-*
18 *tions 2 and 4 of this Act and reflect the intent of Congress*
19 *that such penalties be decreased in accordance with the*
20 *amendments made by section 4 of this Act.*

21 (b) *CONSIDERATIONS.—In carrying out this section,*
22 *the United States Sentencing Commission shall consider—*

23 (1) *the mandate of the United States Sentencing*
24 *Commission, under section 994(g) of title 28, United*
25 *States Code, to formulate the sentencing guidelines in*

1 *such a way as to “minimize the likelihood that the*
2 *Federal prison population will exceed the capacity of*
3 *the Federal prisons”;*

4 *(2) the findings and conclusions of the United*
5 *States Sentencing Commission in its October 2011 re-*
6 *port to Congress entitled, Mandatory Minimum Pen-*
7 *alties in the Federal Criminal Justice System;*

8 *(3) the fiscal implications of any amendments or*
9 *revisions to the sentencing guidelines or policy state-*
10 *ments made by the United States Sentencing Com-*
11 *mission;*

12 *(4) the relevant public safety concerns involved*
13 *in the considerations before the United States Sen-*
14 *tencing Commission;*

15 *(5) the intent of Congress that severe sentences*
16 *for violent, repeat, and serious drug traffickers who*
17 *present public safety risks remain in place; and*

18 *(6) the need to reduce and prevent racial dis-*
19 *parities in Federal sentencing.*

20 *(c) EMERGENCY AUTHORITY.—The United States Sen-*
21 *tencing Commission shall—*

22 *(1) promulgate the guidelines, policy statements,*
23 *or amendments provided for in this Act as soon as*
24 *practicable, and in any event not later than 120 days*
25 *after the date of enactment of this Act, in accordance*

1 *with the procedure set forth in section 21(a) of the*
2 *Sentencing Act of 1987 (28 U.S.C. 994 note), as*
3 *though the authority under that Act had not expired;*
4 *and*

5 *(2) pursuant to the emergency authority pro-*
6 *vided under paragraph (1), make such conforming*
7 *amendments to the Federal sentencing guidelines as*
8 *the Commission determines necessary to achieve con-*
9 *sistency with other guideline provisions and applica-*
10 *ble law.*

11 **SEC. 6. REPORT BY ATTORNEY GENERAL.**

12 *Not later than 6 months after the date of enactment*
13 *of this Act, the Attorney General shall submit to the Com-*
14 *mittees on the Judiciary of the House of Representatives*
15 *and the Senate a report outlining how the reduced expendi-*
16 *tures on Federal corrections and the cost savings resulting*
17 *from this Act will be used to help reduce overcrowding in*
18 *the Federal Bureau of Prisons, help increase proper invest-*
19 *ment in law enforcement and crime prevention, and help*
20 *reduce criminal recidivism, thereby increasing the effective-*
21 *ness of Federal criminal justice spending.*

22 **SEC. 7. REPORT ON FEDERAL CRIMINAL OFFENSES.**

23 *(a) DEFINITIONS.—In this section—*

1 (1) *the term “criminal regulatory offense” means*
2 *a Federal regulation that is enforceable by a criminal*
3 *penalty; and*

4 (2) *the term “criminal statutory offense” means*
5 *a criminal offense under a Federal statute.*

6 (b) *REPORT ON CRIMINAL STATUTORY OFFENSES.—*
7 *Not later than 1 year after the date of enactment of this*
8 *Act, the Attorney General shall submit to the Committee*
9 *on the Judiciary of the Senate and the Committee on the*
10 *Judiciary of the House of Representatives a report, which*
11 *shall include—*

12 (1) *a list of all criminal statutory offenses, in-*
13 *cluding a list of the elements for each criminal statu-*
14 *tory offense; and*

