

105TH CONGRESS
2D SESSION

H. R. 3858

To assure drug-free borders by increasing penalties for certain drug-related offenses, to enhance law enforcement efforts for counterdrug activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1998

Mr. HUNTER (for himself, Mr. BILBRAY, Mr. PACKARD, Mr. REYES, and Mr. CUNNINGHAM) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To assure drug-free borders by increasing penalties for certain drug-related offenses, to enhance law enforcement efforts for counterdrug activities, 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 “Border Protection and
5 Infrastructure Act of 1998”.

1 **SEC. 2. FELONY PUNISHMENT FOR VIOLENCE COMMITTED**
2 **ALONG THE UNITED STATES BORDER.**

3 (a) IN GENERAL.—Chapter 27 of title 18, United
4 States Code, is amended by adding at the end the follow-
5 ing:

6 **“§ 554. Violence while eluding inspection or during**
7 **violation of arrival, reporting, entry, or**
8 **clearance requirements**

9 “(a) Whoever attempts to commit or commits a crime
10 of violence during and in relation to—

11 “(1) attempting to elude or eluding customs,
12 immigration, or agriculture inspection or failing to
13 stop at the command of an officer of customs, immi-
14 gration, or animal and plant and health inspection
15 services; or

16 “(2) an intentional violation of arrival, report-
17 ing, entry, or clearance requirements, as set forth in
18 a provision of law listed in subsection (c);

19 shall be fined under this title or imprisoned for not more
20 than 5 years, or both, except that if bodily injury (as de-
21 fined in section 1365(g) of this title) results, the maximum
22 term of imprisonment is 10 years, and if death results,
23 the offender may be imprisoned for any term of years or
24 for life, and may be sentenced to death.

25 “(b) If 2 or more persons conspire to commit an of-
26 fense under subsection (a), and 1 or more of such persons

1 do any act to effect the object of the conspiracy, each shall
2 be punishable as a principal, except that the sentence of
3 death may not be imposed.

4 “(c) The provisions of law referred to in subsection
5 (a) are—

6 “(1) section 107 of the Federal Plant Pest Act
7 (7 U.S.C. 150ff);

8 “(2) section 7 of the Federal Noxious Weed Act
9 of 1974 (7 U.S.C. 2806);

10 “(3) section 431, 433, 434, or 459 of the Tariff
11 Act of 1930 (19 U.S.C. 1431, 1433, 1434, 1459);

12 “(4) section 6 of the Act of August 30, 1890
13 (21 U.S.C. 105; Chapter 839, 26 Stat. 416);

14 “(5) section 2 of the Act of February 2, 1903
15 (21 U.S.C. 111; Chapter 349, 32 Stat. 791);

16 “(6) section 231, 232, 234, 235, 236, 237, or
17 238 of the Immigration and Nationality Act (8
18 U.S.C. 1221, 1222, 1224, 1225, 1226, 1227, 1228);
19 or

20 “(7) section 4197 of the Revised Statutes of the
21 United States (46 U.S.C. App. 91), section 111 of
22 title 21, United States Code.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 at the beginning of chapter 27 of title 18, United States

1 Code, is amended by inserting at the end the following
 2 new item:

“554. Violence while eluding inspection or during violation of arrival, reporting,
 entry, or clearance requirements.”.

3 **SEC. 3. INCREASED PENALTY FOR FALSE STATEMENT OF-**
 4 **FENSE.**

5 Section 542 of title 18, United States Code, is
 6 amended by striking “two years” and inserting “5 years”.

7 **SEC. 4. SANCTIONS FOR FAILURE TO LAND OR HEAVE TO,**
 8 **OBSTRUCTING A LAWFUL BOARDING, AND**
 9 **PROVIDING FALSE INFORMATION.**

10 (a) IN GENERAL.—Chapter 109 of title 18, United
 11 States Code, is amended by adding at the end the follow-
 12 ing:

13 **“§ 2237. Sanctions for failure to heave to; sanctions**
 14 **for obstruction of boarding and providing**
 15 **false information**

16 “(a)(1) It shall be unlawful for the master, operator,
 17 or person in charge of a vessel of the United States or
 18 a vessel subject to the jurisdiction of the United States,
 19 to fail to obey an order to heave to that vessel on being
 20 ordered to do so by an authorized Federal law enforcement
 21 officer.

