

106TH CONGRESS
1ST SESSION

H. R. 628

To amend title 10, United States Code, to authorize the Secretary of Defense to assign members of the Armed Forces, under certain circumstances and subject to certain conditions, to assist the Immigration and Naturalization Service and the United States Customs Service in the performance of border protection functions.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 1999

Mr. TRAFICANT (for himself, Mr. MURTHA, Mr. BILBRAY, and Mr. ROHR-ABACHER) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to authorize the Secretary of Defense to assign members of the Armed Forces, under certain circumstances and subject to certain conditions, to assist the Immigration and Naturalization Service and the United States Customs Service in the performance of border protection functions.

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

1 **SECTION 1. ASSIGNMENT OF MEMBERS OF THE ARMED**
2 **FORCES TO ASSIST IMMIGRATION AND NATU-**
3 **RALIZATION SERVICE AND CUSTOMS SERV-**
4 **ICE.**

5 (a) ASSIGNMENT AUTHORITY OF SECRETARY OF DE-
6 FENSE.—Chapter 18 of title 10, United States Code, is
7 amended by inserting after section 374 the following new
8 section:

9 **“§ 374a. Assignment of members to assist border pa-**
10 **trol and control**

11 “(a) ASSIGNMENT AUTHORIZED.—The Secretary of
12 Defense may assign members of the armed forces to
13 assist—

14 “(1) the Immigration and Naturalization Serv-
15 ice in preventing the entry of terrorists, drug traf-
16 fickers, and illegal aliens into the United States; and

17 “(2) the United States Customs Service in the
18 inspection of cargo, vehicles, and aircraft at points
19 of entry into the United States.

20 “(b) REQUEST FOR ASSIGNMENT.—The assignment
21 of members of the armed forces under subsection (a) may
22 only occur—

23 “(1) at the request of the Attorney General, in
24 the case of an assignment to the Immigration and
25 Naturalization Service; and

1 “(2) at the request of the Secretary of the
2 Treasury, in the case of an assignment to the
3 United States Customs Service.

4 “(c) TRAINING PROGRAM.—If the assignment of
5 members of the armed forces is requested by the Attorney
6 General or the Secretary of the Treasury, the Attorney
7 General or the Secretary of the Treasury (as the case may
8 be), together with the Secretary of Defense, shall establish
9 a training program to ensure that members to be assigned
10 receive general instruction regarding issues affecting law
11 enforcement in the border areas in which the members will
12 perform duties under the assignment. A member may not
13 be deployed at a border location pursuant to an assign-
14 ment under subsection (a) until the member has success-
15 fully completed the training program.

16 “(d) CONDITIONS ON USE.—(1) Whenever a member
17 of the armed forces who is assigned under subsection (a)
18 to assist the Immigration and Naturalization Service or
19 the United States Customs Service is performing duties
20 at a border location pursuant to the assignment, a civilian
21 law enforcement officer from the agency concerned shall
22 accompany the member.

23 “(2) Nothing in this section shall be construed to—
24 “(A) authorize a member assigned under sub-
25 section (a) to conduct a search, seizure, or other

1 similar law enforcement activity or to make an ar-
2 rest; and

3 “(B) supersede section 1385 of title 18 (popu-
4 larly known as the ‘Posse Comitatus Act’).

5 “(e) NOTIFICATION REQUIREMENTS.—The Attorney
6 General or the Secretary of the Treasury (as the case may
7 be) shall notify the Governor of the State in which mem-
8 bers of the armed forces are to be deployed pursuant to
9 an assignment under subsection (a), and local govern-
10 ments in the deployment area, of the deployment of the
11 members to assist the Immigration and Naturalization
12 Service or the United States Customs Service (as the case
13 may be) and the types of tasks to be performed by the
14 members.

15 “(f) REIMBURSEMENT REQUIREMENT.—Section 377
16 of this title shall apply in the case of members of the
17 armed forces assigned under subsection (a).

18 “(g) TERMINATION OF AUTHORITY.—No assignment
19 may be made or continued under subsection (a) after Sep-
20 tember 30, 2003.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of such chapter is amended by inserting
23 after the item relating to section 374 the following new
24 item:

“374a. Assignment of members to assist border patrol and control.”.