15 (2) *for each criminal statutory offense listed*
16 *under paragraph (1)—*

17 (A) *the potential criminal penalty for the*
18 *criminal statutory offense;*

19 (B) *the number of prosecutions for the*
20 *criminal statutory offense brought by the Depart-*
21 *ment of Justice each year for the 15-year period*
22 *preceding the date of enactment of this Act; and*

23 (C) *the mens rea requirement for the crimi-*
24 *nal statutory offense.*

25 (c) *REPORT ON CRIMINAL REGULATORY OFFENSES.—*

1 (1) *REPORTS.*—Not later than 1 year after the
2 date of enactment of this Act, the head of each Federal
3 agency described in paragraph (2) shall submit to the
4 Committee on the Judiciary of the Senate and the
5 Committee on the Judiciary of the House of Rep-
6 resentatives a report, which shall include—

7 (A) a list of all criminal regulatory offenses
8 enforceable by the agency; and

9 (B) for each criminal regulatory offense list-
10 ed under subparagraph (A)—

11 (i) the potential criminal penalty for a
12 violation of the criminal regulatory offense;

13 (ii) the number of violations of the
14 criminal regulatory offense referred to the
15 Department of Justice for prosecution in
16 each of the years during the 15-year period
17 preceding the date of enactment of this Act;
18 and

19 (iii) the mens rea requirement for the
20 criminal regulatory offense.

21 (2) *AGENCIES DESCRIBED.*—The Federal agen-
22 cies described in this paragraph are the Department
23 of Agriculture, the Department of Commerce, the De-
24 partment of Education, the Department of Energy,
25 the Department of Health and Human Services, the

1 *Department of Homeland Security, the Department of*
2 *Housing and Urban Development, the Department of*
3 *the Interior, the Department of Labor, the Depart-*
4 *ment of Transportation, the Department of the Treas-*
5 *ury, the Commodity Futures Trading Commission,*
6 *the Consumer Product Safety Commission, the Equal*
7 *Employment Opportunity Commission, the Export-*
8 *Import Bank of the United States, the Farm Credit*
9 *Administration, the Federal Communications Com-*
10 *mission, the Federal Deposit Insurance Corporation,*
11 *the Federal Election Commission, the Federal Labor*
12 *Relations Authority, the Federal Maritime Commis-*
13 *sion, the Federal Mine Safety and Health Review*
14 *Commission, the Federal Trade Commission, the Na-*
15 *tional Labor Relations Board, the National Transpor-*
16 *tation Safety Board, the Nuclear Regulatory Commis-*
17 *sion, the Occupational Safety and Health Review*
18 *Commission, the Office of Compliance, the Postal Reg-*
19 *ulatory Commission, the Securities and Exchange*
20 *Commission, the Securities Investor Protection Cor-*
21 *poration, the Environmental Protection Agency, the*
22 *Small Business Administration, the Federal Housing*
23 *Finance Agency, and the Office of Government Ethics.*
24 *(d) INDEX.—Not later than 2 years after the date of*
25 *enactment of this Act—*

1 (1) *the Attorney General shall establish a pub-*
2 *lically accessible index of each criminal statutory of-*
3 *fense listed in the report required under subsection (b)*
4 *and make the index available and freely accessible on*
5 *the website of the Department of Justice; and*

6 (2) *the head of each agency described in sub-*
7 *section (c)(2) shall establish a publically accessible*
8 *index of each criminal regulatory offense listed in the*
9 *report required under subsection (c)(1) and make the*
10 *index available and freely accessible on the website of*
11 *the agency.*

12 (e) *RULE OF CONSTRUCTION.—Nothing in this section*
13 *shall be construed to require or authorize appropriations.*

14 **SEC. 8. SEXUAL ASSAULT OFFENSES.**

15 *Chapter 109A of title 18, United States Code, is*
16 *amended—*

17 (1) *in section 2241—*

18 (A) *in subsection (a), in the flush text fol-*
19 *lowing paragraph (2), by inserting “not less*
20 *than 5” after “term of years”; and*

