

Calendar No. 220

118TH CONGRESS }
1st Session }

SENATE

{ REPORT
118-104

ENHANCING DHS DRUG SEIZURES ACT

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1464

TO RESTRICT THE FLOW OF ILLICIT DRUGS
INTO THE UNITED STATES, AND FOR OTHER PURPOSES



OCTOBER 3, 2023.—Ordered to be printed

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ENHANCING DHS DRUG SEIZURES ACT

OCTOBER 3, 2023.—Ordered to be printed

Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1464]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1464) to restrict the flow of illicit drugs into the United States, and for other purposes, having considered the same, reports favorably thereon with an amendment, in the nature of a substitute, and recommends that the bill, as amended, do pass.

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I. PURPOSE AND SUMMARY

S. 1464, the *Enhancing DHS Drug Seizures Act*, provides the Department of Homeland Security (DHS) with additional tools to support its counterdrug mission. Specifically, the bill requires that DHS review and build on its existing partnerships and task forces to ensure the Department is working efficiently to disrupt and interdict the flow of illicit drugs, including fentanyl, from entering the United States. In addition, it improves DHS's ability to carry out its mission to dismantle transnational criminal organizations (TCOs) in foreign countries by authorizing danger pay for those working in dangerous locations and enhances U.S. Customs and

Border Protection's (CBP) Air and Marine Operations (AMO) ability to carry out operations in partnership with foreign countries. It also creates a criminal charge for the destruction of border controls to improve the ability to dismantle TCOs domestically. The bill requires DHS to improve its drug seizure data and performance measures so that it has better information for drug targeting and intelligence collection.¹

II. BACKGROUND AND NEED FOR THE LEGISLATION

Drug overdose deaths in the United States have increased in recent years with an estimated 107,622 overdose deaths occurring in 2021, according to the Centers for Disease Control and Prevention.² The increase of synthetic opioids, including illicitly manufactured fentanyl, has significantly exacerbated the epidemic, contributing to the majority of overdose deaths in recent years.³

DHS plays a critical role in preventing illicit drugs from entering the United States. Specifically, DHS's CBP is responsible for safeguarding the borders of the United States from illicit activity, such as drug smuggling, while facilitating legitimate trade and travel.⁴ In recent years the number of CBP drug seizures has increased, which includes a rise in fentanyl seizures.⁵ According to testimony given before Congress in May 2022 by CBP's Office of Field Operations (OFO) Executive Assistant Commissioner, while fentanyl is the most commonly seized illicit synthetic opioid, CBP has also seized 50 synthetic opioids not classified as fentanyl, demonstrating a trend of new and emerging drugs.⁶ CBP officers serve as the first line of defense to interdict illicit opioids and emerging drugs from entering the United States while DHS and CBP laboratories help to identify the drugs, analyze emerging trends, and communicate potential threats to federal, state, and local partners.⁷

CBP's Border Patrol and AMO also play a significant role in preventing drugs from crossing U.S. borders. While Border Patrol is responsible for securing the U.S. borders between ports of entry from activities such as drug smuggling, AMO is responsible for securing U.S. borders between ports of entry in the air and maritime domains.⁸ AMO also works with foreign government partners to

¹On August 3, 2022, the Committee approved S. 4645, the Enhancing DHS Drug Seizures Act. That bill is substantially similar to S. 1464. Accordingly, this committee report is, in many respects, similar to the committee report for S. 4645. See S. Rept. 117-221.

²Centers for Disease Control and Prevention: *U.S. Overdose Deaths In 2021 Increased Half as Much as in 2020—But Are Still Up 15%* (May 11, 2022) (www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm).

³*Id.*

⁴U.S. Customs and Border Protection, Home Page (www.cbp.gov/about) (accessed Aug. 17, 2022).

⁵Government Accountability Office, *Border Security: CBP Could Improve How It Categorizes Drug Seizure Data and Evaluates Training* (GAO-22-104725) (May 2022); Government Accountability Office, *Synthetic Opioids: Considerations for the Class-Wide Scheduling of Fentanyl-Related Substances* (GAO-21-499) (Apr. 2021).

