

111TH CONGRESS
1ST SESSION

H. R. 2083

To secure smuggling routes on the U.S.-Mexico border, better prevent the smuggling of narcotics and weapons across the border, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 2009

Mr. HUNTER (for himself, Mr. POE of Texas, Mr. BILBRAY, Mr. MARCHANT, Mr. ROYCE, Mr. CAMPBELL, Mr. ROHRABACHER, Mr. ALEXANDER, Mr. CALVERT, Mr. AKIN, Mr. GARY G. MILLER of California, and Mr. FRANKS of Arizona) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security and Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To secure smuggling routes on the U.S.-Mexico border, better prevent the smuggling of narcotics and weapons across the border, 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 Sovereignty
5 and Protection Act”.

1 **SEC. 2. TWO-LAYERED REINFORCED FENCING ALONG THE**
2 **SOUTHWEST BORDER.**

3 (a) IN GENERAL.—Section 102 of the Illegal Immi-
4 gration Reform and Immigrant Responsibility Act of 1996
5 (Public Law 104–208; 8 U.S.C. 1103 note) is amended
6 by amending subparagraph (A) of subsection (b)(1) to
7 read as follows:

8 “(A) TWO-LAYERED REINFORCED FENC-
9 ING.—

10 “(i) IN GENERAL.—In carrying out
11 subsection (a), the Secretary of Homeland
12 Security shall construct two layers of rein-
13 forced fencing along not fewer than 350
14 miles of the southwest border where such
15 fencing would be most practical and effec-
16 tive and provide for the installation of re-
17 lated security infrastructure to gain oper-
18 ational control of the southwest border.

19 “(ii) BORDER PATROL ACCESS
20 ROAD.—The two-layered reinforced fencing
21 required under clause (i) shall be separated
22 by a Border Patrol access road.

23 “(iii) CONSTRUCTION DEADLINE.—
24 The Secretary shall ensure the completion
25 of the construction of such two-layered re-
26 inforced fencing (including the installation

1 of such related security infrastructure) re-
2 quired under clause (i) and the construc-
3 tion of the Border Patrol access road re-
4 quired under clause (ii) by not later than
5 the date that is one year after the date of
6 the enactment of this subparagraph.

7 “(iv) PROHIBITION ON PREEXISTING
8 FENCING TO SATISFY MILEAGE REQUIRE-
9 MENT.—In carrying out clause (i), the Sec-
10 retary may not consider fencing along the
11 southwest border in existence on April 1,
12 2009, for purposes of satisfying the mile-
13 age requirement under such clause.”.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated such sums as may be
16 necessary to carry out the amendment made by subsection
17 (a).

18 **SEC. 3. DEPARTMENT OF HOMELAND SECURITY AUTHOR-**
19 **ITY WITH REGARD TO DRUG OFFENSES.**

20 The Department of Homeland Security shall have full
21 authority, concurrent with that of the Department of Jus-
22 tice, to investigate any criminal violation of the Controlled
23 Substances Act or the Controlled Substances Import and
24 Export Act.

1 **SEC. 4. MANDATORY MINIMUM SENTENCE FOR FIREARMS**
2 **SMUGGLING.**

3 (a) SMUGGLING INTO THE UNITED STATES.—Sec-
4 tion 924 of title 18, United States Code, is amended by
5 adding at the end the following:

6 “(q) Whoever, in relation to a crime of violence (as
7 defined in subsection (c)(3)) or a drug trafficking crime
8 (as defined in subsection (c)(2)), smuggles or fraudulently
9 or knowingly imports or brings into the United States a
10 firearm, or attempts to do so, contrary to any law or regu-
11 lation of the United States shall be fined under this title,
12 imprisoned not less than 15 years, or both.”.

13 (b) SMUGGLING OUT OF THE UNITED STATES.—Sec-
14 tion 554(a) of title 18, United States Code, is amended
15 by inserting “, but if the merchandise, article, or object
16 is a firearm (as defined in section 921) and the conduct
17 described in this subsection occurs in relation to a crime
18 of violence (as defined in section 924(c)(3)) or a drug traf-
19 ficking crime (as defined in section 924(c)(2)), the term
20 of imprisonment for the offense shall be not less than 15
21 years” after “or both”.

