

108TH CONGRESS  
2D SESSION

# S. 2665

To strengthen and enhance the prevention and prosecution of crimes using weapons of mass destruction, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JULY 15, 2004

Mr. CORNYN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To strengthen and enhance the prevention and prosecution of crimes using weapons of mass destruction, 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 “Weapons of Mass De-  
5       struction Prohibition Improvement Act of 2004”.

6       **SEC. 2. WEAPONS OF MASS DESTRUCTION.**

7       (a) EXPANSION OF JURISDICTIONAL BASES AND  
8       SCOPE.—Section 2332a of title 18, United States Code,  
9       is amended—

10               (1) in subsection (a)—

1 (A) by striking paragraph (2) and insert-  
2 ing the following:

3 “(2)(A) against any person or property within  
4 the United States, and—

5 “(B)(i) the mail or any facility of interstate or  
6 foreign commerce is used in furtherance of the of-  
7 fense;

8 “(ii) such property is used in interstate or for-  
9 eign commerce or in an activity that affects inter-  
10 state or foreign commerce;

11 “(iii) any perpetrator travels in or causes an-  
12 other to travel in interstate or foreign commerce in  
13 furtherance of the offense; or

14 “(iv) the offense, or the results of the offense,  
15 affect interstate or foreign commerce, or, in the case  
16 of a threat, attempt, or conspiracy, would have af-  
17 fected interstate or foreign commerce;”;

18 (B) in paragraph (3), by striking the  
19 comma at the end and inserting “; or”; and

20 (C) by adding at the end the following:

21 “(4) against any property within the United  
22 States that is owned, leased, or used by a foreign  
23 government,”; and

24 (2) in subsection (c)—

1 (A) in paragraph (1), by striking “and” at  
2 the end;

3 (B) in paragraph (2), by striking the pe-  
4 riod at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(3) the term ‘property’ includes all real and  
7 personal property.”.

8 (b) RESTORATION OF THE COVERAGE OF CHEMICAL  
9 WEAPONS.—

10 (1) IN GENERAL.—Section 2332a of title 18,  
11 United States Code, as amended by this Act, is fur-  
12 ther amended by—

13 (A) in the section heading, by striking  
14 “**CERTAIN**”;

15 (B) in subsection (a), by striking “(other  
16 than a chemical weapon as that term is defined  
17 in section 229F)”;

18 (C) in subsection (b), by striking “(other  
19 than a chemical weapon (as that term is de-  
20 fined in section 229F))”.

21 (2) TECHNICAL AND CONFORMING AMEND-  
22 MENT.—The table of sections for chapter 113B of  
23 title 18, United States Code, is amended in the mat-  
24 ter relating to section 2332a by striking “certain”.

1       (c) EXPANSION OF CATEGORIES OF RESTRICTED  
 2 PERSONS SUBJECT TO PROHIBITIONS RELATING TO SE-  
 3 LECT AGENTS.—Section 175b(d)(2) of title 18, United  
 4 States Code, is amended—

5           (1) in subparagraph (G)—

6               (A) by inserting “(i)” after “(G)”;

7               (B) by striking “or” after the semicolon;

8           and

9               (C) by adding at the end the following:

10               “(ii) acts for or on behalf of, or operates  
 11               subject to the direction or control of, a govern-  
 12               ment or official of a country described in this  
 13               subparagraph;” and

14           (2) in subparagraph (H), by striking the period  
 15           and inserting “; or”; and

16           (3) by adding at the end the following:

17               “(I) is a member of, acts for or on behalf  
 18               of, or operates subject to the direction or con-  
 19               trol of, a terrorist organization (as that term is  
 20               defined under section 212(a)(3)(B)(vi) of the  
 21               Immigration and Nationality Act (8 U.S.C.  
 22               1182(a)(3)(B)(vi))).”.

