

While this bill represents progress in this regard, it alone will not completely fulfill this moral obligation.

The Committee notes in House Report 110-158 that, “[i]n approving this bill for expedited consideration, the Committee acknowledges the issues that are left unaddressed.” The Committee, in its report accompanying this legislation, comments that, “[t]here appears to be little reason to limit this relief to those serving with our Missions in Iraq and Afghanistan as a translator or interpreter. Iraqis and Afghans are serving in many different functions in aid of our Missions there, and as their lives come under threat as a result, they would seem similarly deserving of our help in delivering them from harm’s way.” House Report 110-158, furthermore, notes that, “[t]here is also the question of whether these would-be refugees should be granted access to refugee assistance programs promptly once they arrive in the United States.” I fully understand and recognize that this is a complicated issue. But it is my hope that comprehensive Iraqi and Afghan refugee legislation can be considered and agreed to by this body in the near future.

I would hope that such comprehensive Iraq and Afghan refugee legislation, at a minimum, would provide the authority for at-risk Iraqi and Afghan individuals and their family members—who serve in any capacity—alongside, in support of, or in close coordination with United States or Coalition military and civilian personnel—to be eligible to petition the United States Government and be approved for entry into the United States under special immigrant status. Specifically, I would hope that such comprehensive refugee legislation would, at a minimum, provide petition authority and approval eligibility for at-risk Iraqis and Afghans who are direct hires of United States Government or Coalition country departments, agencies, and military services; Iraqis and Afghans who work as contractors for, or in support of, United States Government or Coalition country departments, agencies, and military services; Iraqi and Afghan public sector employees or elected members of government who work alongside, or who are closely or commonly associated with, United States and Coalition country military and civilian personnel; and Iraqi and Afghan business owners and operators and laborers who have performed work on construction, service, or other contacts financed by United States Government or Coalition government funds.

Success achieved by United States and Coalition military and civilian personnel in Iraq and Afghanistan to date can be, in part, attributed to the efforts of the local nationals in those countries. Those Iraqis and Afghans, for the most part, believe in democratic, peaceful and prosperous futures for their countries and their families. That is why they choose to stand for election to public office, why they serve alongside United States and Coalition personnel, whether as translators, cultural advisors, or the myriad other roles that these brave individuals perform in support of our missions in those countries, and why they perform work on reconstruction projects financed by the United States Government and the governments of Coalition countries. By doing so, however, they and their family members are exposed to extreme risks.

Here in Washington, DC it is all too easy for us to distinguish between the roles and responsibilities of Iraqis or Afghans who are di-

rect hires of the United States Government and the governments of Coalition countries, Iraqis and Afghans who work on contract in support of United States and Coalition personnel, and Iraqis and Afghans who are employees of their governments. Each has a distinct role and relationship with the United States and Coalition governments and the missions pursued by their personnel. But these distinctions are not similarly considered by insurgents, militias, criminals, and terrorists who wish to do these individuals harm. That is, the enemy does not first review their employment situations and statuses of Iraqis and Afghans, draw distinctions, and then issue threats or conduct acts of intimidation or violence accordingly. The enemy kills, kidnaps, and intimidates “enablers” without discrimination. The Iraqis and Afghans who work alongside our personnel know this reality all too well. Comprehensive legislation to address this issue should, to the best of our ability, not draw distinctions or discriminate either.

S. 1104, as noted by the Committee in its report to accompany this bill, is not a comprehensive response to the problem before our country with respect to Iraqis and Afghans who are at-risk of violence and intimidation as a result of their association with United States and Coalition country departments, agencies, and military services’ operating in Iraq and Afghanistan. Nevertheless, I recognize the urgency of enacting the limited reforms to current law contained in the language of this bill; and, therefore, I support its passage. I urge my colleagues to vote “yes” on this bill and to continue to work in support of comprehensive refugee legislation with respect to the service of Iraqi and Afghan nationals.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and pass the Senate bill, S. 1104, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BERMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair’s prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill, H.R. 1615.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ALIEN SMUGGLING AND TERRORISM PREVENTION ACT OF 2007

Mr. BERMAN. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 2399) to amend the Immigration and Nationality Act and title 18, United States Code, to combat the crime of alien smuggling and related activities, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Alien Smuggling and Terrorism Prevention Act of 2007”.