1 **SEC. 5. ELIGIBILITY REQUIREMENTS FOR STATE CRIMINAL**
2 **ALIEN ASSISTANCE PROGRAM (SCAAP) FUND-**
3 **ING.**

4 Section 241(i) of the Immigration and Nationality
5 Act (8 U.S.C. 1231(i)) is amended by adding at the end
6 the following:

7 “(7) A State (or a political subdivision of a
8 State) shall not be eligible to enter into a contrac-
9 tual arrangement under paragraph (1) if the State
10 (or political subdivision)—

11 “(A) has in effect any law, policy, or proce-
12 dure in contravention of subsection (a) or (b) of
13 section 642 of the Illegal Immigration Reform
14 and Immigrant Responsibility Act of 1996 (8
15 U.S.C. 1373); or

16 “(B) prohibits State or local law enforce-
17 ment officials from gathering information re-
18 garding the citizenship or immigration status,
19 lawful or unlawful, of any individual.”.

20 **SEC. 6. EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING**
21 **ALIENS.**

22 Section 235(b)(1)(A) of the Immigration and Nation-
23 ality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking
24 clauses (i) through (iii) and inserting the following:

25 “(i) IN GENERAL.—If an immigration
26 officer determines that an alien (other

1 than an alien described in subparagraph
2 (F)) who is arriving in the United States,
3 or who has not been admitted or paroled
4 into the United States and has not been
5 physically present in the United States
6 continuously for the 3-year period imme-
7 diately prior to the date of the determina-
8 tion of inadmissibility under this para-
9 graph, is inadmissible under section
10 212(a)(6)(C) or 212(a)(7), the officer shall
11 order the alien removed from the United
12 States without further hearing or review,
13 unless—

14 “(I) the alien has been charged
15 with a crime; or

16 “(II) the alien indicates an inten-
17 tion to apply for asylum under section
18 208 or a fear of persecution and the
19 officer determines that the alien has
20 been physically present in the United
21 States for less than 1 year.

22 “(ii) CLAIMS FOR ASYLUM.—If an im-
23 migration officer determines that an alien
24 (other than an alien described in subpara-
25 graph (F)) who is arriving in the United

1 States, or who has not been admitted or
2 paroled into the United States and has not
3 been physically present in the United
4 States continuously for the 3-year period
5 immediately prior to the date of the deter-
6 mination of inadmissibility under this
7 paragraph, is inadmissible under section
8 212(a)(6)(C) or 212(a)(7), and the alien
9 indicates either an intention to apply for
10 asylum under section 208 or a fear of per-
11 secution, the officer shall refer the alien
12 for an interview by an asylum officer under
13 subparagraph (B) if the officer determines
14 that the alien has been physically present
15 in the United States for less than 1 year.”.

16 **SEC. 7. EXPEDITED REMOVAL OF CRIMINAL ALIENS.**

17 (a) IN GENERAL.—Section 238 of the Immigration
18 and Nationality Act (8 U.S.C. 1228) is amended—

19 (1) by amending the section heading to read as
20 follows: “**EXPEDITED REMOVAL OF CRIMINAL**
21 **ALIENS**”;

22 (2) in subsection (a), by amending the sub-
23 section heading to read as follows: “**EXPEDITED RE-**
24 **MOVAL FROM CORRECTIONAL FACILITIES**”;

1 (3) in subsection (b), by amending the sub-
2 section heading to read as follows: “REMOVAL OF
3 CRIMINAL ALIENS”;

4 (4) in subsection (b), by striking paragraphs
5 (1) and (2) and inserting the following:

6 “(1) IN GENERAL.—The Secretary may, in the
7 case of an alien described in paragraph (2), deter-
8 mine the deportability of such alien and issue an
9 order of removal pursuant to the procedures set
10 forth in this subsection or section 240.

11 “(2) ALIENS DESCRIBED.—An alien is de-
12 scribed in this paragraph if the alien, whether or not
13 admitted into the United States, was convicted of
14 any criminal offense described in subparagraph
15 (A)(iii), (C), or (D) of section 237(a)(2).”;

16 (5) in the first subsection (c) (relating to pre-
17 sumption of deportability), by striking “convicted of
18 an aggravated felony” and inserting “described in
19 paragraph (b)(2)”;

20 (6) by redesignating the second subsection (c)
21 (relating to judicial removal) as subsection (d); and

22 (7) in subsection (d)(5) (as so redesignated), by
23 striking “, who is deportable under this Act,”.

24 (b) LIMIT ON INJUNCTIVE RELIEF.—Section
25 242(f)(2) of such Act (8 U.S.C. 1252(f)(2)) is amended

1 by inserting “or stay, whether temporarily or otherwise,”
2 after “enjoin”.

