

113TH CONGRESS  
1ST SESSION

# H. R. 2398

To prohibit the Secretaries of the Interior and Agriculture from taking action on Federal lands that impede border security on such lands, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2013

Mr. BISHOP of Utah (for himself, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. KING of New York, Mr. CARTER, Mr. LABRADOR, Mr. HASTINGS of Washington, and Mr. McCAUL) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture and Homeland Security, 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 prohibit the Secretaries of the Interior and Agriculture from taking action on Federal lands that impede border security on such lands, 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. PROHIBITION ON ACTIONS THAT IMPEDE BOR-**  
4       **DER SECURITY ON CERTAIN FEDERAL LAND.**

5       (a) SHORT TITLE.—This section may be cited as the  
6       “National Security and Federal Lands Protection Act”.

1       (b) PROHIBITION ON SECRETARIES OF THE INTE-  
2 RIOR AND AGRICULTURE.—The Secretary of the Interior  
3 or the Secretary of Agriculture shall not impede, prohibit,  
4 or restrict activities of U.S. Customs and Border Protec-  
5 tion on Federal land located within 100 miles of an inter-  
6 national land border that is under the jurisdiction of the  
7 Secretary of the Interior or the Secretary of Agriculture,  
8 to execute search and rescue operations and to prevent  
9 all unlawful entries into the United States, including en-  
10 tries by terrorists, other unlawful aliens, instruments of  
11 terrorism, narcotics, and other contraband through the  
12 international land borders of the United States.

13       (c) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND  
14 BORDER PROTECTION.—U.S. Customs and Border Pro-  
15 tection shall have immediate access to Federal land within  
16 100 miles of the international land border under the juris-  
17 diction of the Secretary of the Interior or the Secretary  
18 of Agriculture for purposes of conducting the following ac-  
19 tivities on such land that prevent all unlawful entries into  
20 the United States, including entries by terrorists, other  
21 unlawful aliens, instruments of terrorism, narcotics, and  
22 other contraband through the international land borders  
23 of the United States:

24               (1) Construction and maintenance of roads.

25               (2) Construction and maintenance of barriers.

1           (3) Use of vehicles to patrol, apprehend, or res-  
2       cue.

3           (4) Installation, maintenance, and operation of  
4       communications and surveillance equipment and sen-  
5       sors.

6           (5) Deployment of temporary tactical infra-  
7       structure.

8       (d) CLARIFICATION RELATING TO WAIVER AUTHOR-  
9       ITY.—

10           (1) IN GENERAL.—Notwithstanding any other  
11       provision of law (including any termination date re-  
12       lating to the waiver referred to in this subsection),  
13       the waiver by the Secretary of Homeland Security  
14       on April 1, 2008, under section 102(c)(1) of the Ille-  
15       gal Immigration Reform and Immigrant Responsi-  
16       bility Act of 1996 (8 U.S.C. 1103 note; Public Law  
17       104–208) of the laws described in paragraph (2)  
18       with respect to certain sections of the international  
19       border between the United States and Mexico and  
20       between the United States and Canada shall be con-  
21       sidered to apply to all Federal land under the juris-  
22       diction of the Secretary of the Interior or the Sec-  
23       retary of Agriculture within 100 miles of the inter-  
24       national land borders of the United States for the

activities of U.S. Customs and Border Protection described in subsection (c).

(2) DESCRIPTION OF LAWS WAIVED.—The laws referred to in paragraph (1) are limited to the Wilderness Act (16 U.S.C. 1131 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Historic Preservation Act (16 U.S.C. 470 et seq.), Public Law 86–523 (16 U.S.C. 469 et seq.), the Act of June 8, 1906 (commonly known as the “Antiquities Act of 1906”; 16 U.S.C. 431 et seq.), the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”), the National Park Service Organic Act (16 U.S.C. 1 et seq.), the General Authorities Act of 1970 (Public Law 91–383) (16 U.S.C. 1a–1 et seq.), sections 401(7), 403, and 404

1 of the National Parks and Recreation Act of 1978  
2 (Public Law 95–625, 92 Stat. 3467), and the Ari-  
3 zona Desert Wilderness Act of 1990 (16 U.S.C.  
4 1132 note; Public Law 101–628).

5 (e) PROTECTION OF LEGAL USES.—This section  
6 shall not be construed to provide—

7 (1) authority to restrict legal uses, such as  
8 grazing, hunting, mining, or public-use recreational  
9 and backcountry airstrips on land under the jurisdic-  
10 tion of the Secretary of the Interior or the Secretary  
11 of Agriculture; or

12 (2) any additional authority to restrict legal ac-  
13 cess to such land.

14 (f) EFFECT ON STATE AND PRIVATE LAND.—This  
15 Act shall—

16 (1) have no force or effect on State or private  
17 lands; and

18 (2) not provide authority on or access to State  
19 or private lands.

20 (g) TRIBAL SOVEREIGNTY.—Nothing in this section  
21 supersedes, replaces, negates, or diminishes treaties or  
22 other agreements between the United States and Indian  
23 tribes.

○