SEC. 2. FINDINGS.

Congress finds that—

(1) Alien smuggling by land, air and sea is a transnational crime that violates the integrity of United States borders, compromises our Nation’s sovereignty, places the country at risk of terrorist activity, and contravenes the rule of law.

(2) Aggressive enforcement activity against alien smuggling is needed to protect our borders and ensure the security of our Nation. The border security and anti-smuggling efforts of the men and women on the Nation’s front line of defense are to be commended. Special recognition is due the Department of Homeland Security through the United States Border Patrol, United States Coast Guard, Customs and Border Protection, and Immigration and Customs Enforcement, and the Department of Justice through the Federal Bureau of Investigation.

(3) The law enforcement community must be given the statutory tools necessary to address this security threat. Only through effective alien smuggling statutes can the Justice Department, through the United States Attorneys’ Offices and the Domestic Security Section of the Criminal Division, prosecute these cases successfully.

(4) Alien smuggling has a destabilizing effect on border communities. State and local law enforcement, medical personnel, social service providers, and the faith community play important roles in combating smuggling and responding to its effects.

(5) Existing penalties for alien smuggling are insufficient to provide appropriate punishment for alien smugglers.

(6) Existing alien smuggling laws often fail to reach the conduct of alien smugglers, transporters, recruiters, guides, and boat captains.

(7) Existing laws concerning failure to heave to are insufficient to appropriately punish boat operators and crew who engage in the reckless transportation of aliens on the high seas and seek to evade capture.

(8) Much of the conduct in alien smuggling rings occurs outside of the United States. Extraterritorial jurisdiction is needed to ensure that smuggling rings can be brought to justice for recruiting, sending, and facilitating the movement of those who seek to enter the United States without lawful authority.

(9) Alien smuggling can include unsafe or recklessly dangerous conditions that expose individuals to particularly high risk of injury or death.

SEC. 3. CHECKS AGAINST TERRORIST WATCHLIST.

The Department of Homeland Security shall, to the extent practicable, check against all available terrorist watchlists those alien smugglers and smuggled individuals who are interdicted at the land, air, and sea borders of the United States.

SEC. 4. STRENGTHENING PROSECUTION AND PUNISHMENT OF ALIEN SMUGGLERS.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) by amending the subsection heading to read as follows: “SMUGGLING OF UNLAWFUL AND TERRORIST ALIENS.”

(2) by redesignating clause (iv) of paragraph (1)(B) as clause (vii);

(3) in paragraph (1), by striking “(1)(A)” and all that follows through clause (iii) of subparagraph (B) and inserting the following:

“(1)(A) Whoever, knowing or in reckless disregard of the fact that an individual is an alien who lacks lawful authority to come to, enter, or reside in the United States, knowingly—

“(i) brings that individual to the United States in any manner whatsoever regardless of any future official action which may be taken with respect to such alien;

“(ii) recruits, encourages, or induces that individual to come to, enter, or reside in the United States;

“(iii) transports or moves that individual in the United States, in furtherance of their unlawful presence; or

“(iv) harbors, conceals, or shields from detection the individual in any place in the United States, including any building or any means of transportation;

or attempts or conspires to do so, shall be punished as provided in subparagraph (C).

“(B) Whoever, knowing that an individual is an alien, brings that individual to the United States in any manner whatsoever at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien, or attempts or conspires to do so, shall be punished as provided in subparagraph (C).

