

ENHANCED FEDERAL SECURITY ACT OF 2000

SEPTEMBER 28, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCCOLLUM, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 4827]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4827) amending title 18, United States Code, to prevent the entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport, to prevent the misuse of genuine and counterfeit police badges by those seeking to commit a crime, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
The Amendment	2
Purpose and Summary	3
Background and Need for the Legislation	3
Committee Consideration	4
Votes of the Committee	4
Committee Oversight Findings	4
Committee on Government Reform Findings	4
New Budget Authority and Tax Expenditures	4
Congressional Budget Office Cost Estimate	4
Constitutional Authority Statement	5
Section-by-Section Analysis and Discussion	6
Changes in Existing Law Made by the Bill, as Reported	6

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Enhanced Federal Security Act of 2000”.

SEC. 2. ENTRY BY FALSE PRETENSES TO ANY REAL PROPERTY, VESSEL, OR AIRCRAFT OF THE UNITED STATES, OR SECURE AREA OF AIRPORT.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

“§ 1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport

“(a) Whoever, by any fraud or false pretense, enters or attempts to enter—

“(1) any real property belonging in whole or in part to, or leased by, the United States;

“(2) any vessel or aircraft belonging in whole or in part to, or leased by, the United States; or

“(3) any secure area of any airport;

shall be punished as provided in subsection (b) of this section.

“(b) The punishment for an offense under subsection (a) of this section is—

“(1) a fine under this title or imprisonment for not more than five years, or both, if the offense is committed with the intent to commit a felony; or

“(2) a fine under this title or imprisonment for not more than six months, or both, in any other case.

“(c) As used in this section—

“(1) the term ‘secure area’ means an area access to which is restricted by the airport authority or a public agency; and

“(2) the term ‘airport’ has the meaning given such term in section 47102 of title 49.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

“1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport.”

SEC. 3. POLICE BADGES.

(a) IN GENERAL.—Chapter 33 of title 18, United States Code, is amended by adding at the end the following:

“§ 716. Police badges

“(a) Whoever—

“(1) knowingly transfers, transports, or receives, in interstate or foreign commerce, a counterfeit police badge;

“(2) knowingly transfers, in interstate or foreign commerce, a genuine police badge to an individual, knowing that such individual is not authorized to possess it under the law of the place in which the badge is the official badge of the police;

“(3) knowingly receives a genuine police badge in a transfer prohibited by paragraph (2); or

“(4) being a person not authorized to possess a genuine police badge under the law of the place in which the badge is the official badge of the police, knowingly transports that badge in interstate or foreign commerce;

shall be fined under this title or imprisoned not more than six months, or both.

“(b) It is a defense to a prosecution under this section that the badge is used or is intended to be used exclusively—

“(1) as a memento, or in a collection or exhibit;

“(2) for decorative purposes;

“(3) for a dramatic presentation, such as a theatrical, film, or television production; or

“(4) for any other recreational purpose.

“(c) As used in this section—

“(1) the term ‘genuine police badge’ means an official badge issued by public authority to identify an individual as a law enforcement officer having police powers; and

“(2) the term ‘counterfeit police badge’ means an item that so resembles a police badge that it would deceive an ordinary individual into believing it was a genuine police badge.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 18, United States Code, is amended by adding at the end the following new item:

“716. Police badges.”.

PURPOSE AND SUMMARY

The purpose of H.R. 4827, the “Enhanced Federal Security Act of 2000,” is twofold. First, it is to reduce the threat to security in Federal buildings, Federal vessels and aircraft, and airports that is posed by criminals, terrorists, and foreign agents seeking to gain unauthorized access to these places to commit criminal acts. Second, it is to prohibit the sale and distribution of genuine and counterfeit police badges to individuals who might use them for criminal purposes. Specifically, H.R. 4827 would make it a Federal crime to enter, or attempt to enter, Federal property or the secure area of an airport under false pretenses. A person entering such property under false pretenses would be subject to a fine and up to 6 months in prison. Additionally, a person entering such property under false pretenses with the intent to commit a felony would be subject to a fine and up to 5 years in prison. H.R. 4827 would also prohibit trafficking in genuine and counterfeit police badges in interstate or foreign commerce. A person trafficking in police badges would be subject to a fine and up to 6 months in prison. The bill creates a defense to prosecution to protect those who possess a badge as a memento, in a collection or exhibit, for decorative purposes, for a dramatic presentation, or for recreational purposes.