⁶U.S. House of Representatives Committee on Homeland Security, Subcommittee on Border Security, Facilitation and Operations, Testimony Submitted for the Record of Pete Flores, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection, Department of Homeland Security, *Hearing on Examining DHS's Efforts to Combat the Opioid Epidemic*, 117th Cong. (May 18, 2022).

⁷*Id.*

⁸Government Accountability Office, *Border Security: CBP Could Improve How It Categorizes Drug Seizure Data and Evaluates Training* (GAO-22-104725) (May 2022); U.S. Customs and Border Protection, Air and Sea Missions (www.cbp.gov/border-security/air-sea/missions) (accessed Aug. 18, 2022).

conduct joint operations to disrupt and dismantle drug smuggling operations before they reach the U.S.⁹

U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) is the principal DHS component for investigating transnational crime, including drug smuggling. HSI conducts federal criminal investigations at every stage of the illicit drug supply chain, internationally, at U.S. borders and ports of entry, and within the interior of the U.S.¹⁰ According to testimony provided to Congress by HSI's Assistant Director in May 2022, Mexican drug cartels serve as the primary source of drugs, in particular illicit fentanyl and methamphetamine, that enter the U.S. Cartels manufacture the drugs using precursor chemicals sourced from China and other countries. As part of its investigations, HSI targets cartels' precursor supply chains to help prevent the manufacture of illicit drugs before they are smuggled to the U.S.¹¹

S. 1464 seeks to enhance DHS's ability to carry out its counterdrug mission. Specifically, it requires DHS to develop a strategy and implementation plan to strengthen public-private partnerships with shipping, chemical, and pharmaceutical industries to assist with early detection and interdiction of illicit drugs and precursor chemicals. The bill directs DHS to assess its participation in the various counterdrug task forces in which it either leads or participates, including identifying areas of potential overlap and, if needed, developing a corrective action plan to address any deficiencies identified in the assessment. It authorizes DHS to provide danger pay to its personnel deployed abroad whose work may expose them to circumstances that threaten physical harm or imminent danger, to include those who are working to dismantle the TCOs that smuggle drugs. The bill also eliminates the requirement for the Department of Defense (DOD) to reimburse DHS for training provided to foreign vetted law enforcement officials, eliminating obstacles that DHS currently faces when providing training, including drug interdiction training, to foreign law enforcement partners. It authorizes AMO to cooperate with authorities in foreign territorial seas and air space upon entering into an arrangement with the country. Using this authority, AMO may provide air and marine support to international partners to help identify and interdict drug smuggling in the host country or surrounding drug transit zones. To improve DHS's ability to counter the actions of TCOs, the bill establishes a charge to enable criminal prosecution of individuals who, for financial gain and to further a criminal organization, knowingly and willfully destroy border technology, such as sensors and cameras.

During a review of CBP drug seizure data and training, the Government Accountability Office (GAO) found that CBP had not assessed its data systems to determine if the system's categories reflected the drug smuggling scenarios occurring and their usefulness for targeting and intelligence purposes, and recommended that

⁹U.S. Customs and Border Protection, Air and Sea Missions (www.cbp.gov/border-security/air-sea/missions) (accessed Aug. 18, 2022).

¹⁰U.S. House of Representatives Committee on Homeland Security, Subcommittee on Border Security, Facilitation and Operations, Testimony Submitted for the Record of Steven W. Cagan, Assistant Director, Homeland Security Investigations, U.S. Immigration and Customs Enforcement, Department of Homeland Security, *Hearing on Examining DHS's Efforts to Combat the Opioid Epidemic*, 117th Cong. (May 18, 2022).

¹¹*Id.*

CBP conduct such an assessment.¹² S. 1464 builds on GAO’s findings by requiring DHS to conduct a study on drug seizure data to support department-wide improvement of the information it uses for targeting and intelligence activities. It also requires DHS to develop and implement a plan to improve its drug-related performance measures. Finally, the bill requires DHS to enhance modeling of drug flow into the U.S.

