

109TH CONGRESS
1ST SESSION

H. R. 4079

To reduce the number of visa overstays and to ensure that illegal aliens are apprehended, detained, and removed as rapidly as possible.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 19, 2005

Mr. SULLIVAN (for himself, Mr. BURTON of Indiana, Mr. TANCREDO, Mr. HAYWORTH, Mr. GOODE, Mr. JONES of North Carolina, Mr. HEFLEY, and Mr. GARRETT of New Jersey) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on 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 reduce the number of visa overstays and to ensure that illegal aliens are apprehended, detained, and removed as rapidly as possible.

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 “Secure Our Nation’s
5 Interior Act of 2005”.

1 **SEC. 2. EXPEDITED REMOVAL.**

2 Section 235(b)(1)(A) of the Immigration and Nation-
3 ality Act (8 U.S.C. 1225(b)(1)(A)) is amended by striking
4 clauses (i) through (iii) and inserting the following:

5 “(i) IN GENERAL.—If an immigration
6 officer determines that an alien (other
7 than an alien described in subparagraph
8 (F)) who is arriving in the United States,
9 or who has not been admitted or paroled
10 into the United States and who has not af-
11 firmatively shown, to the satisfaction of an
12 immigration officer, that the alien has been
13 physically present in the United States
14 continuously for the 1-year period imme-
15 diately prior to the date of the determina-
16 tion of inadmissibility under this para-
17 graph, is inadmissible under section
18 212(a)(6)(C) or 212(a)(7), the officer shall
19 order the alien removed from the United
20 States without further hearing or review,
21 unless—

22 “(I) the alien has been charged
23 with a crime, is in criminal pro-
24 ceedings, or is serving a criminal sen-
25 tence; or

1 “(II) the alien indicates an inten-
2 tion to apply for asylum under section
3 208 or a fear of persecution and the
4 officer determines that the alien has
5 been physically present in the United
6 States for less than 1 year.

7 “(ii) CLAIMS FOR ASYLUM.—If an im-
8 migration officer determines that an alien
9 (other than an alien described in subpara-
10 graph (F)) who is arriving in the United
11 States, or who is described in clause (i),
12 and the alien indicates either an intention
13 to apply for asylum under section 208 or
14 a fear of persecution, the officer shall refer
15 the alien for an interview by an asylum of-
16 ficer under subparagraph (B) if the officer
17 determines that the alien has been phys-
18 ically present in the United States for less
19 than 1 year.”.

20 **SEC. 3. CLARIFICATION OF INHERENT AUTHORITY OF**
21 **STATE AND LOCAL LAW ENFORCEMENT.**

22 Notwithstanding any other provision of law and re-
23 affirming the existing inherent authority of States, law en-
24 forcement personnel of a State or a political subdivision
25 of a State have the inherent authority of a sovereign entity

1 to apprehend, arrest, detain, or transfer to Federal cus-
2 tody aliens in the United States (including the transpor-
3 tation of such aliens across State lines to detention cen-
4 ters), in the enforcement of the immigration laws of the
5 United States. This State authority has never been dis-
6 placed or preempted by Congress.

7 **SEC. 4. DEPARTMENT OF HOMELAND SECURITY RESPONSE**
8 **TO REQUESTS FOR ASSISTANCE FROM STATE**
9 **AND LOCAL LAW ENFORCEMENT.**

10 (a) IN GENERAL.—Title II of the Immigration and
11 Nationality Act (8 U.S.C. 1151 et seq.) is amended by
12 adding after section 240C the following:

13 “CUSTODY OF ILLEGAL ALIENS

14 “SEC. 240D. (a) IN GENERAL.—If the Governor of
15 a State (or, if appropriate, a political subdivision of the
16 State), exercising authority with respect to the apprehen-
17 sion of an illegal alien, submits a request to the Secretary
18 of Homeland Security that the alien be taken into Federal
19 custody, the Secretary

20 “(1) shall—

21 “(A) not later than 48 hours after the con-
22 clusion of the State charging process or dis-
23 missal process, or if no State charging or dis-
24 missal process is required, after the illegal alien
25 is apprehended, take the illegal alien into the

1 custody of the Federal Government and incar-
2 cerate the alien; or

3 “(B) request that the relevant State or
4 local law enforcement agency temporarily incar-
5 cerate or transport the illegal alien for transfer
6 to Federal custody; and

7 “(2) shall designate a Federal, State, or local
8 prison or jail or a private contracted prison or deten-
9 tion facility within each State as the central facility
10 for that State to transfer custody of the criminal or
11 illegal aliens to the Department of Homeland Secu-
12 rity. The Secretary of Homeland Security may enter
13 into contracts with appropriate State and local law
14 enforcement, private entities, and detention officials
15 to implement this subsection.