21 (B) *in subsection (b), in the flush text fol-*
22 *lowing paragraph (2)(B), by inserting “not less*
23 *than 5” after “term of years”;*

1 (2) in section 2242, in the flush text following
2 paragraph (2)(B), by inserting “not less than 5” after
3 “term of years”;

4 (3) in section 2243—

5 (A) in subsection (a), in the flush text fol-
6 lowing paragraph (2), by inserting “not less
7 than 5 years and” after “imprisoned”; and

8 (B) in subsection (b), in the flush text fol-
9 lowing paragraph (2), by inserting “not less
10 than 5 years and” after “imprisoned”; and

11 (4) by amending section 2245 to read as follows:

12 **“§ 2245. Offenses resulting in death**

13 “A person who—

14 “(1) in the course of an offense under this chap-
15 ter or section 1591, 2251, 2251A, or 2260 murders an
16 individual, shall be punished by death or imprisoned
17 for any term of years not less than 5 years or for life;
18 and

19 “(2) in the course of an offense under section
20 2421, 2422, 2423, or 2425 murders an individual,
21 shall be punished by death or imprisoned for any
22 term of years or for life.”.

1 **SEC. 9. DOMESTIC VIOLENCE OFFENSES.**

2 *Section 2261(b) of title 18, United States Code, is*
3 *amended by striking paragraphs (1), (2), and (3) and in-*
4 *serting the following:*

5 *“(1) if death of the victim results—*

6 *“(A) in the case of a violation of this sec-*
7 *tion, for any term of years not less than 10 or*
8 *for life; and*

9 *“(B) in the case of a violation of section*
10 *2261A, for life or any term of years;*

11 *“(2) if permanent disfigurement or life threat-*
12 *ening bodily injury to the victim results—*

13 *“(A) in the case of a violation of this sec-*
14 *tion, for not more than 25 years; and*

15 *“(B) in the case of a violation of section*
16 *2261A, for not more than 20 years;*

17 *“(3) if serious bodily injury to the victim results*
18 *or if the offender uses a dangerous weapon during the*
19 *offense—*

20 *“(A) in the case of a violation of this sec-*
21 *tion, for not more than 15 years; and*

22 *“(B) in the case of a violation of section*
23 *2261A, for not more than 10 years;”.*

1 **SEC. 10. MANDATORY MINIMUM SENTENCES FOR CERTAIN**
 2 **OFFENSES RELATING TO THE PROVISION OF**
 3 **ARMS TO TERRORISTS OR PROLIFERATORS**
 4 **OF WEAPONS OF MASS DESTRUCTION.**

5 (a) *INTERNATIONAL EMERGENCY ECONOMIC POWERS*
 6 *ACT.*—Section 206 of the *International Emergency Eco-*
 7 *nomic Powers Act (50 U.S.C. 1705)* is amended—

8 (1) *in subsection (c), by striking “A person” and*
 9 *inserting “Subject to subsection (d), a person”;* and

10 (2) *by adding at the end the following:*

11 “(d) *MINIMUM TERM OF IMPRISONMENT FOR CERTAIN*
 12 *ACTS RELATING TO THE PROVISION OF ARMS TO TERROR-*
 13 *ISTS OR PROLIFERATORS OF WEAPONS OF MASS DESTRUC-*
 14 *TION.*—

15 “(1) *IN GENERAL.*—*A natural person who will-*
 16 *fully commits, willfully attempts to commit, or will-*
 17 *fully conspires to commit, or aids or abets in the com-*
 18 *mission of, an unlawful act described in paragraph*
 19 *(2) shall, upon conviction, be imprisoned for a term*
 20 *of not less than 5 years.*

21 “(2) *UNLAWFUL ACTS DESCRIBED.*—*An unlawful*
 22 *act described in this paragraph is an unlawful act*
 23 *described in subsection (a) that involves—*

