

107TH CONGRESS  
1ST SESSION

# H. R. 993

To improve the prevention and punishment of criminal smuggling,  
transporting, and harboring of aliens, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2001

Mr. KELLER introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To improve the prevention and punishment of criminal smuggling,  
transporting, and harboring of aliens, 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. INCREASED PERSONNEL FOR INVESTIGATING**  
4               **AND COMBATING ALIEN SMUGGLING.**

5       The Attorney General in each of the fiscal years  
6       2002, 2003, 2004, 2005, and 2006 shall increase the  
7       number of positions for full-time, active duty investigators  
8       or other enforcement personnel within the Immigration  
9       and Naturalization Service who are assigned to combating  
10      alien smuggling by not less than 50 positions above the

1 number of such positions for which funds were allotted  
 2 for the preceding fiscal year.

3 **SEC. 2. INCREASING CRIMINAL SENTENCES AND FINES FOR**  
 4 **ALIEN SMUGGLING.**

5 (a) IN GENERAL.—Subject to subsection (b), pursu-  
 6 ant to its authority under section 994(p) of title 28,  
 7 United States Code, the United States Sentencing Com-  
 8 mission shall promulgate sentencing guidelines or amend  
 9 existing sentencing guidelines for smuggling, transporting,  
 10 harboring, or inducing aliens under sections 274(a)(1)(A)  
 11 of the Immigration and Nationality Act (8 U.S.C.  
 12 1324(a)(1)(A)) so as to—

13 (1) double the minimum term of imprisonment  
 14 under that section for offenses involving the smug-  
 15 gling, transporting, harboring, or inducing of—

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

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

20 (C) 25 to 100 aliens from 27 months to 54  
 21 months; and

22 (D) 101 aliens or more from 37 months to  
 23 74 months;

24 (2) increase the minimum level of fines for each  
 25 of the offenses described in subparagraphs (A)

1 through (D) of paragraph (1) to the greater of the  
 2 current minimum level or twice the amount the de-  
 3 fendant received or expected to receive as compensa-  
 4 tion for the illegal activity; and

5 (3) increase by at least two offense levels above  
 6 the applicable enhancement in effect on the date of  
 7 the enactment of this Act the sentencing enhance-  
 8 ments for intentionally or recklessly creating a sub-  
 9 stantial risk of serious bodily injury or causing bod-  
 10 ily injury, serious injury, permanent or life threat-  
 11 ening injury, or death.

12 (b) EXCEPTIONS.—Subsection (a) shall not apply to  
 13 an offense that—

14 (1) was committed other than for profit; or

15 (2) involved the smuggling, transporting, or  
 16 harboring only of the defendant’s spouse or child (or  
 17 both the defendant’s spouse and child).

18 **SEC. 3. ELIMINATION OF PENALTY ON PERSONS REN-**  
 19 **DERING EMERGENCY ASSISTANCE.**

20 (a) IN GENERAL.—Section 274(a)(1) of the Immi-  
 21 gration and Nationality Act (8 U.S.C. 1324(a)(1)) is  
 22 amended by adding at the end the following:

23 “(C) In no case may any penalty for a violation of  
 24 subparagraph (A) be imposed on any person based on ac-  
 25 tions taken by the person to render emergency assistance

1 to an alien found physically present in the United States  
 2 in life threatening circumstances.”.

3 (b) EFFECTIVE DATE.—The amendment made by  
 4 subsection (a) shall take effect 90 days after the date of  
 5 the enactment of this Act, and shall apply to offenses com-  
 6 mitted after the termination of such 90-day period.

7 **SEC. 4. AMENDMENTS TO SENTENCING GUIDELINES RE-**  
 8 **GARDING THE EFFECT OF PROSECUTORIAL**  
 9 **POLICIES.**

10 In the exercise of its authority under section 994 of  
 11 title 28, United States Code, the United States Sentencing  
 12 Commission shall amend the Federal sentencing guidelines  
 13 to include the following:

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

16 “Plea bargaining and other prosecutorial policies,  
 17 and differences in those policies among different districts,  
 18 are not a ground for imposing a sentence outside the ap-  
 19 plicable guidelines range.”.

20 **SEC. 5. ENHANCED PENALTIES FOR PERSONS COMMITTING**  
 21 **OFFENSES WHILE ARMED.**

22 (a) IN GENERAL.—Section 924(c)(1) of title 18,  
 23 United States Code, is amended—

24 (1) in subparagraph (A)—

1 (A) by inserting after “device)” the fol-  
 2 lowing: “or any violation of section  
 3 274(a)(1)(A) of the Immigration and Nation-  
 4 ality Act”; and

5 (B) by striking “or drug trafficking  
 6 crime—” and inserting “, drug trafficking  
 7 crime, or violation of section 274(a)(1)(A) of  
 8 the Immigration and Nationality Act—”; and

9 (2) in subparagraph (D)(ii), by striking “or  
 10 drug trafficking crime” and inserting “, drug traf-  
 11 ficking crime, or violation of section 274(a)(1)(A) of  
 12 the Immigration and Nationality Act”.

13 (b) EFFECTIVE DATE.—The amendments made by  
 14 subsection (a) shall take effect 90 days after the date of  
 15 the enactment of this Act, and shall apply to offenses com-  
 16 mitted after the termination of such 90-day period.

17 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

18 (a) IN GENERAL.—In addition to funds otherwise  
 19 available for such purpose, there are authorized to be ap-  
 20 propriated to the Immigration and Naturalization Service  
 21 of the Department of Justice such sums as may be nec-  
 22 essary to carry out section 1 and to cover the operating  
 23 expenses of the Service and the Department in conducting  
 24 undercover investigations of alien smuggling activities and  
 25 in prosecuting violations of section 274(a)(1)(A) of the

1 Immigration and Nationality Act (relating to alien smug-  
2 gling), resulting from the increase in personnel under sec-  
3 tion 1.

4 (b) AVAILABILITY OF FUNDS.—Amounts appro-  
5 priated pursuant to subsection (a) are authorized to re-  
6 main available until expended.

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

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

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