3 **SEC. 8. MANDATORY EMPLOYMENT AUTHORIZATION**
4 **VERIFICATION.**

5 (a) MAKING BASIC PILOT PROGRAM PERMANENT.—
6 Section 401(b) of the Illegal Immigration Reform and Im-
7 migrant Responsibility Act of 1996 (8 U.S.C. 1324a note)
8 is amended by adding before the period at the end of the
9 last sentence the following “, except that the basic pilot
10 program described in section 403(a) shall be a permanent
11 program”.

12 (b) MANDATORY USE OF E-VERIFY SYSTEM.—

13 (1) IN GENERAL.—Subject to paragraphs (2)
14 and (3), every person or other entity that hires one
15 or more individuals for employment in the United
16 States shall verify through the E-Verify program, es-
17 tablished as the basic pilot program by section
18 403(a) of the Illegal Immigration Reform and Immi-
19 grant Responsibility Act of 1996 (division C of Pub-
20 lic Law 104–208; 8 U.S.C. 1324a note), that each
21 such individual is authorized to work in the United
22 States. The Secretary of Homeland Security shall
23 ensure that verification by means of a toll-free tele-
24 phone line is an available option in complying with
25 the preceding sentence.

1 (2) SELECT ENTITIES REQUIRED TO USE E-
2 VERIFY PROGRAM IMMEDIATELY.—The following en-
3 tities must satisfy the requirement in paragraph (1)
4 by not later than one year after the date of the en-
5 actment of this Act:

6 (A) FEDERAL AGENCIES.—Each depart-
7 ment and agency of the Federal Government.

8 (B) FEDERAL CONTRACTORS.—A con-
9 tractor that—

10 (i) has entered into a contract with
11 the Federal Government to which section
12 2(b)(1) of the Service Contract Act of
13 1965 (41 U.S.C. 351(b)(1)) applies, and
14 any subcontractor under such contract; or

15 (ii) has entered into a contract ex-
16 empted from the application of such Act by
17 section 6 of such Act (41 U.S.C. 356), and
18 any subcontractor under such contract;
19 and

20 (C) LARGE EMPLOYERS.—An employer
21 that employs more than 250 individuals in the
22 United States.

23 (3) PHASING-IN FOR OTHER EMPLOYERS.—

24 (A) 2 YEARS FOR EMPLOYERS OF 100 OR
25 MORE.—Entities that employ 100 or more indi-

viduals in the United States must satisfy the requirement in paragraph (1) by not later than two years after the date of the enactment of this Act.

(B) 3 YEARS FOR EMPLOYERS WITH 30 OR MORE EMPLOYEES.—All entities that employ 30 or more individuals in the United States must satisfy the requirement in paragraph (1) by not later than three years after the date of the enactment of this Act.

(C) 4 YEARS FOR ALL EMPLOYERS.—All entities that employ one or more individuals in the United States must satisfy the requirement in paragraph (1) by not later than four years after the date of the enactment of this Act.

(4) VERIFYING EMPLOYMENT AUTHORIZATION OF CURRENT EMPLOYEES.—Every person or other entity that employs one or more persons in the United States shall verify through the E-Verify program by not later than four years after the date of the enactment of this Act that each employee is authorized to work in the United States.

(5) DEFENSE.—An employer who has complied with the requirements in paragraphs (1) and (4)

1 shall not be liable for hiring an unauthorized alien,
2 if—

3 (A) such hiring occurred due to an error in
4 the E-Verify program that was unknown to the
5 employer at the time of such hiring; and

6 (B) the employer terminates the employ-
7 ment of the alien upon being informed of the
8 error.

9 (6) SANCTIONS FOR NONCOMPLIANCE.—The
10 failure of an employer to comply with the require-
11 ments in paragraphs (1) or (4) shall—

12 (A) be treated as a violation of section
13 274A(a)(1)(B) with respect to each offense; and

14 (B) create a rebuttable presumption that
15 the employer has violated section
16 274A(a)(1)(A).

17 (7) VOLUNTARY PARTICIPATION OF EMPLOYERS
18 NOT IMMEDIATELY SUBJECT TO REQUIREMENT.—

19 Nothing in this subsection shall be construed as pre-
20 venting a person or other entity that is not imme-
21 diately subject to the requirement of paragraph (1)
22 pursuant to paragraph (2) or (3) from voluntarily
23 using the E-Verify program to verify the employ-
24 ment authorization of new hires or current employ-
25 ees.

1 (8) STATE INTERFERENCE.—No State may
2 prohibit a person or other entity from using the E-
3 verify program to verify the employment authoriza-
4 tion of new hires or current employees.

○