BACKGROUND AND NEED FOR THE LEGISLATION

On May 25, 2000, the Subcommittee on Crime conducted an oversight hearing to examine serious breaches of security that occurred at 19 secure Federal buildings and two airports during the course of an undercover investigation conducted by the Office of Special Investigations (OSI) of the General Accounting Office. During the investigation, OSI Special Agents posed as plain-clothed law enforcement officers and displayed fake badges and credentials to gain access to these secure buildings and facilities. In every case, the agents were able to enter agency buildings while claiming to be armed and carrying briefcases, which were never searched and were big enough to be packed with large quantities of explosives, chemical or biological agents. The agencies and buildings penetrated included the CIA, the Pentagon, the FBI, the Department of Justice, the Department of State, and the Department of Energy.

Upon displaying their fake badges and credentials, the agents were simply waived around the metal detectors at each building or airport. In many cases, the agents had the run of the buildings once they were inside, including gaining access to the offices of department secretaries. In one case, agents drove a rental van into the courtyard of the headquarters of the Department of Justice without the van being inspected or searched. The van was parked in the courtyard, and the agents left it while they went inside the building. For the two airports whose security was compromised, agents obtained boarding passes and firearm permits to carry weapons onboard the flights for which they had purchased tickets. Like the Federal buildings they entered, they carried briefcases that were never x-rayed. They walked up to the doors that led to

airplanes and could have boarded the planes had they chose to do so.

At the May 25 hearing, the subcommittee also received testimony on the ready availability to the public of genuine and counterfeit law enforcement badges both on the Internet and at antique shows and gun shows. Once a genuine or counterfeit badge is obtained by a criminal or terrorist, it can be combined with a falsified identification card that can easily be created using graphics software downloaded free from the Internet. The badge and fake identification card can then be inserted into a small leather case to create a realistic looking law enforcement badge and credentials, which can then be used to gain unauthorized access to secure government buildings or for other illicit or illegal purposes.

COMMITTEE CONSIDERATION

On September 20, 2000, the Committee on the Judiciary met in open session and ordered reported favorably the bill H.R. 4827 as amended by voice vote, a quorum being present.

VOTES OF THE COMMITTEE

There were no recorded votes of the committee. Mr. McCollum offered an amendment that would make several substantive changes to the changes to the bill as introduced. The amendment was agreed to by voice vote. The chairman moved to favorably report H.R. 4827, as amended, to the House. The motion was agreed to by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based in oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 3(c)(4) of rule XIII of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the committee sets forth, with respect to the bill H.R. 4827, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 26, 2000.

Hon. HENRY J. HYDE,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4827, the Enhanced Federal Security Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

H.R. 4827—Enhanced Federal Security Act of 2000.

CBO estimates that implementing H.R. 4827 would not result in any significant cost to the federal government. Because enactment of H.R. 4827 could affect direct spending and receipts, pay-as-you-go procedures would apply to the bill. However, CBO estimates that any impact on direct spending and receipts would not be significant. H.R. 4827 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 4827 would establish new federal crimes relating to unauthorized entry on federal properties or airports and misuse of police badges. Because H.R. 4827 would establish new federal crimes, the government would be able to pursue cases that it otherwise would not be able to prosecute. However, CBO expects that the bill would apply to a small number of offenders, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such additional costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 4827 could be subject to criminal fines, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. CBO expects that any additional receipts and direct spending would be negligible because of the small number of cases involved.

The CBO staff contact for this estimate is Mark Grabowicz. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to 3(d)(1) of rule XIII of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, section 8, clause 18 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short title

This section provides that the short title of the bill is the “Enhanced Federal Security Act of 2000.”