III. LEGISLATIVE HISTORY

Senator Gary Peters (D–MI) introduced S. 1464, the Enhancing DHS Drug Seizures Act, on May 4, 2023, with original cosponsor, Senator Josh Hawley (R–MO). The bill was referred to the Committee on Homeland Security and Governmental Affairs.

The Committee considered S. 1464 at a business meeting on May 17, 2023. During the business meeting, a modified substitute amendment was offered by Senator Peters that included a technical change from CBP, additional reporting requirements, added a sunset clause and time limitations to the authorization to pay claims in foreign countries, and removed a provision that criminalized certain surveillance activities. The Committee adopted the modification to the Peters substitute amendment, and the Peters substitute amendment as modified, by voice vote, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Paul, Lankford, Romney, and Scott present.

The bill, as amended by the Peters substitute amendment, as modified, was ordered reported favorably by a roll call vote of 10 yeas to 1 nay, with Senators Peters, Hassan, Sinema, Rosen, Padilla, Ossoff, Blumenthal, Lankford, Romney, and Scott voting in the affirmative, and Senator Paul voting in the negative.

Senators Carper, Johnson, Hawley, and Marshall voting yea by proxy, for the record only.

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title; table of contents

This section establishes the short title of the bill as the “Enhancing DHS Drug Seizures Act” and provides a table of contents.

Section 2. Coordination and information sharing

Subsection (a) requires the Secretary of Homeland Security to develop a strategy and implementation plan to strengthen public-private partnerships with shipping, chemical, and pharmaceutical industries within 180 days of the enactment of the bill. It requires that the strategy contain goals and objectives to ensure that the practices learned from the public-private partnerships are included in DHS policies, best practices, and training. It also requires the Secretary to develop an implementation plan for the strategy no later than 180 days after completing the strategy. It specifies that the implementation plan is to contain roles, responsibilities, and timelines for accomplishing the goals and objectives outlined in the strategy. It also requires the Secretary to provide annual briefings

¹² Government Accountability Office, *Border Security: CBP Could Improve How It Categorizes Drug Seizure Data and Evaluates Training* (GAO–22–104725) (May 2022).

to Congress on the progress made in executing the implementation plan.

Subsection (b) requires the Secretary to assess the various counterdrug task forces in which DHS either leads or participates, including areas of potential overlap, best practices, processes for ensuring accountability for the oversight of partner agency task force members, and corrective action plans for any identified deficiencies. It also requires that the Secretary provide a report to Congress within 180 days of enactment of the bill. The subsection also requires the Secretary to implement the corrective action plans and provide annual briefings to Congress.

Subsection (c) allows the Secretary to combine the annual briefing requirements in subsections (a) and (b) to Congress through fiscal year 2026.

Section 3. Danger pay for Department of Homeland Security personnel deployed abroad

This section amends the *Homeland Security Act of 2002* and creates a new section 881A, titled “Danger Pay Allowance.” Section 881A, subsection (a) authorizes DHS to provide danger pay to security personnel deployed abroad. This allowance cannot exceed 35% of an employee’s basic rate of pay.

Section 881A, subsection (b) requires the Secretary to notify Congress before granting or terminating a danger pay allowance to any employee pursuant to subsection (a).

Section 4. Improving training to foreign-vetted law enforcement or national security units

This section authorizes the Secretary of Homeland Security or their designee to waive reimbursement for salary expenses for DHS personnel providing training to foreign-vetted law enforcement or national security units in accordance with an agreement with DOD.

Section 5. Enhancing the operations of U.S. Customs and Border Protection in foreign countries

This section amends section 411(f) of the *Homeland Security Act of 2002*, by making technical changes and creating a new paragraph 4, titled “Permissible Activities.” Paragraph 4, subsection (A) authorizes CBP employees, or other designated customs officers, to provide the support described in subsection (B) below to foreign government authorities within the territory of the foreign country on the condition that the United States has an arrangement with that foreign country for which CBP support is permitted.