“(C) A violator of this paragraph shall, for each alien in respect to whom such a violation occurs—

“(i) unless the offense is otherwise described in another clause of this subparagraph, be fined under title 18, United States Code or imprisoned not more than 5 years, or both;

“(ii) if the offense involved the transit of the defendant's spouse, child, sibling, parent, grandparent, or niece or nephew, and the offense is not described in any of clauses (iii) through (vii), be fined under title 18, United States Code or imprisoned not more than 1 year, or both;

“(iii) if the offense is a violation of paragraphs (1)(A)(ii), (iii), or (iv), or paragraph (1)(B), and was committed for the purpose of profit, commercial advantage, or private financial gain, be fined under title 18, United States Code or imprisoned not more than 10 years, or both;

“(iv) if the offense is a violation of paragraph (1)(A)(i) and was committed for the purpose of profit, commercial advantage, or private financial gain, or if the offense was committed with the intent or reason to believe that the individual unlawfully brought into the United States will commit an offense against the United States or any State that is punishable by imprisonment for more than 1 year, be fined under title 18, United States Code, and imprisoned, in the case of a first or second violation, not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years; and

“(v) if the offense results in serious bodily injury (as defined in section 1365 of title 18, United States Code) or places in jeopardy the life of any person, be fined under title 18, United States Code or imprisoned not more than 20 years, or both;

“(vi) if the offense involved an individual who the defendant knew was engaged in or

intended to engage in terrorist activity (as defined in section 212(a)(3)(B)), be fined under title 18, United States Code or imprisoned not more than 30 years, or both; and”;

(4) in the clause (vii) so redesignated by paragraph (2) of this subsection (which now becomes clause (vii) of the new subparagraph (C))—

(A) by striking “in the case” and all that follows through “(v) resulting” and inserting “if the offense results”; and

(B) by inserting “and if the offense involves kidnaping, an attempt to kidnap, the conduct required for aggravated sexual abuse (as defined in section 2241 without regard to where it takes place), or an attempt to commit such abuse, or an attempt to kill, be fined under such title or imprisoned for any term of years or life, or both” after “or both”; and

(5) by striking existing subparagraph (C) of paragraph (1) (without affecting the new subparagraph (C) added by the amendments made by this Act) and all that follows through paragraph (2) and inserting the following:

“(2)(A) There is extraterritorial jurisdiction over the offenses described in paragraph (1).

“(B) In a prosecution for a violation of, or an attempt or conspiracy to violate subsection (a)(1)(A)(i), (a)(1)(A)(ii), or (a)(1)(B), that occurs on the high seas, no defense based on necessity can be raised unless the defendant—

“(i) as soon as practicable, reported to the Coast Guard the circumstances of the necessity, and if a rescue is claimed, the name, description, registry number, and location of the vessel engaging in the rescue; and

“(ii) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement set forth in clause (i) of this subparagraph is satisfied by notifying the Coast Guard as soon as practicable after delivering the alien to emergency medical or law enforcement personnel ashore.

“(C) It is a defense to a violation of, or an attempt or conspiracy to violate, clause (iii) or (iv) of subsection (a)(1)(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officer of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

“(D) For purposes of this paragraph and paragraph (1)—

“(i) the term ‘United States’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States; and

“(ii) the term ‘lawful authority’ means permission, authorization, or waiver that is expressly provided for in the immigration laws of the United States or the regulations prescribed under those laws and does not include any such authority secured by fraud or otherwise obtained in violation of law or authority that has been sought but not approved.”

SEC. 5. MARITIME LAW ENFORCEMENT.

(a) PENALTIES.—Subsection (b) of section 2237 of title 18, United States Code, is amended to read as follows:

“(b)(1) Whoever intentionally violates this section shall, unless the offense is described in paragraph (2), be fined under this title or imprisoned for not more than 5 years, or both.