Section 2. Entry by false pretenses to any real property, vessel, or aircraft of the United States, or secure area of airport

Section two would make it a Federal crime to enter, or attempt to enter, Federal property or the secure area of an airport under false pretenses. Such property includes (1) any real property belonging in whole in part to, or leased by, the United States, (2) any vessel or aircraft belonging in whole or in part to, or leased by, the United States, or any secure area of an airport. A person entering such property under false pretenses would be subject to a fine and up to 6 months in prison. Additionally, a person entering such property under false pretenses with the intent to commit a felony would be subject to a fine and up to 5 years in prison.

Section 3. Police badges

Section three would prohibit knowingly trafficking in genuine and counterfeit police badges in interstate or foreign commerce. With respect to counterfeit police badges, the knowing transfer, transport, or receipt of such badges in interstate or foreign commerce would be prohibited. Additionally, the knowing transfer, in interstate or foreign commerce of a genuine police badge to an individual, knowing that such individual is not authorized to possess it under the law of the place in which the badge is the official badge of the police would be prohibited. This section would also prohibit a person from knowingly receiving a genuine police badge if the person is not authorized to possess it under the law of the place in which the badge is the official badge. Finally, this section would prohibit a person who is not authorized to possess a genuine police badge under the law of the place in which the badge is the official badge from knowingly transporting that badge in interstate or foreign commerce.

A person knowingly trafficking in police badges would be subject to a fine and up to 6 months in prison. Section three would create a defense to prosecution for a person who possesses a badge (or badges) with the intention that the badge be used exclusively as a memento, in a collection or exhibit, for decorative purposes, for a dramatic presentation, such as a theatrical, film, or television production, or for any other recreational use.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * *

PART I—CRIMES

* * * * *

CHAPTER 33—EMBLEMS, INSIGNIA, AND NAMES

Sec.

700. Desecration of the flag of the United States; penalties.

* * * * *

716. *Police badges.*

* * * * *

§ 716. *Police badges*

(a) *Whoever—*

(1) *knowingly transfers, transports, or receives, in interstate or foreign commerce, a counterfeit police badge;*

(2) *knowingly transfers, in interstate or foreign commerce, a genuine police badge to an individual, knowing that such individual is not authorized to possess it under the law of the place in which the badge is the official badge of the police;*

(3) *knowingly receives a genuine police badge in a transfer prohibited by paragraph (2); or*

(4) *being a person not authorized to possess a genuine police badge under the law of the place in which the badge is the official badge of the police, knowingly transports that badge in interstate or foreign commerce;*

shall be fined under this title or imprisoned not more than six months, or both.

(b) *It is a defense to a prosecution under this section that the badge is used or is intended to be used exclusively—*

(1) *as a memento, or in a collection or exhibit;*

(2) *for decorative purposes;*

(3) *for a dramatic presentation, such as a theatrical, film, or television production; or*

(4) *for any other recreational purpose.*

(c) *As used in this section—*

(1) *the term “genuine police badge” means an official badge issued by public authority to identify an individual as a law enforcement officer having police powers; and*

(2) *the term “counterfeit police badge” means an item that so resembles a police badge that it would deceive an ordinary individual into believing it was a genuine police badge.*

* * * * *

CHAPTER 47—FRAUD AND FALSE STATEMENTS

Sec.

1001. Statements or entries generally.

* * * * *

1036. *Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport.*

* * * * *

§ 1036. *Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport*

(a) *Whoever, by any fraud or false pretense, enters or attempts to enter—*

(1) any real property belonging in whole or in part to, or leased by, the United States;

(2) any vessel or aircraft belonging in whole or in part to, or leased by, the United States; or

(3) any secure area of any airport;

shall be punished as provided in subsection (b) of this section.

(b) *The punishment for an offense under subsection (a) of this section is—*

(1) a fine under this title or imprisonment for not more than five years, or both, if the offense is committed with the intent to commit a felony; or

(2) a fine under this title or imprisonment for not more than six months, or both, in any other case.

(c) *As used in this section—*

(1) the term “secure area” means an area access to which is restricted by the airport authority or a public agency; and

(2) the term “airport” has the meaning given such term in section 47102 of title 49.

* * * * *