Paragraph 4, subsection (B) authorizes AMO to provide support for the monitoring, locating, tracking, and deterrence of illegal drugs to the United States, the illicit smuggling of persons and goods into the United States, terrorist threats to the United States, and other threats to the security or economy of the United States. It also authorizes support for emergency humanitarian efforts and law enforcement capacity building efforts.

Paragraph 4, subsection (C) authorizes the Secretary of Homeland Security to pay claims for money damages against the United States which arise in a foreign country in connection with CBP operations in such country, from funds that have been appropriated or otherwise made available for the operating expenses of the De-

partment. The subsection specifies that a claim may be allowed only if it is made not later than 2 years after it accrues. This subsection also requires the Secretary to report to Congress on payments made with the authority not later than 90 days after the authority expires. This subsection sunsets the expenditure authority 5 years after the enactment of the bill.

Section 6. Drug Seizure data improvement

Subsection (a) requires the Secretary of Homeland Security to conduct a study to determine if there are opportunities to improve the Department's drug seizure data collection within 180 days of enactment of this bill.

Subsection (b) requires that the study include a survey of the entities that use drug seizure data; address any additional data fields or drug types need to be added to CBP's data systems in accordance with a U.S. Government Accountability Office recommendation; address how DHS components can standardize drug seizure data collection and deconflict reporting; address how DHS can better collect and analyze additional data on precursor chemicals, synthetic drugs, novel psychoactive substances, and analogues; and address how DHS can improve its estimation model of drug flow into the United States.

Subsection (c) requires that, following the completion of the study, the Secretary of Homeland Security, in accordance with the Office of National Drug Control Policy's 2022 National Drug Control Strategy, modify DHS's drug seizure policies and trainings consistent with the findings in the study. In addition, this subsection requires that the Commissioner of CBP, in consultation with the Director of ICE, update its systems to include the results of confirmatory drug testing.

Section 7. Drug performance measures

This section requires that the Secretary of Homeland Security, within 180 days of the enactment of this bill, develop and implement a DHS plan for outcome-based drug interdiction performance measures and utilize existing drug-related metrics and performance measures to achieve Departmental missions, goals, and targets.

Section 8. Penalties for hindering immigration, border, and customs controls

Subsection (a) amends Title II of the *Immigration and Nationality Act* by creating a new section 247E, titled "Destroying or Evading Border Controls."

Section 247E, subsection (a) creates a criminal charge for the destruction or significant damage of United States border controls (defined as the destruction or significant damage to border technology, such as sensors and cameras, barriers, or other devices used by the federal government to control the borders of the United States). To qualify as destruction of U.S. border controls the relevant actions must be executed with the intent to secure financial gain, to further a criminal organization, and violate customs and trade laws or border controls.

Section 247E, subsection (b) specifies that penalties for the charges can be a fine, imprisonment up to five years, or both.

Subsection (b) makes a clerical amendment to the *Immigration and Nationality Act*.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office's statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

At a Glance			
S. 1464, Enhancing DHS Drug Seizures Act			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on May 17, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	*	*
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	10	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	< \$2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

The bill would:

- Authorize the Department of Homeland Security (DHS) to provide danger pay allowances to employees who are stationed abroad in certain areas
 - Create new criminal penalties for destroying, damaging, or evading border technology
 - Allow Customs and Border Protection to participate in joint operations with foreign governments abroad and authorize the agency to pay certain claims for monetary damages brought against the United States that arise from those operations
 - Require DHS to prepare several reports
- Estimated budgetary effects would mainly stem from:
- Authorization of appropriations for danger pay allowances
 - Collection and spending of criminal fines

Bill summary: S. 1464 would authorize the Department of Homeland Security (DHS) to provide danger pay allowances to employees who are deployed abroad in certain areas, including those with civil

war, terrorist threats, or wartime conditions. The bill also would create new criminal penalties for destroying, damaging, or evading border technology, such as physical barriers cameras, and sensors.

In addition, S. 1464 would allow Customs and Border Protection (CBP) to participate in joint operations with foreign governments abroad to prevent illicit drug trafficking and terrorist threats. The bill would authorize DHS to pay certain claims for monetary damages, loss of personal property or personal injury brought against the United States that arise from such operations. Lastly, the bill would authorize DHS to waive reimbursement from foreign governments for providing training to law enforcement personnel and impose various reporting requirements.

