

110TH CONGRESS
1ST SESSION

H. R. 3851

To amend various laws imposing criminal penalties to double the maximum penalty for illegal aliens who commit those crimes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2007

Mr. CARTER introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security and Energy and Commerce, 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 amend various laws imposing criminal penalties to double the maximum penalty for illegal aliens who commit those crimes, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Non-Citizen Enforcement Act of 2007”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Continued increase in full-time border patrol agents.

- Sec. 3. Powers of State officers and employees.
- Sec. 4. Listing on NCIC of aliens ordered removed in absentia.
- Sec. 5. Penalties for aliens unlawfully present in the United States.
- Sec. 6. State Criminal Alien Assistance Program (SCAAP).
- Sec. 7. Increased penalties for certain crimes by illegal aliens.
- Sec. 8. Increased penalties for smuggling previously deported aliens.

1 **SEC. 2. CONTINUED INCREASE IN NUMBER OF FULL-TIME**
2 **BORDER PATROL AGENTS.**

3 Section 5202 of the Intelligence Reform and Ter-
4 rorism Prevention Act of 2004 (Public Law 108–458) is
5 amended by adding at the end the following: “The Sec-
6 retary of Homeland Security shall continue to increase by
7 not less than 2,000 the number of positions for full-time
8 active-duty border patrol agents in each fiscal year after
9 fiscal year 2010, until the Secretary certifies to the Con-
10 gress effective control of the border through the Secure
11 Border Initiative has been achieved. Such certification
12 shall include a description of following:

13 “(1) The recruitment incentives being imple-
14 mented for Border Patrol agents.

15 “(2) The plan, including payment of bonuses,
16 being implemented for retention of Border Patrol
17 agents.

18 “(3) The methodology used in determining that
19 effective control of the border has been achieved.”.

20 **SEC. 3. POWERS OF STATE OFFICERS AND EMPLOYEES.**

21 Section 287(a) of the Immigration and Nationality
22 Act (8 U.S.C. 1357(a)) is amended by adding at the end

1 the following: “Notwithstanding subsection (g), and in ad-
2 dition to other authority under law, an officer or employee
3 of a State, or any political subdivision of a State, shall
4 have the authority, and is directed, to arrest any alien un-
5 lawfully present in the United States who has been or-
6 dered removed in absentia. Such State or political subdivi-
7 sion shall coordinate with the Secretary of Homeland Se-
8 curity the transportation and detention of aliens so ar-
9 rested.”.

10 **SEC. 4. LISTING ON NCIC OF ALIENS ORDERED REMOVED**

11 **IN ABSENTIA.**

12 Section 240(b)(5)(A) of the Immigration and Nation-
13 ality Act (8 U.S.C. 1229a(b)(4)(A)) is amended by adding
14 at the end the following: “In the case of an alien who is
15 ordered removed in absentia under this subparagraph, if
16 a motion to reopen the order is not filed within the 180-
17 day period beginning on the date the order is issued, the
18 Secretary of Homeland Security, through Immigration
19 and Customs Enforcement, shall provide at the end of
20 such period for the posting of the name of the alien on
21 the Absconder Category of the National Criminal Informa-
22 tion Center database.”.

1 **SEC. 5. PENALTIES FOR ALIENS UNLAWFULLY PRESENT IN**
2 **THE UNITED STATES.**

3 (a) IN GENERAL.—Section 275 of the Immigration
4 and Nationality Act (8 U.S.C. 1325) is amended—

5 (1) in the heading, by inserting “UNLAWFUL
6 PRESENCE” after “IMPROPER TIME OR PLACE;”; and

7 (2) in subsection (a)—

8 (A) by striking “Any alien” and inserting
9 “Except as provided in subsection (b), any
10 alien”;

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

12 (C) by inserting after “concealment of a
13 material fact,” the following: “or (4) is other-
14 wise present in the United States in violation of
15 the immigration laws or the regulations pre-
16 scribed thereunder”.

17 (b) CLERICAL AMENDMENT.—The item in the table
18 of contents of such Act relating to section 275 is amended
19 by inserting “unlawful presence” after “improper time or
20 place;”.

21 **SEC. 6. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
22 **(SCAAP).**

23 (a) INCREASE IN AUTHORIZED FUNDING.—Para-
24 graph (5)(C) of section 241(i) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1231(i)) is amended by striking
26 “\$950,000,000” and inserting “\$1,500,000,000”.

1 (b) CLARIFICATION OF USE OF FUNDS FOR TRANS-
2 PORTATION AND RELATED COSTS.—Paragraph (6) of
3 such section is amended by inserting “, including for
4 transportation and related costs” after “for correctional
5 purposes”.

6 **SEC. 7. INCREASED PENALTIES FOR CERTAIN CRIMES BY**
7 **ILLEGAL ALIENS.**

8 (a) POSSESSION OF FIREARMS.—Section 924(a)(2)
9 of title 18, United States Code, is amended by adding at
10 the end the following: “If the person described in section
11 922(g) is an alien who is not lawfully in this country and
12 the offense is an offense under section 922(g), then the
13 maximum term of imprisonment that may be imposed for
14 that offense is 20 years.”.

15 (b) DISTRIBUTION OF CONTROLLED SUBSTANCES
16 AND RELATED OFFENSES.—Section 404(a) of the Con-
17 trolled Substances Act (21 U.S.C. 844) is amended by
18 adding at the end the following: “If the offense under this
19 section is committed by an alien who is not lawfully in
20 this country, the maximum term of imprisonment that
21 may be imposed for the offense is twice the maximum oth-
22 erwise provided by this section.”.

1 **SEC. 8. INCREASED PENALTIES FOR SMUGGLING PRE-**
2 **VIOUSLY DEPORTED ALIENS.**

3 Section 274(a)(1)(B) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1324(a)(1)(B)) is amended by insert-
5 ing, “, but if the alien with respect to whom the violation
6 occurs has a criminal conviction as recorded in the Na-
7 tional Crime Information Center, the maximum term of
8 imprisonment is 20 years” after “or both”.

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