16 “(b) REIMBURSEMENT TO STATES AND LOCAL-
17 ITIES.—The Secretary of Homeland Security shall reim-
18 burse States and localities for all reasonable expenses, as
19 determined by the Secretary, incurred by a State or local-
20 ity in the incarceration and transportation of an illegal
21 alien as described in subparagraphs (A) and (B) of sub-
22 section (a)(1). Compensation provided for costs incurred
23 under subparagraphs (A) and (B) of subsection (a)(1)
24 shall be the average cost of incarceration of a prisoner
25 in the relevant State, as determined by the chief executive

1 officer of a State (or, as appropriate, a political subdivi-
2 sion of the State) plus the cost of transporting the crimi-
3 nal or illegal alien from the point of apprehension, to the
4 place of detention, and to the custody transfer point if
5 the place of detention and place of custody are different.

6 “(c) INCARCERATION OF ILLEGAL ALIENS.—The
7 Secretary of Homeland Security shall ensure that illegal
8 aliens incarcerated in Federal facilities pursuant to this
9 subsection are held in facilities which provide an appro-
10 priate level of security.

11 “(d) TRANSFER OF ILLEGAL ALIENS.—

12 “(1) IN GENERAL.—In carrying out this sec-
13 tion, the Secretary of Homeland Security may estab-
14 lish a regular circuit and schedule for the prompt
15 transfer of apprehended illegal aliens from the cus-
16 tody of States and political subdivisions of States to
17 Federal custody.

18 “(2) AGREEMENTS.—The Secretary of Home-
19 land Security may enter into contracts with appro-
20 priate State and local law enforcement, private enti-
21 ties, and detention officials to implement this sub-
22 section.

23 “(e) DEFINITION.—For purposes of this section, the
24 term ‘illegal alien’ means an alien who entered the United
25 States without inspection or at any time or place other

1 than that designated by the Secretary of Homeland Secu-
2 rity.”.

3 **SEC. 5. UNIVERSAL PROCESSING THROUGH THE AUTO-**
4 **MATED ENTRY-EXIT CONTROL SYSTEM.**

5 (a) RECORD OF ENTRY AND EXIT.—Subsection (a)
6 of section 110 of the Illegal Immigration Reform and Im-
7 migrant Responsibility Act of 1996 (8 U.S.C. 1221 note)
8 is amended—

9 (1) by redesignating paragraphs (1) and (2) as
10 paragraphs (2) and (4), respectively;

11 (2) by inserting before paragraph (2) (as so re-
12 designated), the following new paragraph:

13 “(1) collect and maintain a record of each ad-
14 mission for every alien arriving in the United
15 States;”; and

16 (3) in paragraph (2) (as so redesignated)—

17 (A) by striking “(1) collect a record of”
18 and inserting “(1) collect and maintain a record
19 of each”;

20 (B) by striking the “and” at the end; and

21 (C) by inserting after paragraph (2) (as so
22 redesignated), the following:

23 “(3) verify the identity of every arriving and de-
24 parting alien by comparing in real time the biomet-
25 ric identifier on such alien’s travel or entry docu-

1 ment or passport with the arriving or departing
2 alien; and”.

3 (b) INSPECTION.—

4 (1) Paragraph (3) of section 235(a) of the Im-
5 migration and Nationality Act (8 U.S.C. 1225(a)) is
6 amended to read as follows:

7 “(3) INSPECTION.—

8 “(A) IN GENERAL.—All aliens (including
9 alien crewmen) who are applicants for admis-
10 sion or otherwise seeking admission or readmis-
11 sion to or transit through the United States
12 shall be inspected by immigration officers.

13 “(B) PROCESSING THROUGH ENTRY-EXIT
14 SYSTEM.—Notwithstanding any other provision
15 of law and subject to clauses (i) and (ii), no
16 alien may be admitted to the United States un-
17 less such alien has been processed through the
18 automated entry-exit control system required by
19 section 110 of the Illegal Immigration Reform
20 and Immigrant Responsibility Act (8 U.S.C.
21 1221 note).”.

22 (2) Paragraph (1) shall apply to all aliens seek-
23 ing admission or readmission on or after December
24 31, 2006.

1 (c) REPORT.—Not later than 90 days after the date
2 of the enactment of this Act, the Secretary of Homeland
3 Security shall submit a report to the Congress detailing
4 the additional resources, including machine readers and
5 personnel, that are needed at each port of entry, based
6 on recent and anticipated volumes of admissions at such
7 ports of entry, to fully implement subsection (b).

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