“(2) If the offense—

“(A) is committed in the course of a violation of section 274 of the Immigration and Nationality Act (alien smuggling); chapter 77 (peonage, slavery, and trafficking in persons), section 111 (shipping), 111A (interference with vessels), 113 (stolen property), or 117 (transportation for illegal sexual activity) of this title; chapter 705 (maritime drug law enforcement) of title 46, or title II of the Act of June 15, 1917 (Chapter 30; 40 Stat. 220), the offender shall be fined under this title or imprisoned for not more than 10 years, or both;

“(B) results in serious bodily injury (as defined in section 1365 of this title) or transportation under inhumane conditions, the offender shall be fined under this title, imprisoned not more than 15 years, or both; or

“(C) results in death or involves kidnaping, an attempt to kidnap, the conduct required for aggravated sexual abuse (as defined in section 2241 without regard to where it takes place), or an attempt to commit such abuse, or an attempt to kill, be fined under such title or imprisoned for any term of years or life, or both.”

(b) LIMITATION ON NECESSITY DEFENSE.—Section 2237(c) of title 18, United States Code, is amended—

(1) by inserting “(1)” after “(c)”;

(2) by adding at the end the following:

“(2) In a prosecution for a violation of this section, no defense based on necessity can be raised unless the defendant—

“(A) as soon as practicable upon reaching shore, delivered the person with respect to which the necessity arose to emergency medical or law enforcement personnel,

“(B) as soon as practicable, reported to the Coast Guard the circumstances of the necessity resulting giving rise to the defense; and

“(C) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien, as that term is defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(3)), into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement of subparagraph (B) is satisfied by notifying the Coast Guard as soon as practicable after delivering that person to emergency medical or law enforcement personnel ashore.”

(c) DEFINITION.—Section 2237(e) of title 18, United States Code, is amended—

(1) by striking “and” at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting “; and”; and

(3) by adding at the end the following:

“(5) the term ‘transportation under inhumane conditions’ means the transportation of persons in an engine compartment, storage compartment, or other confined space, transportation at an excessive speed, transportation of a number of persons in excess of the rated capacity of the means of transportation, or intentionally grounding a vessel in which persons are being transported.”

SEC. 6. AMENDMENT TO THE SENTENCING GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the

sentencing guidelines and policy statements applicable to persons convicted of alien smuggling offenses and criminal failure to heave to or obstruction of boarding.

(b) CONSIDERATIONS.—In carrying out this subsection, the Sentencing Commission, shall—

(1) consider providing sentencing enhancements or stiffening existing enhancements for those convicted of offenses described in paragraph (1) of this subsection that—

(A) involve a pattern of continued and flagrant violations;

(B) are part of an ongoing commercial organization or enterprise;

(C) involve aliens who were transported in groups of 10 or more;

(D) involve the transportation or abandonment of aliens in a manner that endangered their lives; or

(E) involve the facilitation of terrorist activity; and

(2) consider cross-references to the guidelines for Criminal Sexual Abuse and Attempted Murder.

(c) EXPEDITED PROCEDURES.—The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

□ 1530

The SPEAKER pro tempore (Mr. Sires). Pursuant to the rule, the gentleman from California (Mr. Berman) and the gentleman from Florida (Mr. Keller) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation gives Federal prosecutors and agents stronger enforcement weapons against the most pernicious forms of human smuggling, terrorism-related smuggling and smuggling that results in kidnapping, rape or an attempt to kill.

This bill is based on a provision that has been added into H.R. 1684, the Homeland Security Department Reauthorization Act, in its committee markup. The supporters of that provision agreed to withdraw it from that bill so the Judiciary Committee, the committee of primary jurisdiction, could take a closer look.

The resulting bill amends both 8 U.S.C. 1324, the alien smuggling prohibition, and 18 U.S.C. 2237, the prohibition against failure to heave to, to provide for extraterritorial jurisdiction, increase maximum penalties for serious offenses and clarify the necessity defense that applies to legitimate maritime rescues.

This bill applies not just to human smuggling in the maritime context,

but to all cross-border human smuggling. It provides appropriately tough penalties for the kind of serious smuggling offenses I've just described, while distinguishing those from other types of transport such as noncommercial efforts to reunify families. While these practices also violate our immigration laws, they do not fall into the same category of offense, and should not be treated as harshly.

