

106TH CONGRESS
1ST SESSION

S. 1644

To provide additional measures for the prevention and punishment of alien smuggling, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 1999

Mr. ABRAHAM (for himself, Mr. SCHUMER, Mrs. FEINSTEIN, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide additional measures for the prevention and punishment of alien smuggling, 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 “Alien Smuggling Pre-
5 vention and Enforcement Act of 1999”.

6 **SEC. 2. INCREASED PERSONNEL FOR INVESTIGATING AND**
7 **COMBATING ALIEN SMUGGLING.**

8 The Attorney General in each of the fiscal years
9 2000, 2001, 2002, 2003, and 2004 shall increase the
10 number of positions for full-time, active duty investigators

1 or other enforcement personnel within the Immigration
 2 and Naturalization Service who are assigned to combating
 3 alien smuggling by not less than 50 positions above the
 4 number of such positions for which funds were allotted
 5 for the preceding fiscal year.

6 **SEC. 3. INCREASING CRIMINAL SENTENCES AND FINES FOR**
 7 **ALIEN SMUGGLING.**

8 Pursuant to its authority under section 994(p) of title
 9 28, United States Code, the United States Sentencing
 10 Commission shall promulgate sentencing guidelines or
 11 amend existing sentencing guidelines for smuggling, trans-
 12 porting, harboring, or inducing aliens under sections
 13 274(a)(1)(A) of the Immigration and Nationality Act (8
 14 U.S.C. 1324(a)(1)(A)) so as to—

15 (1) double the minimum term of imprisonment
 16 under that section for offenses other than those cur-
 17 rently covered by guideline 2L1.1(b)(1) involving the
 18 smuggling, transporting, harboring, or inducing of—

19 (A) 1 to 5 aliens from 10 months to 20
 20 months;

21 (B) 6 to 24 aliens from 18 months to 36
 22 months;

23 (C) 25 to 100 aliens from 27 months to 54
 24 months; and

1 (D) 101 aliens or more from 37 months to
2 74 months;

3 (2) increase the minimum level of fines for each
4 of the offenses described in subparagraphs (A)
5 through (D) of paragraph (1) to the greater of the
6 current minimum level or twice the amount the de-
7 fendant received or expected to receive as compensa-
8 tion for the illegal activity; and

9 (3) increase by at least 2 offense levels above
10 the applicable enhancement in effect on the date of
11 enactment of this Act the sentencing enhancements
12 for intentionally or recklessly creating a substantial
13 risk of serious bodily injury or causing bodily injury,
14 serious injury, permanent or life threatening injury,
15 or death.

16 **SEC. 4. AMENDMENTS TO SENTENCING GUIDELINES RE-**
17 **GARDING THE EFFECT OF PROSECUTORIAL**
18 **POLICIES.**

19 In the exercise of its authority under section 994 of
20 title 28, United States Code, the United States Sentencing
21 Commission shall amend the Federal sentencing guidelines
22 to include the following:

1 **“§ 5H1.14. Plea bargaining and other prosecutorial**
 2 **policies.**

3 “Plea bargaining and other prosecutorial policies,
 4 and differences in those policies among different districts,
 5 are not a ground for imposing a sentence outside the ap-
 6 plicable guidelines range.”.

7 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—In addition to funds otherwise
 9 available for such purpose, there are authorized to be ap-
 10 propriated to the Immigration and Naturalization Service
 11 of the Department of Justice such sums as may be nec-
 12 essary to carry out section 2 and to cover the operating
 13 expenses of the Service and the Department in conducting
 14 undercover investigations of alien smuggling activities and
 15 in prosecuting violations of section 274(a)(1)(A) of the
 16 Immigration and Nationality Act (relating to alien smug-
 17 gling), resulting from the increase in personnel under sec-
 18 tion 2.

19 (b) AVAILABILITY OF FUNDS.—Amounts appro-
 20 priated pursuant to subsection (a) are authorized to re-
 21 main available until expended.

22 **SEC. 6. ANNUAL REPORT.**

23 Beginning one year after the date of enactment of
 24 this Act, and annually thereafter, the Attorney General
 25 shall submit to the Judiciary Committees of the House
 26 of Representatives and the Senate a report on the strategy

1 utilized by the Immigration and Naturalization Service in
2 dealing with alien smuggling.

3 **SEC. 7. ALIEN SMUGGLING DEFINED.**

4 In sections 2, 5, and 6, the term “alien smuggling”
5 means any act prohibited by paragraph (1) or (2) of sec-
6 tion 274(a) of the Immigration and Nationality Act (8
7 U.S.C. 1324(a)).

○