

110TH CONGRESS
1ST SESSION

H. R. 2109

To amend title 18, United States Code, to provide Federal penalties for certain killings by illegal aliens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 2, 2007

Mrs. DRAKE introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide Federal penalties for certain killings by illegal aliens, 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 “Empowering Our Local
5 Communities Act of 2007”.

6 **SEC. 2. CERTAIN KILLINGS BY ILLEGAL ALIENS.**

7 (a) IN GENERAL.—Chapter 51 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 **“§ 1123. Certain killings by illegal aliens**

2 “Whoever, being an alien who is unlawfully present
3 in the United States, commits manslaughter while under
4 the influence of alcohol and while operating a motor vehi-
5 cle, which has been shipped, transported or traveled in or
6 affecting interstate or foreign commerce, shall be subject
7 to a fine under this title and imprisoned not less than 5
8 nor more than 40 years.”.

9 (b) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of chapter 51 of title 18, United States
11 Code, is amended by adding at the end the following new
12 item:

“1123. Certain killings by illegal aliens.”.

13 **SEC. 3. IMPROPER ENTRY BY, OR PRESENCE OF, ALIENS.**

14 Section 275 of the Immigration and Nationality Act
15 (8 U.S.C. 1325) is amended—

16 (1) in the section heading, by inserting “**UN-**
17 **LAWFUL PRESENCE;**” after “**IMPROPER TIME**
18 **OR PLACE;**”;

19 (2) in subsection (a)—

20 (A) by striking “Any alien” and inserting
21 “Except as provided in subsection (b), any
22 alien”;

23 (B) by striking “or” before (3); and

24 (C) by inserting after “concealment of a
25 material fact,” the following: “or (4) is other-

1 wise present in the United States in violation of
2 the immigration laws or the regulations pre-
3 scribed thereunder,”.

4 **SEC. 4. INSTITUTIONAL REMOVAL PROGRAM (IRP).**

5 (a) CONTINUATION AND EXPANSION.—

6 (1) IN GENERAL.—The Department of Home-
7 land Security shall continue to operate and imple-
8 ment the program known as the Institutional Re-
9 moval Program (IRP) which—

10 (A) identifies removable criminal aliens in
11 Federal and State correctional facilities;

12 (B) ensures such aliens are not released
13 into the community; and

14 (C) removes such aliens from the United
15 States after the completion of their sentences.

16 (2) EXPANSION.—The institutional removal
17 program shall be extended to all States. Any State
18 that receives Federal funds for the incarceration of
19 criminal aliens shall—

20 (A) cooperate with officials of the institu-
21 tional removal program;

22 (B) expeditiously and systematically iden-
23 tify criminal aliens in its prison and jail popu-
24 lations; and

1 (C) promptly convey such information to
2 officials of such program as a condition for re-
3 ceiving such funds.

4 (b) AUTHORIZATION FOR DETENTION AFTER COM-
5 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law
6 enforcement officers of a State or political subdivision of
7 a State have the authority to—

8 (1) hold an illegal alien for a period of up to
9 14 days after the alien has completed the alien’s
10 State prison sentence in order to effectuate the
11 transfer of the alien to Federal custody when the
12 alien is removable or not lawfully present in the
13 United States; or

14 (2) issue a detainer that would allow aliens who
15 have served a State prison sentence to be detained
16 by the State prison until personnel from United
17 States Immigration and Customs Enforcement takes
18 the alien into custody, as required by law.

19 (c) TECHNOLOGY USAGE.—Technology such as video
20 conferencing shall be used to the maximum extent possible
21 in order to make the Institutional Removal Program
22 (IRP) available in remote locations. Mobile access to Fed-
23 eral databases of aliens, such as IDENT, and live scan
24 technology shall be used to the maximum extent prac-

1 ticable in order to make these resources available to State
2 and local law enforcement agencies in remote locations.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out the institutional
5 removal program—

6 (1) \$100,000,000 for fiscal year 2008;

7 (2) \$115,000,000 for fiscal year 2009;

8 (3) \$130,000,000 for fiscal year 2010;

9 (4) \$145,000,000 for fiscal year 2011; and

10 (5) \$160,000,000 for fiscal year 2012.