Although the bill streamlines and strengthens the current offense language, it does not abandon existing case law that applies to alien smuggling offenses. For instance, it will remain a violation of Federal law both to bring illegal aliens to the United States and to bring other aliens across the border through places other than those designated as official entry ports. This is especially critical as Congress mandates that the Department of Homeland Security institute biometric entry and exit systems. For an orderly and fair immigration system to work, people must come in through these sites.

The bill also prevents the current list of illegal activities, smuggling, recruiting, transporting and harboring, without adding new activities, such as assisting aliens in their efforts to enter our country. Again, this preserves the distinction between true smuggling and the work of groups such as faith-based organizations, who seek to serve the alien community on humanitarian grounds.

Because this important distinction is preserved, the Judiciary Committee believes the religious activities exception in current law is sufficient, and the bill doesn't expand it. The bill also preserves current law in treating the offense of helping to bring in one's close family members as a misdemeanor.

The bill also establishes for the first time in Federal law that it is illegal to transport persons under inhumane conditions, such as in an engine compartment, a storage compartment or other confined space; or overloaded or intentionally run ashore and grounded at high speed and left to scatter. Those kinds of inhumane practices have resulted in death or serious injury to numerous alien passengers.

Finally, the bill directs the Sentencing Commission to consider providing further sentencing enhancements for particularly egregious offenses. Such enhancements should reach the smuggling of aliens in a life-threatening manner, the abandonment of aliens in the desert or discharging them onto spits of land that will be submerged in a high tide, or those cases that involve the facilitation of terrorism.

I strongly urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. KELLER of Florida. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise to discuss H.R. 2399, Alien Smuggling and Terrorism Prevention Act of 2007.

Let me address a few basic issues about this legislation. First of all, what is alien smuggling? What is the existing law? What are the changes that we're proposing? And what, if any, are the problems that we need to fix with regard to this issue of alien smuggling?

Well, let's begin with what is alien smuggling. Alien smuggling is the process whereby people often known as "coyotes" take someone from a country like Mexico and sneak them in, often under the cover of darkness, into the United States for an average fee currently of approximately \$1,500 per person. It requires specialized skills; and folks often feel that they can't come over, say, from Mexico to California and bypass all the border security agents without having a coyote or alien smuggler to help them. So they often have their family members pay the \$1,500 fee.

I wanted to know more about this, so I personally went to the San Diego-Mexico border and spent a week traveling around at 2, 3 in the morning with Border Patrol agents as they arrested illegals and alien smugglers as they came across the border. And I learned from the Border Patrol agents that their biggest frustration is that they have arrested the same alien smugglers more than 20 times. In fact, the agents I met with were so demoralized they had what's called a wall of shame.

And it's hard to see from where you sit, Mr. Speaker, but this is a wall showing over 200 photographs of alien smugglers who they have repeatedly arrested, some of them more than 20 times, such as Antonio Amparo Lopez. And it is currently the law that if you smuggle someone into the United States for financial gain you will be sent to Federal prison for a minimum of 3 years. And yet, agent after agent told me they arrest the same people and they weren't prosecuted by the local San Diego prosecutor.

Well, the existing law, 3 years mandatory minimum if you smuggle someone into the United States. What does this bill do? It keeps the existing law at 3 years for smuggling someone in for financial gain, but adds some newer, stiffer penalties for certain people that you bring in. For example, if a smuggler brings someone in who is a known terrorist, then instead of being a mandatory 3 years in prison, you could be subjected to up to 30 years in prison.

And here is the challenge that I want to talk a little bit about this issue and why it's so important: When Attorney General Gonzales came before the Judiciary Committee on April 6, 2006, I relayed to him the story that I just relayed to you, Mr. Speaker, about the problems with these alien smugglers not being prosecuted. I happen to have a transcript, and I said on April 6 to the Attorney General, "The pathetic

failure of your U.S. attorney in San Diego to prosecute alien smugglers who have been arrested 20 times is a demoralizing slap in the face to Border Patrol agents who risk their lives every day. It also undermines the credibility that you and President Bush have when you talk tough about enforcing laws. And it renders meaningless the laws this Congress passes to crack down on alien smugglers."