Estimated Federal cost: The estimated budgetary effect of S. 1464 is shown in Table 1. The costs of the legislation fall within budget function 750 (administration of justice).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 1464

	By fiscal year, millions of dollars—						
	2023	2024	2025	2026	2027	2028	2023–2028
Estimated Authorization	0	2	2	2	2	2	10
Estimated Outlays	0	2	2	2	2	2	10

CBO estimates that enacting S. 1464 would increase revenues and direct spending by less than \$500,000 over the 2023–2033 period.

Basis of estimate: CBO assumes that the bill will be enacted late in fiscal year 2023 and that the estimated amounts will be provided each year.

Spending subject to appropriation: CBO estimates that implementing S. 1464 would cost \$10 million over the 2023–2028 period.

Danger Pay. Using information from DHS, CBO estimates that about 90 employees with an average annual salary of \$130,000 would be eligible for danger pay under the bill. Based on information from the Department of State regarding current danger pay allowances, CBO estimates that the average allowance would be 15 percent of an eligible employee’s salary. On that basis, CBO estimates that this provision would cost \$10 million over the 2024–2028 period.

Claims from Operations Abroad. Under current law, CBP can settle claims for damages that arise within the United States under the Federal Tort Claims Act (FTCA). For five years after enactment, the bill would allow the agency to settle such claims that originate in a foreign country and stem from a joint operation with a foreign government. Under the bill, all claims would be paid from discretionary funds. Based on similar FTCA claims, CBO expects that very few claims would be paid under the bill and that the average claim would be small. As a result, CBO estimates that implementing this provision would cost less than \$500,000 over the 2024–2028 period.

Waive Reimbursement. Based on information from DHS, the amount the agency spends on foreign law enforcement training is very small. Thus, CBO estimates that waiving reimbursements from foreign governments for providing training to law enforcement personnel would cost less than \$500,000 over the 2024–2028 period.

Reporting Requirements. S. 1464 would impose various reporting requirements. For example, DHS would be required to develop a public-private partnership strategy to combat illicit drugs, prepare an assessment of the agency’s counterdrug task forces, and study possible improvements to data collection related to drug seizures. Based on the costs of similar activities, CBO estimates that the bill’s reporting requirements would cost less than \$500,000 over the 2024–2028 period.

Direct spending and revenue: S. 1464 would create new criminal penalties for destroying, damaging, or evading border technology. Data from the U.S. Sentencing Commission indicate that a small number of people who are convicted of immigration offenses pay criminal fines. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent without further appropriation. Based on an analysis of fines collected for other immigration offenses, CBO estimates that S. 1464 would increase revenues and direct spending by less than \$500,000 over the 2024–2033 period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that enacting the bill would increase direct spending and revenues by less than \$500,000 over the 2023–2033 period.

Increase in long-term net direct spending and deficits: CBO estimates that enacting S. 1464 would not significantly increase net direct spending in any of the four consecutive 10-year periods beginning in 2034; CBO estimates that enacting S. 1464 would not significantly increase on-budget deficits in any of the four consecutive 10-year periods beginning in 2034.

Mandates: None.

Estimate prepared by: Federal costs: Jeremy Crimm; Mandates: Rachel Austin.

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; Emily Stern, Senior Adviser for Budget Analysis; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

* * * * *

Subtitle B—U.S. Customs and Border Protection

* * * * *

SEC. 411. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER PROTECTION; COMMISSIONER, DEPUTY COMMISSIONER, AND OPERATIONAL OFFICES.

* * * * *

(f) AIR AND MARINE OPERATIONS.—

(1) * * *

(2) * * *

(3) * * *

(4) PERMISSIBLE ACTIVITIES.—

(A) IN GENERAL.—Employees of U.S. Customs and Border Protection and other customs officers designated in accordance with the authorities granted to officers and agents of Air and Marine Operations may provide the support described in subparagraph (B) to authorities of the government of a foreign country, including by conducting joint operations with appropriate government officials within the territory of such country, if an arrangement has been entered into between the Government of the United States and the government of such country that permits such support by such employees and officers.