24 “(A) *the provision of defense articles or de-*
 25 *fense services to—*

26 “(i) *a state sponsor of terrorism;*

1 “(ii) an organization designated as a
2 foreign terrorist organization under section
3 219(a) of the Immigration and Nationality
4 Act (8 U.S.C. 1189(a)); or

5 “(iii) a person on the list of specially
6 designated nationals and blocked persons
7 maintained by the Office of Foreign Assets
8 Control of the Department of the Treasury
9 for an activity relating to support for inter-
10 national terrorism or the proliferation of
11 weapons of mass destruction; or

12 “(B) the exportation of goods or services to
13 any person in connection with a program of a
14 foreign country or foreign person to develop
15 weapons of mass destruction.

16 “(3) DEFINITIONS.—In this subsection:

17 “(A) DEFENSE ARTICLE; DEFENSE SERV-
18 ICE.—The terms ‘defense article’ and ‘defense
19 service’ have the meanings given those terms in
20 section 47 of the Arms Export Control Act (22
21 U.S.C. 2794).

22 “(B) STATE SPONSOR OF TERRORISM.—The
23 term ‘state sponsor of terrorism’ means any
24 country the government of which the Secretary of
25 State has determined has repeatedly provided

1 support for acts of international terrorism pur-
2 suant to—

3 “(i) section 6(j)(1)(A) of the *Export*
4 *Administration Act of 1979* (50 U.S.C.
5 *App. 2405(j)(1)(A)*) (as in effect pursuant
6 to this Act);

7 “(ii) section 40(d) of the *Arms Export*
8 *Control Act* (22 U.S.C. 2780(d)); or

9 “(iii) section 620A(a) of the *Foreign*
10 *Assistance Act of 1961* (22 U.S.C.
11 2371(a)).”

12 (b) *TRADING WITH THE ENEMY ACT*.—Section 5 of
13 the *Trading with the Enemy Act* (50 U.S.C. *App.*) is
14 amended by adding at the end the following:

15 “(c) *MINIMUM TERM OF IMPRISONMENT FOR CERTAIN*
16 *ACTS RELATING TO THE PROVISION OF ARMS TO TERROR-*
17 *ISTS OR PROLIFERATORS OF WEAPONS OF MASS DESTRUC-*
18 *TION*.—

19 “(1) *IN GENERAL*.—A natural person who will-
20 fully commits, willfully attempts to commit, or will-
21 fully conspires to commit, or aids or abets in the com-
22 mission of, an unlawful act described in paragraph
23 (2) shall, upon conviction, be imprisoned for a term
24 of not less than 5 years.

1 “(2) *UNLAWFUL ACTS DESCRIBED.*—*An unlawful*
2 *act described in this paragraph is an act in violation*
3 *of the provisions of this Act or any license, order, reg-*
4 *ulation, or prohibition issued under this Act that in-*
5 *volves—*

6 “(A) *the provision of defense articles or de-*
7 *fense services to—*

8 “(i) *a state sponsor of terrorism;*

9 “(ii) *an organization designated as a*
10 *foreign terrorist organization under section*
11 *219(a) of the Immigration and Nationality*
12 *Act (8 U.S.C. 1189(a)); or*

13 “(iii) *a person on the list of specially*
14 *designated nationals and blocked persons*
15 *maintained by the Office of Foreign Assets*
16 *Control of the Department of the Treasury*
17 *for an activity relating to support for inter-*
18 *national terrorism or the proliferation of*
19 *weapons of mass destruction; or*

20 “(B) *the exportation of goods or services to*
21 *any person in connection with a program of a*
22 *foreign country or foreign person to develop*
23 *weapons of mass destruction.*

24 “(3) *DEFINITIONS.*—*In this subsection:*

1 “(A) *DEFENSE ARTICLE; DEFENSE SERV-*
2 *ICE.—The terms ‘defense article’ and ‘defense*
3 *service’ have the meanings given those terms in*
4 *section 47 of the Arms Export Control Act (22*
5 *U.S.C. 2794).*”