Then I asked him, "What, if anything, will you do to see that the U.S. attorney in San Diego prosecutes these alien smugglers, at least those that have been repeatedly arrested by Border Patrol agents?"

This is what the Attorney General said: "I'm aware of what you're talking about with respect to the San Diego situation and we are looking into it. We're asking all U.S. attorneys, particularly those on the southern border to do more, quite frankly. We need to be doing more."

"But the U.S. attorneys along the southern border tell me that the existing law regarding alien smugglers could be tighter. There is a discussion and debate now about what the language should be. No one wants to prosecute those who are engaged in Good Samaritan activities. We are looking into the situation in San Diego, and we are directing that our U.S. attorneys do more because you're right; if people are coming across the border repeatedly, particularly those who are coyotes and they're smugglers or they're criminals or felons, they ought to be prosecuted."

Now, I bring this up because there happen to be a few of us in Congress, and I happen to be one, who are pretty familiar with this issue of alien smuggling, familiar enough, having been there and talked with the Attorney General, talked with the Border Patrol agents. But we didn't have any input to this legislation.

I have the bill before us that we are debating. This is the last version, the one we're debating on. And the date on it is May 22, at 1:35 p.m. It is now 3:40 p.m. It's as thick as a small town phone book, and yet we've only had it for a couple of hours. There have been no hearings. No subcommittee markup. No full committee markup.

Now, I'm not someone who usually gets up and complains about process, but this is an example where someone like me and others of the committee could have been quite helpful if we had had hearings, could have had a markup. There are a couple of major flaws in this bill that I'll talk about. And I say this in good spirit. I'm going to actually vote for this bill because I think your intentions are correct. But let me just give you two examples.

First, if you help smuggle in a terrorist, you can go to jail for up to 30 years. Under the language of this bill, you have to show that the smuggler knew that the person was a terrorist and knew that he intended to engage in terrorist activities.

Now, you don't have to be Johnny Cochran to successfully defend a defendant in that particular case. The standard is just almost impossible for a prosecutor to prove. For example, let's say that you have Mohammad Atta on the stand, and he's just been detained by a Border Patrol agent and we want to apply this new provision.

If I was the defense attorney, my first question to the Border Patrol agent would be, Mr. Border Patrol Agent, you've arrested my client. You want to send him to prison for 30 years. Did Mr. Atta show you his al Qaeda ID card? No? Did Mr. Atta show you the picture that he has with Bin Laden and his family? No? Did he show you some videotape showing him on the monkey bars in the Afghanistan training camps? No? Well, if not, how do you know with mathematical certainty that this guy is a terrorist?

It's almost impossible to prove.

That's an example of something we could have fixed during the markup, saying, if you brought this person into the country for financial gain and he's a member of the terrorist watch list, we're going to give you an enhanced sentence up to 30 years. But we didn't have that chance because there was no markup.

Another thing that's flawed is, it doesn't fix the Good Samaritan exception. There's language in this bill that talks about Good Samaritans. Specifically, it says it is a defense, if you are arrested for a religious organization or one of its members to provide room, board, travel, medical assistance or other basic living expenses. That's the situation of a nun, for example, helping someone who's going to die out there in the 110-degree heat. We all believe that that should be provided.

But I read you the transcript of the Attorney General; he said, because this Good Samaritan exception needs to be tightened, and it does. For example, under this law, because you didn't talk with us about fixing it, if you are a member of the Red Cross or you're a member of the United Way, which is not religious affiliated, you could still be prosecuted.

Now, none of us wants that to happen.

My point is, as this bill moves forward, I'm willing to support it because I support the intent behind it. I support getting tough with alien smugglers. But the bottom line is, we need to fix this in conference. We need to work with Republicans and Democrats to include our input to make sure that at the end the day we have a much better bill that we can be proud of.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana, the sponsor of the legislation, Mr. HILL.

(Mr. HILL asked and was given permission to revise and extend his remarks.)