11 **SEC. 5. TRAINING OF STATE AND LOCAL PERSONNEL PER-**
12 **FORMING IMMIGRATION FUNCTIONS.**

13 (a) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) IN GENERAL.—To carry out paragraph (2),
15 there are authorized to be appropriated \$40,000,000
16 for fiscal year 2008, to remain available until Sep-
17 tember 30, 2009.

18 (2) USE OF FUNDS.—From amounts made
19 available under paragraph (1), the Secretary of
20 Homeland Security may reimburse a State or polit-
21 ical subdivision for the expenses described in para-
22 graph (4).

23 (3) ELIGIBLE RECIPIENTS.—A State, or a polit-
24 ical subdivision of a State, is eligible for reimburse-

1 ment under paragraph (2) if the State or political
2 subdivision—

3 (A) has entered into a written agreement
4 described in section 287(g) of the Immigration
5 and Nationality Act (8 U.S.C. 1357(g)) under
6 which certain officers or employees of the State
7 or subdivision may be authorized to perform
8 certain functions of an immigration officer; and

9 (B) desires such officers or employees to
10 receive training from the Department of Home-
11 land Security in relation to such functions.

12 (4) EXPENSES.—The expenses described in this
13 subsection are actual and necessary expenses in-
14 curred by the State or political subdivision in order
15 to permit the training described in paragraph (3)(B)
16 to take place, including expenses such as the fol-
17 lowing:

18 (A) Costs of travel and transportation to
19 locations where training is provided, including
20 mileage and related allowances for the use of a
21 privately owned automobile.

22 (B) Subsistence consisting of lodging,
23 meals, and other necessary expenses for the
24 personal sustenance and comfort of a person re-
25 quired to travel away from the person's regular

1 post of duty in order to participate in the train-
2 ing.

3 (C) A per diem allowance paid instead of
4 actual expenses for subsistence and fees or tips
5 to porters and stewards.

6 (D) Costs of securing temporary replace-
7 ments for personnel traveling to, and partici-
8 pating in, the training.

9 (b) CLARIFICATION.—Nothing in this Act or any
10 other provision of law shall be construed as making any
11 immigration-related training a requirement for, or pre-
12 requisite to, any State or local law enforcement officer ex-
13 ercising that officer's inherent authority to assist in the
14 apprehension, arrest, detention, or transfer to Federal
15 custody of illegal aliens during the normal course of car-
16 rying out their law enforcement duties.

17 (c) REPORT.—

18 (1) IN GENERAL.—Not later than 18 months
19 after the date of enactment of this Act, the Sec-
20 retary of Homeland Security shall submit to the
21 Congress a report describing the usefulness and ef-
22 fectiveness of the program under section 287(g) of
23 the Immigration and Nationality Act (8 U.S.C.
24 1357(g)).

1 (2) CONTENTS.—The report under paragraph
2 (1) shall address the following:

3 (A) The number of States and political
4 subdivisions of States participating in such pro-
5 gram.

6 (B) The number of States and political
7 subdivisions of States that have engaged in dis-
8 cussions with the Department of Homeland Se-
9 curity regarding such program.

10 (C) A description of how useful and effec-
11 tive the program is, including data on appre-
12 hensions of aliens who are unlawfully present in
13 the United States.

14 (D) A description of any hardships faced
15 by States and political subdivisions as partici-
16 pants of the program.

17 (E) A description of the steps the Sec-
18 retary of Homeland Security is taking, and any
19 plan the Secretary has formulated, to encourage
20 the participation of States and political subdivi-
21 sions in such program.

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