

113TH CONGRESS
2D SESSION

S. 2561

To prevent organized human smuggling, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2014

Mr. MCCAIN (for himself and Mr. FLAKE) introduced the following bill; which
was read twice and referred to the Committee on the Judiciary

A BILL

To prevent organized human smuggling, 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 “Human Smuggling
5 Prevention Act of 2014”.

6 **SEC. 2. ORGANIZED HUMAN SMUGGLING.**

7 (a) DEFINITIONS.—In this section:

8 (1) EFFORT OR SCHEME.—The term “effort or
9 scheme to assist or cause 5 or more persons” does
10 not require that the 5 or more persons enter, at-
11 tempt to enter, prepare to enter, or travel at the

1 same time if such acts are completed during a 1-
2 year period.

3 (2) **LAWFUL AUTHORITY.**—The term “lawful
4 authority”—

5 (A) means permission, authorization, or li-
6 cense that is expressly provided for under the
7 immigration laws of the United States; and

8 (B) does not include—

9 (i) any authority described in sub-
10 paragraph (A) that was secured by fraud
11 or otherwise unlawfully obtained; or

12 (ii) any authority that was sought,
13 but not approved.

14 (b) **PROHIBITED ACTIVITIES.**—It shall be unlawful
15 for any person, while acting for profit or other financial
16 gain, to knowingly direct or participate in an effort or
17 scheme to assist or cause 5 or more persons (other than
18 a parent, spouse, or child of the offender)—

19 (1) to enter, attempt to enter, or prepare to
20 enter the United States—

21 (A) by fraud, falsehood, or other corrupt
22 means;

23 (B) at any place other than a port or place
24 of entry designated by the Secretary of Home-
25 land Security; or

1 (C) in a manner not prescribed by the im-
2 migration laws and regulations of the United
3 States;

4 (2) to travel by air, land, or sea toward the
5 United States (whether directly or indirectly)—

6 (A) knowing that the persons seek to enter
7 or attempt to enter the United States without
8 lawful authority; and

9 (B) with the intent to aid or further such
10 entry or attempted entry; or

11 (3) to be transported or moved outside of the
12 United States—

13 (A) knowing that such persons are aliens
14 in unlawful transit from 1 country to another
15 or on the high seas; and

16 (B) under circumstances in which the per-
17 sons are seeking to enter the United States
18 without official permission or legal authority.

19 (c) CONSPIRACY AND ATTEMPT.—Any person who at-
20 tempts or conspires to violate subsection (b) shall be pun-
21 ished in the same manner as a person who completes a
22 violation of such subsection.

23 (d) BASE PENALTY.—Except as provided in sub-
24 section (e), any person who violates subsection (b) or (c)

1 shall be fined under title 18, United States Code, impris-
2 oned for not more than 20 years, or both.

3 (e) ENHANCED PENALTIES.—Any person who vio-
4 lates subsection (b) or (c)—

5 (1) in the case of a violation during and in rela-
6 tion to which a serious bodily injury (as defined in
7 section 1365 of title 18, United States Code) occurs
8 to any person, shall be fined under title 18, United
9 States Code, imprisoned for not more than 30 years,
10 or both;

11 (2) in the case of a violation during and in rela-
12 tion to which the life of any person is placed in jeop-
13 ardy, shall be fined under title 18, United States
14 Code, imprisoned for not more than 30 years, or
15 both;

16 (3) in the case of a violation involving 10 or
17 more persons, shall be fined under title 18, United
18 States Code, imprisoned for not more than 30 years,
19 or both;

20 (4) in the case of a violation involving the brib-
21 ery or corruption of a United States or foreign gov-
22 ernment official, shall be fined under title 18,
23 United States Code, imprisoned for not more than
24 30 years, or both;

1 (5) in the case of a violation involving robbery
2 or extortion (as such terms are defined in paragraph
3 (1) or (2), respectively, of section 1951(b) of title
4 18, United States Code), shall be fined under title
5 18, United States Code, imprisoned for not more
6 than 30 years, or both;

7 (6) in the case of a violation during and in rela-
8 tion to which any person is subjected to an involun-
9 tary sexual act (as defined in section 2246(2) of title
10 18, United States Code), shall be fined under title
11 18, United States Code, imprisoned for not more
12 than 30 years, or both;

13 (7) in the case of a violation resulting in the
14 death of any person, shall be fined under title 18,
15 United States Code, imprisoned for any term of
16 years or for life, or both;

17 (8) in the case of a violation in which any alien
18 is confined or restrained, including by the taking of
19 clothing, goods, or personal identification documents,
20 shall be fined under title 18, United States Code,
21 imprisoned not fewer than 5 years and not more
22 than 10 years, or both;

23 (9) in the case of smuggling an unaccompanied
24 alien child (as defined in section 462(g)(2) of the
25 Homeland Security Act of 2002 (6 U.S.C.

1 279(g)(2)), shall be fined under title 18, United
2 States Code, or imprisoned not more than 20 years.