Mr. HILL. Mr. Speaker, I want to thank Chairman CONYERS and Chair-

man THOMPSON and Chairman OBERSTAR for working with me to draft this legislation. The staff has been extremely helpful, and I'm very pleased with the outcome of this bill.

The Alien Smuggling and Terrorism Prevention Act would provide all levels of law enforcement with the tools they need to detain those who knowingly bring illegal aliens into our country.

Additionally, it would provide prosecutors and judges with clear proof and sentencing guidelines. The bill also significantly enhances penalties for illegal alien smuggling. The crime is raised from a misdemeanor to a felony under this bill.

It is estimated that there are currently more than 20 million illegal immigrants in this country. The cost of illegal immigration to our health care system, public education system, prison system and social services continues to rise without any sign of stopping or slowing.

We must reform our immigration system to make it more efficient and effective. This bill is the first step towards doing so.

□ 1545

It concentrates on easing the job of law enforcement, and it is my hope that this bill will act as a deterrent for illegal-alien smugglers.

In addition to this bill, Congress must enact tough, comprehensive immigration reform that does not award illegal aliens with amnesty. We need to make sure that employers who hire illegal aliens are punished, and we need to strengthen our border security.

At the same time, however, we must remember that legal immigration has served America well. America was built by hardworking people from all over the world. Many of them played by the rules and prospered while helping to build a stronger America, and our national immigration policies must reflect this reality. As long as immigrants enter our country legally, abide by our laws, and work hard to strengthen our communities, I believe they have a right to live in this Nation.

But the personal safety and well-being of all citizens, as well as the security of U.S. jobs, are my chief concern. Therefore, I strongly urge passage of H.R. 2399, the Alien Smuggling and Terrorism Prevention Act.

Mr. KELLER of Florida. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the chairman of the Homeland Security Committee, the gentleman from Mississippi (Mr. THOMPSON).

Mr. THOMPSON of Mississippi. I appreciate the yielding of the time.

Mr. Speaker, I rise in strong support of the Alien Smuggling and Terrorism Prevention Act of 2007.

During consideration of the Homeland Security authorization bill earlier this month, I made a commitment to my colleagues that the House would

have the opportunity to vote on maritime smuggling legislation. I am pleased to have been able to work with the Judiciary and Transportation Committees to craft this critical homeland security legislation. It addresses not only alien smuggling at sea, but also alien smuggling by land and air.

Specifically, the Alien Smuggling and Terrorism Prevention Act includes tough new penalties for those who recruit, encourage, transport, or shield from detection aliens who cross our land, maritime, or air borders illegally. These enhanced penalties are essential to discouraging criminals from building tunnels in remote parts of the desert to smuggle aliens across our borders.

We know that the same people that smuggle drugs into our country are ready and willing to smuggle individuals who would do us harm. In fact, in January we learned of a plot to smuggle about 20 would-be terrorists into the United States from Mexico for \$8,000 a head. The drug dealers called them "Osama's guys."

The bill requires that interdicted smugglers and aliens be run against all available terrorist watch lists. This is an important step in protecting America from terrorists.

I would especially like to commend the gentleman from Indiana (Mr. HILL) for authoring this commonsense enforcement legislation. He is to be commended for his commitment to border security.

Again, Mr. Speaker, I thank my colleagues for working together on this important legislation and urge all Members to give it their support.

Mr. KELLER of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. DONNELLY).

Mr. DONNELLY. Mr. Speaker, I rise today in strong support of my friend Mr. HILL's bill to get tough on criminals who undermine our Nation's safety.

Mr. Speaker, the Alien Smuggling and Terrorism Prevention Act is a commonsense bill whose time is overdue. This legislation clarifies current law and would more severely punish those criminals who smuggle illegal aliens into our country, lengthening the amount of time they would have to be imprisoned and providing strong new sentences for those who assist terrorists.