22 “(2) It shall be unlawful for any person on board a
 23 vessel of the United States or a vessel subject to the juris-
 24 diction of the United States knowingly or willfully to—

1 “(A) fail to comply with an order of an author-
2 ized Federal law enforcement officer in connection
3 with the boarding of the vessel;

4 “(B) impede or obstruct a boarding or arrest,
5 or other law enforcement action authorized by any
6 Federal law; or

7 “(C) provide false information to a Federal law
8 enforcement officer during a boarding of a vessel re-
9 garding the vessel’s destination, origin, ownership,
10 registration, nationality, cargo, or crew.

11 “(3)(A) It shall be unlawful for the pilot, operator,
12 or person in charge of an aircraft which has crossed the
13 border of the United States, or an aircraft subject to the
14 jurisdiction of the United States operating outside the
15 United States, to knowingly fail to obey an order to land
16 by an authorized Federal law enforcement officer who is
17 enforcing the laws of the United States relating to con-
18 trolled substances, as that term is defined in section
19 102(6) of the Controlled Substances Act (21 U.S.C.
20 802(6)), or relating to money laundering (sections 1956–
21 57 of this title).

22 “(B) The Administrator of the Federal Aviation Ad-
23 ministration, in consultation with the Commissioner of
24 Customs and the Attorney General, shall prescribe regula-
25 tions governing the means by, and circumstances under

1 which a Federal law enforcement officer may communicate
2 an order to land to a pilot, operator, or person in charge
3 of an aircraft. Such regulations shall ensure that any such
4 order is clearly communicated in accordance with applica-
5 ble international standards. Further, such regulations
6 shall establish guidelines based on observed conduct, prior
7 information, or other circumstances for determining when
8 an officer may use the authority granted under subpara-
9 graph (A).

10 “(b) This section does not limit in any way the pre-
11 existing authority of a customs officer under section 581
12 of the Tariff Act of 1930 or any other provision of law
13 enforced or administered by the Customs Service, or the
14 preexisting authority of any Federal law enforcement offi-
15 cer under any law of the United States to order an aircraft
16 to land or a vessel to heave to.

17 “(c) A foreign nation may consent or waive objection
18 to the enforcement of United States law by the United
19 States under this section by international agreement or,
20 on a case-by-case basis, by radio, telephone, or similar oral
21 or electronic means. Consent or waiver may be proven by
22 certification of the Secretary of State or the Secretary’s
23 designee.

24 “(d) For purposes of this section—

1 “(1) the terms ‘vessel of the United States’ and
2 ‘vessel subject to the jurisdiction of the United
3 States’ have the meanings set forth for these terms,
4 respectively, in the Maritime Drug Law Enforcement
5 Act (46 App. U.S.C. 1903);

6 “(2) the term ‘heave to’ means to cause a vessel
7 to slow or come to a stop to facilitate a law enforce-
8 ment boarding by adjusting the course and speed of
9 the vessel to account for the weather conditions and
10 sea state;

11 “(3) an aircraft ‘subject to the jurisdiction of
12 the United States’ includes—

13 “(A) an aircraft located over the United
14 States or the customs waters of the United
15 States;

16 “(B) an aircraft located in the airspace of
17 a foreign nation, where that nation consents to
18 the enforcement of United States law by the
19 United States; and

20 “(C) over the high seas, an aircraft with-
21 out nationality, an aircraft of United States
22 registry, or an aircraft registered in a foreign
23 nation that has consented or waived objection
24 to the enforcement of United States law by the
25 United States;

1 “(4) an aircraft ‘without nationality’ includes—

2 “(A) an aircraft aboard which the pilot,
3 operator, or person in charge makes a claim of
4 registry, which claim is denied by the nation
5 whose registry is claimed; and

6 “(B) an aircraft aboard which the pilot,
7 operator, or person in charge fails, upon re-
8 quest of an officer of the United States empow-
9 ered to enforce applicable provisions of United
10 States law, to make a claim of registry for that
11 aircraft; and

12 “(5) the term ‘Federal law enforcement officer’
13 has the meaning set forth in section 115 of this title.

14 “(e) Whoever intentionally violates this section shall
15 be fined under this title or imprisoned for not more than
16 5 years, or both.

17 “(f) An aircraft or vessel that is used in violation of
18 this section may be seized and forfeited to the United
19 States. The laws relating to the seizure, summary and ju-
20 dicial forfeiture, and condemnation of property for viola-
21 tion of the customs laws, the disposition of such property
22 or the proceeds from the sale thereof, the remission or
23 mitigation of such forfeitures, and the compromise of
24 claims, shall apply to seizures and forfeitures undertaken,
25 or alleged to have been undertaken, under any of the pro-

visions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. An aircraft or vessel that is used in violation of this section is also liable in rem for any fine imposed under this section.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 109 of title 18, United States Code, is amended by adding at the end the following new item:

“2237. Sanctions for failure to heave to; sanctions for obstruction of boarding or providing false information.”.

