

111TH CONGRESS
1ST SESSION

S. 879

To amend the Homeland Security Act of 2002 to provide immunity for reports of suspected terrorist activity or suspicious behavior and response.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2009

Ms. COLLINS (for herself and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Homeland Security Act of 2002 to provide immunity for reports of suspected terrorist activity or suspicious behavior and response.

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 “See Something, Say
5 Something Act of 2009”.

6 **SEC. 2. AMENDMENT TO THE HOMELAND SECURITY ACT OF**
7 **2002.**

8 (a) IN GENERAL.—Subtitle H of title VIII of the
9 Homeland Security Act of 2002 (6 U.S.C. 451 et seq.)
10 is amended by adding at the end the following:

1 **“SEC. 890A. IMMUNITY FOR REPORTS OF SUSPECTED TER-**
2 **RORIST ACTIVITY OR SUSPICIOUS BEHAVIOR**
3 **AND RESPONSE.**

4 “(a) IMMUNITY FOR REPORTS OF SUSPECTED TER-
5 RORIST ACTIVITY OR SUSPICIOUS BEHAVIOR AND RE-
6 SPONSE.—

7 “(1) IN GENERAL.—Any person who, in good
8 faith and based on objectively reasonable suspicion,
9 makes, or causes to be made, a voluntary report of
10 covered activity to an authorized official shall be im-
11 mune from civil liability under Federal, State, and
12 local law for such report.

13 “(2) FALSE REPORTS.—Paragraph (1) shall not
14 apply to any report that the person knew to be false
15 or was made with reckless disregard for the truth at
16 the time that the person made that report.

17 “(b) IMMUNITY FOR RESPONSE.—

18 “(1) IN GENERAL.—Any authorized official who
19 observes, or receives a report of, covered activity and
20 takes reasonable action in good faith to respond to
21 such activity shall have qualified immunity from civil
22 liability for such action, consistent with applicable
23 law in the relevant jurisdiction. An authorized offi-
24 cial as defined by section (d)(1)(A) not entitled to
25 assert the defense of qualified immunity shall none-
26 theless be immune from civil liability under Federal,

1 State, and local law if such authorized official takes
 2 reasonable action, in good faith, to respond to the
 3 reported activity.

4 “(2) SAVINGS CLAUSE.—Nothing in this sub-
 5 section shall—

6 “(A) affect the ability of any authorized of-
 7 ficial to assert any defense, privilege, or immu-
 8 nity that would otherwise be available; and

9 “(B) be construed as affecting any such
 10 defense, privilege, or immunity.

11 “(c) ATTORNEY FEES AND COSTS.—Any authorized
 12 official or other person found to be immune from civil li-
 13 ability under this section shall be entitled to recover from
 14 the plaintiff all reasonable costs and attorney fees.

15 “(d) DEFINITIONS.—In this section:

16 “(1) AUTHORIZED OFFICIAL.—The term ‘au-
 17 thorized official’ means—

18 “(A) any officer, employee, or agent of the
 19 Federal government with responsibility for pre-
 20 venting, protecting against, disrupting, or re-
 21 sponding to a ‘covered activity;’ or

22 “(B) any Federal, State, or local law en-
 23 forcement officer.

24 “(2) COVERED ACTIVITY.—The term ‘covered
 25 activity’ means any suspicious transaction, activity,

1 or occurrence indicating that an individual may be
2 engaging, or preparing to engage, in a violation of
3 law relating to an act of terrorism (as that term is
4 defined in section 3077 of title 18, United States
5 Code).”.

6 (b) AMENDMENT TO THE TABLE OF CONTENTS.—
7 The table of contents for the Homeland Security Act of
8 2002 is amended by inserting at the end of subtitle H
9 of title VIII the following item:

“Sec. 890A. Immunity for reports of suspected terrorist activity or suspicious
behavior and response.”.