Mr. Speaker, Mr. HILL's bill recognizes that there must be real penalties for people who break our laws. When it comes to our immigration policies, we first need to prove to Americans that we can secure our borders against intruders and provide strong enforcement of existing laws. We need to get law enforcement and Federal agents all the tools they need to do their jobs effectively.

We should provide the resources and technology our businesses need to better verify the citizenship of potential

employees and crack down on employers who knowingly flout workplace laws. We must not provide amnesty for those who have broken our laws. And, Mr. Speaker, I regret that the recent proposal on comprehensive immigration reform in the Senate does not appear to have passed these tests.

I strongly urge my colleagues today to vote for H.R. 2399.

Mr. KELLER of Florida. Mr. Speaker, I ask my colleagues to vote "yes" on this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I only want to make two points. The gentleman from Florida gave a discussion about the legislation and put it into the context of the Southern District of San Diego, and I just did want to note for the record that the Department of Justice that decided to recommend the U.S. attorney's termination had commended her specifically for her handling of immigration cases.

And the second point I guess I wanted to make on this issue was would it be that the people in charge had ensured that the offices most impacted by illegal immigration and by illegal alien smuggling and those districts on the border of this country had been given the resources to the Justice Department disbursed to the U.S. Attorney's Office so they weren't held under hiring freezes and constrained to try to deal with an enormous issue with a very limited number of prosecutors.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. BERMAN) that the House suspend the rules and pass the bill, H.R. 2399, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BERMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

S. 214, by the yeas and nays;

H.R. 2264, by the yeas and nays;

S. 1104, by the yeas and nays;

H.R. 2399, by the yeas and nays;

H.R. 1722, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining

electronic votes will be conducted as 5-minute votes.

PRESERVING UNITED STATES ATTORNEY INDEPENDENCE ACT OF 2007

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the Senate bill, S. 214, on which the yeas and nays were ordered.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the Senate bill, S. 214.

The vote was taken by electronic device, and there were—yeas 306, nays 114, not voting 12, as follows:

[Roll No. 397]	YEAS—306
Abercrombie	Dicks
Ackerman	Dingell
Allen	Doggett
Altman	Donnelly
Andrews	Doyle
Arcuri	Dreier
Baca	Edwards
Baldwin	Ehlers
Barrow	Ellison
Bean	Ellsworth
Becerra	Emanuel
Berman	Emerson
Berry	Engel
Biggart	English (PA)
Bilirakis	Eshoo
Bishop (GA)	Etheridge
Bishop (NY)	Fallin
Blumenauer	Farr
Boren	Fattah
Boswell	Ferguson
Boucher	Filner
Boustany	Flake
Boyd (FL)	Fortenberry
Boyes (KS)	Frank (MA)
Brady (PA)	Garrett (NJ)
Braley (IA)	Gerlach
Brown-Waite,	Giffords
Ginny	Gilchrest
Buchanan	Gillibrand
Butterfield	Gillmor
Camp (MI)	Gonzalez
Capito	Goode
Capps	Goodlatte
Capuano	Gordon
Cardoza	Green, Al
Carnahan	Green, Gene
Carney	Grijalva
Carson	Gutierrez
Castle	Hall (NY)
Castor	Hare
Chandler	Harman
Clarke	Hastings (FL)
Clay	Hastings (WA)
Cleaver	Hayes
Clyburn	Heller
Cohen	Hensarling
Cole (OK)	Hersheth Sandlin
Conyers	Higgins
Cooper	Hill
Costa	Hinchey
Costello	Hinojosa
Courtney	Hirono
Cramer	Hobson
Crowley	Hodes
Cuellar	Holden
Cummings	Holt
Davis (AL)	Honda
Davis (CA)	Hooley
Davis (IL)	Hoyer
Davis, Jo Ann	Hulshof
Davis, Lincoln	Ingelis (SC)
DeFazio	Inslee
Delahunt	Israel
DeLauro	Jackson (IL)
Dent	Jackson-Lee
Diaz-Balart, L.	(TX)
Diaz-Balart, M.	Jefferson

Miller (MI)
Miller (NC)
Miller, George
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)