23       (d) CONFORMING AMENDMENT TO REGULATIONS.—

24           (1) IN GENERAL.—Section 175b(a)(1) of title  
 25       18, United States Code, is amended by striking “as

1 a select agent in Appendix A” and all that follows  
 2 through the period and inserting “as a non-overlap  
 3 or overlap select biological agent or toxin in sections  
 4 73.4 and 73.5 of title 42, Code of Federal Regula-  
 5 tions, pursuant to section 351A of the Public Health  
 6 Service Act, and is not excluded under sections 73.4  
 7 and 73.5 or exempted under section 73.6 of title 42,  
 8 Code of Federal Regulations.”.

9 (2) EFFECTIVE DATE.—The amendment made  
 10 by paragraph (1) shall take effect on the date that  
 11 sections 73.4, 73.5, and 73.6 of title 42, Code of  
 12 Federal Regulations, become effective.

13 **SEC. 3. PARTICIPATION IN NUCLEAR AND WEAPONS OF**  
 14 **MASS DESTRUCTION THREATS TO THE**  
 15 **UNITED STATES.**

16 (a) ATOMIC ENERGY ACT.—Section 57(b) of the  
 17 Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is  
 18 amended by striking “in the production of any special nu-  
 19 clear material” and inserting “or participate in the devel-  
 20 opment or production of any special nuclear material or  
 21 atomic weapon”.

22 (b) NUCLEAR WEAPON AND WMD THREATS.—

23 (1) IN GENERAL.—Chapter 39 of title 18,  
 24 United States Code, is amended by adding at the  
 25 end the following:

1   **“§ 838. Participation in nuclear and weapons of mass**  
 2                   **destruction threats to the United States**

3           “(a) IN GENERAL.—Whoever, within the United  
 4 States, or subject to the jurisdiction of the United States,  
 5 willfully participates in or provides material support or re-  
 6 sources (as that term is defined under section 2339A) to  
 7 a nuclear weapons program, or other weapons of mass de-  
 8 struction program of a foreign terrorist power, or attempts  
 9 or conspires to do so, shall be imprisoned for not more  
 10 than 20 years.

11          “(b) JURISDICTION.—There is extraterritorial Fed-  
 12 eral jurisdiction over an offense under this section.

13          “(c) DEFINITIONS.—As used in this section—

14               “(1) FOREIGN TERRORIST POWER.—The term  
 15 ‘foreign terrorist power’ means a terrorist organiza-  
 16 tion designated under section 219 of the Immigra-  
 17 tion and Nationality Act (8 U.S.C. 1189), or a state  
 18 sponsor of terrorism designated under section 6(j) of  
 19 the Export Administration Act of 1979 (50 U.S.C.  
 20 App. 2405), or section 620A of the Foreign Assist-  
 21 ance Act of 1961 (22 U.S.C. 2371).

22               “(2) NUCLEAR WEAPON.—The term ‘nuclear  
 23 weapon’ means any weapon that contains or uses  
 24 nuclear material (as that term is defined under sec-  
 25 tion 831(f)(1)).

1           “(3) NUCLEAR WEAPONS PROGRAM.—The term  
2           ‘nuclear weapons program’ means a program or plan  
3           for the development, acquisition, or production of  
4           any nuclear weapon or weapons.

5           “(4) WEAPONS OF MASS DESTRUCTION PRO-  
6           GRAM.—The term ‘weapons of mass destruction pro-  
7           gram’ means a program or plan for the development,  
8           acquisition, or production of any weapon or weapons  
9           of mass destruction (as that term is defined in sec-  
10          tion 2332a(c)).”.

11          (2) TECHNICAL AND CONFORMING AMEND-  
12          MENT.—The table of sections for chapter 39 of title  
13          18, United States Code, is amended by adding at  
14          the end the following:

“Sec. 838. Participation in nuclear and weapons of mass destruction  
threats to the United States.”.

15          (c) ACT OF TERRORISM TRANSCENDING NATIONAL  
16          BOUNDARIES.—Section 2332b(g)(5)(B)(i) of title 18,  
17          United States Code, is amended by inserting “832 (relat-  
18          ing to participation in nuclear and weapons of mass de-  
19          struction threats to the United States)” after “nuclear  
20          materials),”.

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