(B) SUPPORT DESCRIBED.—The support described in this subparagraph is support for—

(i) the monitoring, locating, tracking, and deterrence of—

(I) illegal drugs to the United States;

(II) the illicit smuggling of persons and goods into the United States;

(III) terrorist threats to the United States; and

(IV) other threats to the security or economy of the United States;

(ii) emergency humanitarian efforts; and

(iii) law enforcement capacity-building-efforts.

(C) PAYMENT OF CLAIMS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iv), the Secretary may expend funds that have been appropriated or otherwise made available for the operating expenses of the Department to pay claims for money damages against the United States, in accordance with the first paragraph of title 28, United States Code, which arise in a foreign country in connection with U.S. Customs and Border Protection operations in such country.

(ii) SUBMISSION DEADLINE.—A claim may be allowed under clause (i) only if it is presented not later than 2 years after it accrues.

(iii) REPORT.—Not later than 90 days after the date on which the expenditure authority under clause (i) expires pursuant to clause (iv), the Secretary shall submit a report to Congress that describes, for each of the payments made pursuant to clause (i)—

(I) the foreign entity that received such payment;

- (II) the amount paid to such foreign entity;
- (III) the country in which such foreign entity resides or has its principal place of business; and
- (IV) a detailed account of the circumstances justify such payment.

(iv) *SUNSET.*—The expenditure authority under clause (i) shall expire on the date that is 5 years after the date of the enactment of the Enhancing DHS Drug Seizures Act.

[(4)] (5) * * *

* * * * *

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * *

Subtitle H—Miscellaneous Provisions

* * * * *

SEC. 881A. DANGER PAY ALLOWANCE.

(a) *AUTHORIZATION.*—An employee of the Department, while stationed in a foreign area, may be granted a danger pay allowance, not to exceed 35 percent of the basic pay of such employee, for any period during which such foreign area experiences a civil insurrection, a civil war, ongoing terrorist acts, or wartime conditions that threaten physical harm or imminent danger to the health or well-being of such employee.

(b) *NOTICE.*—Before granting or terminating a danger pay allowance to any employee pursuant to subsection (a), the Secretary, after consultation with the Secretary of State, shall notify the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Foreign Relations of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Foreign Affairs of the House of Representatives of—

(1) the intent to make such payments and the circumstances justifying such payments; or

(2) the intent to terminate such payments and the circumstances justifying such termination.

* * * * *

IMMIGRATION AND NATIONALITY ACT

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 * * * * *

TITLE II—IMMIGRATION

* * * * *

CHAPTER 8—GENERAL PENALTY PROVISIONS

* * * * *

SECTION 274E. DESTROYING OR EVADING BORDER CONTROLS.

(a) *IN GENERAL.*—It shall be unlawful to knowingly and without lawful authorization—

(1)(A) *destroy or significantly damage any fence, barrier, sensor, camera, or other physical or electronic device deployed by the Federal Government to control an international border of, or a port of entry to, the United States; or*

(B) *otherwise construct, excavate, or make any structure intended to defeat, circumvent or evade such a fence, barrier, sensor camera, or other physical or electronic device deployed by the Federal Government to control an international border of, or a port of entry to, the United States; and*

(2) *in carrying out an act described in paragraph (1), have the intent to knowingly and willfully—*

(A) *secure a financial gain;*

(B) *further the objectives of a criminal organization; and*

(C) *violate—*

(i) *section 274(a)(1)(A)(i);*

(ii) *the customs and trade laws of the United States (as defined in section 2(4) of the Trade Facilitation and Trade Enforcement Act of 2015 (Public Law 114–125));*

(iii) *any other Federal law relating to transporting controlled substances, agriculture, or monetary instruments into the United States; or*

(iv) *any Federal law relating to border controls measures of the United States.*

(b) *PENALTY.*—Any person who violates subsection (a) shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

* * * * *