SEC. 5. CIVIL PENALTIES TO SUPPORT MARITIME LAW ENFORCEMENT.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

“§ 676. Civil penalty for failure to comply with vessel boarding

“(a) Any person that engages in conduct that violates section 2237(a) (1) or (2) of title 18, United States Code, shall be liable to the United States Government—

1 “(1) for a civil penalty of not more than
2 \$25,000, in the case of an intentional violation; or

3 “(2) for a civil penalty of not more than
4 \$15,000, in the case of any other violation.

5 “(b) A vessel used to engage in conduct for which
6 a penalty is imposed under subsection (a) is liable in rem
7 for that penalty and may be seized, forfeited, and sold in
8 accordance with customs laws.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of chapter 17 of title 14, United States
11 Code, is amended by adding at the end the following new
12 item:

“676. Civil penalty for failure to comply with vessel boarding.”.

13 **SEC. 6. INCREASED NUMBER OF BORDER PATROL AGENTS.**

14 Section 101(a) of the Illegal Immigration Reform and
15 Immigrant Responsibility Act of 1996 (Public Law 104–
16 208; 110 Stat. 3009–553) is amended to read as follows:

17 “(a) INCREASED NUMBER OF BORDER PATROL
18 AGENTS.—The Attorney General shall increase the num-
19 ber of positions for full-time, active-duty border patrol
20 agents within the Immigration and Naturalization Service
21 to achieve a level of 20,000 positions by fiscal year 2003.”.

22 **SEC. 7. BORDER PATROL PURSUIT POLICY.**

23 Within ten miles of the international border of the
24 United States, a border patrol agent of the United States
25 Border Patrol may not cease pursuit of an alien who the

1 agent suspects has unlawfully entered the United States,
2 or an individual who the agent suspects has unlawfully im-
3 ported a narcotic into the United States, until State or
4 local law enforcement authorities are in pursuit of the
5 alien or individual and have the alien or individual in their
6 visual range.

7 **SEC. 8. AUTHORIZATION FOR BORDER PATROL TO INTER-**
8 **DICT THE IMPORTATION OF NARCOTICS.**

9 The United States Border Patrol within the Depart-
10 ment of Justice shall have as one of its functions the pre-
11 vention of unlawful importation of narcotics into the
12 United States and confiscation of such narcotics.

13 **SEC. 9. CONSTRUCTION OF BARRIERS AND ROADS TO**
14 **DETER DRUG TRAFFICKING.**

15 (a) IN GENERAL.—(1) The Attorney General, in con-
16 sultation with the Commissioner of Immigration and Nat-
17 uralization, may take such actions as necessary (including
18 the removal of obstacles to the detection of illegal entrants
19 into the United States) to install multilayered barriers and
20 roads in the vicinity of the United States border for the
21 purpose of deterring drug trafficking in areas of high drug
22 trafficking into the United States. In determining the lo-
23 cations for such multilayered barriers and roads, the At-
24 torney General shall consider, but not limit consideration
25 to, the following sites:

- 1 (A) The San Diego-Tijuana corridor.
 - 2 (B) The Calexico-Mexicali corridor.
 - 3 (C) The Yuma-San Luis corridor.
 - 4 (D) The Douglas-Nogales corridor.
 - 5 (E) The El Paso-Juarez corridor.
 - 6 (F) The Presidio-Ojinaga corridor.
 - 7 (G) The Del Rio-Acuna corridor.
 - 8 (H) The Eagle Pass-Piedras Negras corridor.
 - 9 (I) The Laredo-Nueva Laredo corridor.
 - 10 (J) The Rio Grand City-Roma corridor.
 - 11 (K) The McAllen corridor.
 - 12 (L) The Brownsville-Matamoras corridor.
- 13 (2) The Attorney General, acting under the authority
14 contained in section 103(b) of the Immigration and Na-
15 tionality Act, shall promptly acquire such easements as
16 may be necessary to carry out this section and shall com-
17 mence construction of multilayered barriers and roads im-
18 mediately following such acquisition (or conclusion of por-
19 tions thereof).
- 20 (3) The Attorney General, while constructing multi-
21 layered barriers and roads under this section, shall incor-
22 porate such safety features into the design of the multi-
23 layered barriers and roads as are necessary to ensure the
24 well being of border patrol agents deployed within, or in
25 near proximity to, the system.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to carry out this section. Amounts appropriated
4 pursuant to this subsection shall remain available until
5 expended.

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