3 **SEC. 3. STRATEGY TO COMBAT HUMAN SMUGGLING.**

4 (a) DEFINED TERM.—In this section, the term “high
5 traffic areas of human smuggling” means the United
6 States ports of entry and areas between such ports that
7 have the most human smuggling activity, as measured by
8 U.S. Customs and Border Protection.

9 (b) IMPLEMENTATION.—Not later than 1 year after
10 the date of the enactment of this Act, the Secretary of
11 Homeland Security shall implement a strategy to deter,
12 detect, and interdict human smuggling across the inter-
13 national land and maritime borders of the United States.

14 (c) COMPONENTS.—The strategy referred to in sub-
15 section (b) shall include, at a minimum—

16 (1) efforts to increase coordination between the
17 border and maritime security components of the De-
18 partment of Homeland Security;

19 (2) an identification of intelligence gaps imped-
20 ing the ability to deter, detect, and interdict human
21 smuggling across the international land and mari-
22 time borders of the United States;

23 (3) efforts to increase information sharing with
24 State and local governments and other Federal
25 agencies;

1 (4) efforts to provide, in coordination with the
2 Federal Law Enforcement Training Center, training
3 for the border and maritime security components of
4 the Department of Homeland Security to deter, de-
5 tect, and interdict human smuggling across the
6 international land and maritime borders of the
7 United States; and

8 (5) the identification of the high traffic areas of
9 human smuggling along the international land and
10 maritime borders of the United States.

11 (d) REPORT.—Not later than 30 days after the im-
12 plementation of the strategy under subsection (b), the Sec-
13 retary of Homeland Security shall submit a report to the
14 Committee on Homeland Security and Governmental Af-
15 fairs of the Senate and the Committee on Homeland Secu-
16 rity of the House of Representatives that describes such
17 strategy, including the components described in subsection
18 (c). The Secretary may submit the report required under
19 this subsection in classified form if the Secretary deter-
20 mines such form is appropriate.

21 (e) ANNUAL LIST OF HIGH TRAFFIC AREAS.—Not
22 later than February 1st of the first year beginning after
23 the date of the enactment of this Act and annually there-
24 after, the Secretary of Homeland Security shall submit a

1 list of the high traffic areas of human smuggling referred
2 to in subsection (c)(5) to—

3 (1) the Committee on Homeland Security and
4 Governmental Affairs of the Senate; and

5 (2) the Committee on Homeland Security of the
6 House of Representatives.

7 **SEC. 4. UNLAWFULLY HINDERING IMMIGRATION, BORDER,**
8 **AND CUSTOMS CONTROLS.**

9 (a) **ILLICIT SPOTTING.**—Any person who knowingly
10 transmits to another person the location, movement, or ac-
11 tivities of any Federal, State, or tribal law enforcement
12 agency with the intent to further a Federal crime relating
13 to United States immigration, customs, controlled sub-
14 stances, agriculture, monetary instruments, or other bor-
15 der controls shall be fined under title 18, United States
16 Code, imprisoned not more than 10 years, or both.

17 (b) **DESTRUCTION OF UNITED STATES BORDER**
18 **CONTROLS.**—Any person who knowingly and without law-
19 ful authorization destroys, alters, or damages any fence,
20 barrier, sensor, camera, or other physical or electronic de-
21 vice deployed by the Federal Government to control the
22 border or a port of entry, or otherwise seeks to construct,
23 excavate, or make any structure intended to defeat, cir-
24 cumvent or evade any such fence, barrier, sensor camera,

1 or other physical or electronic device deployed by the Fed-
 2 eral Government to control the border or a port of entry—

3 (1) shall be fined under title 18, United States
 4 Code, imprisoned not more than 10 years, or both;
 5 and

6 (2) if, at the time of the offense, the person
 7 uses or carries a firearm or, in furtherance of any
 8 such crime, possesses a firearm, shall be fined under
 9 title 18, United States Code, imprisoned not more
 10 than 20 years, or both.

11 (c) CONSPIRACY AND ATTEMPT.—Any person who at-
 12 tempts or conspires to violate subsection (a) or (b) shall
 13 be punished in the same manner as a person who com-
 14 pletes a violation of such subsection.

15 (d) PROHIBITING CARRYING OR USE OF A FIREARM
 16 DURING AND IN RELATION TO AN ALIEN SMUGGLING
 17 CRIME.—Section 924(c) of title 18, United States Code,
 18 is amended—

19 (1) in paragraph (1)—

20 (A) in subparagraph (A), by inserting “,
 21 alien smuggling crime,” after “crime of vio-
 22 lence” each place such term appears; and

23 (B) in subparagraph (D)(ii), by inserting
 24 “, alien smuggling crime,” after “crime of vio-
 25 lence”; and

1 (2) by adding at the end the following:

2 “(6) For purposes of this subsection, the term
3 ‘alien smuggling crime’ means any felony punishable
4 under section 274(a), 277, or 278 of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1324(a), 1327,
6 and 1328).”.

7 (e) STATUTE OF LIMITATIONS.—Section 3298 of title
8 18, United States Code, is amended by striking “or
9 under” and inserting “, under section 2 or subsection (a),
10 (b), or (c) of section 4 of the Human Smuggling Preven-
11 tion Act of 2014, or under”.

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