6 “(B) *STATE SPONSOR OF TERRORISM.—The*
7 *term ‘state sponsor of terrorism’ has the meaning*
8 *given that term in section 206(d)(3) of the Inter-*
9 *national Emergency Economic Powers Act.”.*”

10 *(c) ARMS EXPORT CONTROL ACT.—Section 38(c) of the*
11 *Arms Export Control Act (22 U.S.C. 2778(c)) is amended*
12 *by striking “shall upon conviction be fined” and all that*
13 *follows and inserting the following: “shall upon convic-*
14 *tion—*

15 *“(1) subject to paragraph (2), be fined for each*
16 *violation not more than \$1,000,000 or imprisoned not*
17 *more than 20 years, or both; and*

18 *“(2) be imprisoned not less than 5 years if the*
19 *violation involves the export of defense articles or de-*
20 *fense services to—*

21 *“(A) a state sponsor of terrorism (as defined*
22 *in section 206(d)(3) of the International Emer-*
23 *gency Economic Powers Act);*

24 *“(B) an organization designated as a for-*
25 *ign terrorist organization under section 219(a)*

1 *of the Immigration and Nationality Act (8*
2 *U.S.C. 1189(a));*

3 “(C) *a person on the list of specially des-*
4 *ignated nationals and blocked persons main-*
5 *tained by the Office of Foreign Assets Control of*
6 *the Department of the Treasury for an activity*
7 *relating to support for international terrorism or*
8 *the proliferation of weapons of mass destruction;*
9 *or*

10 “(D) *any person in connection with a pro-*
11 *gram of a foreign country or foreign person to*
12 *develop weapons of mass destruction.”.*

13 *(d) SMUGGLING FROM THE UNITED STATES.—Section*
14 *554 of title 18, United States Code, is amended—*

15 *(1) in subsection (a), by striking “shall be fined”*
16 *and all that follows and inserting the following:*
17 *“shall—*

18 *“(1) subject to paragraph (2), be fined under this*
19 *title, imprisoned not more than 10 years, or both; and*

20 *“(2) be imprisoned not less than 5 years if the*
21 *merchandise, article, or object—*

22 *“(A) is a defense article and was exported*
23 *or sent, or was attempted to be exported or sent,*
24 *to—*

25 *“(i) a state sponsor of terrorism;*

1 “(ii) an organization designated as a
2 foreign terrorist organization under section
3 219(a) of the Immigration and Nationality
4 Act (8 U.S.C. 1189(a)); or

5 “(iii) a person on the list of specially
6 designated nationals and blocked persons
7 maintained by the Office of Foreign Assets
8 Control of the Department of the Treasury
9 for an activity relating to support for inter-
10 national terrorism or the proliferation of
11 weapons of mass destruction; or

12 “(B) was exported or sent, or was attempted
13 to be exported or sent, to any person in connec-
14 tion with a program of a foreign country or for-
15 eign person to develop weapons of mass destruc-
16 tion.”; and

17 (2) by amending subsection (b) to read as fol-
18 lows:

19 “(b) *DEFINITIONS.—In this section:*

20 “(1) *DEFENSE ARTICLE; DEFENSE SERVICE.—*
21 *The terms ‘defense article’ and ‘defense service’ have*
22 *the meanings given those terms in section 47 of the*
23 *Arms Export Control Act (22 U.S.C. 2794).*

24 “(2) *STATE SPONSOR OF TERRORISM.—The term*
25 *‘state sponsor of terrorism’ has the meaning given*

- 1 *that term in section 206(d)(3) of the International*
- 2 *Emergency Economic Powers Act.”.*

Calendar No. 320

113TH CONGRESS
2^D SESSION

S. 1410

A BILL

To focus limited Federal resources on the most serious offenders.

MARCH 11, 2014

Reported with an amendment