

111TH CONGRESS
2D SESSION

H. R. 5645

To require the Director of National Drug Control Policy to develop a Federal Lands Counterdrug Strategy and to provide for enhanced penalties for certain drug offenses on Federal lands.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2010

Mr. NUNES (for himself, Mr. MCCARTHY of California, Mr. HERGER, Mr. BISHOP of Utah, Mr. CHAFFETZ, Mr. ROGERS of Kentucky, Mr. BURTON of Indiana, Mr. LEWIS of California, Mr. MICA, Mr. DUNCAN, Mr. HUNTER, and Mr. REHBERG) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Natural Resources, Agriculture, 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 require the Director of National Drug Control Policy to develop a Federal Lands Counterdrug Strategy and to provide for enhanced penalties for certain drug offenses on Federal lands.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Lands
3 Counterdrug Strategy and Enforcement Enhancement
4 Act”.

5 **SEC. 2. FEDERAL LANDS COUNTERDRUG STRATEGY.**

6 (a) IN GENERAL.—Not later than 120 days after the
7 date of enactment of this Act, and every 2 years there-
8 after, the Director of National Drug Control Policy shall
9 submit to the Congress a Federal Lands Counterdrug
10 Strategy.

11 (b) PURPOSES.—The Federal Lands Counterdrug
12 Strategy shall—

13 (1) set forth the Government’s strategy for pre-
14 venting the illegal production, cultivation, manufac-
15 ture, and trafficking of controlled substances on cov-
16 ered lands;

17 (2) state the specific roles and responsibilities
18 of the relevant agencies, including the National
19 Drug Control Program agencies, the Forest Service,
20 the National Park Service, and the Bureau of Land
21 Management, for implementing that strategy; and

22 (3) identify the specific resources required to
23 enable the relevant agencies, including the National
24 Drug Control Program agencies, the Forest Service,
25 the National Park Service, and the Bureau of Land
26 Management, to implement that strategy.

1 (c) SPECIFIC CONTENT RELATED TO MARIJUANA
2 ERADICATION.—The Federal Lands Counterdrug Strat-
3 egy shall include—

4 (1) a strategy to reduce the cultivation and
5 trafficking of marijuana on covered lands; and

6 (2) an examination of how technology available
7 when the Federal Lands Counterdrug Strategy is
8 being prepared, including herbicides, can be used to
9 reduce the cultivation and trafficking of marijuana
10 on covered lands.

11 (d) SPECIFIC CONTENT RELATED TO THE EFFECT
12 OF LAND-MANAGEMENT LAWS ON THE ENFORCEMENT
13 OF DRUG LAWS.—The Federal Lands Counterdrug Strat-
14 egy shall include an analysis of the effect of Federal laws
15 related to the management of covered lands on the en-
16 forcement of the Controlled Substances Act (21 U.S.C.
17 801 et seq.) and on such other Federal laws related to
18 the importation, manufacture, distribution, possession, or
19 use of controlled substances as the Director considers ap-
20 propriate. The analysis shall include an assessment of—

21 (1) whether such land-management laws hinder
22 enforcement on covered lands of such laws related to
23 controlled substances;

1 (2) whether any hindrance of enforcement de-
2 scribed in paragraph (1) results from restrictions
3 under such land-management laws that—

4 (A) limit the use of tools or strategies, in-
5 cluding motor vehicles, used by law enforcement
6 personnel to enforce such laws related to con-
7 trolled substances in areas that are not on cov-
8 ered lands; or

9 (B) result in a lack of access to areas on
10 covered lands that creates havens for the impor-
11 tation, manufacture, distribution, possession, or
12 use of controlled substances; and

13 (3) whether any additional authorities, includ-
14 ing exceptions from or waiver authority with respect
15 to such land-management laws, are needed to pre-
16 vent the importation, manufacture, distribution, pos-
17 session, or use of controlled substances on covered
18 lands and to secure such lands from related criminal
19 activity.

20 (e) CONSULTATION WITH OTHER AGENCIES.—The
21 Director shall issue the Federal Lands Counterdrug Strat-
22 egy in consultation with the heads of the relevant agencies,
23 including the National Drug Control Program agencies,
24 the Forest Service, the National Park Service, the Bureau

1 of Land Management, and any relevant State, local, and
2 tribal law enforcement agencies.

3 (f) LIMITATION.—The Federal Lands Counterdrug
4 Strategy shall not change existing agency authorities or
5 the laws governing interagency relationships, but may in-
6 clude recommendations about changes to such authorities
7 or laws.

8 (g) REPORT TO CONGRESS.—The Director shall pro-
9 vide a copy of the Federal Lands Counterdrug Strategy
10 to the appropriate congressional committees (as defined
11 in section 702(12) of the Office of National Drug Control
12 Policy Reauthorization Act of 1998 (21 U.S.C.
13 1701(12))).

14 (h) TREATMENT OF CLASSIFIED OR LAW ENFORCE-
15 MENT SENSITIVE INFORMATION.—Any content of the
16 Federal Lands Counterdrug Strategy that involves infor-
17 mation classified under criteria established by an Execu-
18 tive order, or whose public disclosure, as determined by
19 the Director or the head of any relevant National Drug
20 Control Program agency, would be detrimental to the law
21 enforcement or national security activities of any Federal,
22 State, local, or tribal agency, shall be presented to Con-
23 gress separately from the rest of the strategy.

24 (i) DEFINITIONS.—In this section:

1 (1) CONTROLLED SUBSTANCE.—The term
2 “controlled substance” has the meaning given such
3 term in section 102(6) of the Controlled Substances
4 Act (21 U.S.C. 802(6)).

5 (2) COVERED LANDS.—The term “covered
6 lands” means units of the National Park System,
7 National Forest System lands, and public lands (as
8 such term is defined in section 103(e) of the Federal
9 Land Policy and Management Act of 1976 (43
10 U.S.C. 1702(e))).

11 (3) NATIONAL DRUG CONTROL PROGRAM AGEN-
12 CY.—The term “National Drug Control Program
13 agency” has the meaning given such term in section
14 702(7) of the Office of National Drug Control Policy
15 Reauthorization Act of 1998 (21 U.S.C. 1701(7)).

16 **SEC. 3. ENHANCED PENALTIES FOR CERTAIN DRUG OF-**
17 **FENSES ON FEDERAL LANDS.**

18 (a) CULTIVATING OR MANUFACTURING CONTROLLED
19 SUBSTANCES ON FEDERAL PROPERTY.—Section
20 401(b)(5) of the Controlled Substances Act (21 U.S.C.
21 841(b)(5)) is amended by striking “imprisoned as pro-
22 vided in” and all that follows through the end of the para-
23 graph and inserting “fined not more than \$500,000 if the
24 defendant is an individual or \$1,000,000 in any other
25 case, or imprisoned not more than 10 years, or both. Im-

1 imprisonment imposed under this paragraph shall run con-
2 secutively to any imprisonment imposed for the offense
3 under any other provision of this title or title III.”.

4 (b) USE OF HAZARDOUS SUBSTANCES ON FEDERAL
5 LAND.—Section 401(b)(6) of such Act (21 U.S.C.
6 841(b)(6)) is amended—

7 (1) by striking “five” and inserting “10”; and

8 (2) by adding at the end the following: “A sen-
9 tence of imprisonment imposed under this paragraph
10 shall run consecutively to any imprisonment imposed
11 for the offense under any other provision of this title
12 or title III.”.

13 (c) UNAUTHORIZED STREAM DIVERSION OR UNAU-
14 THORIZED VEGETATION REMOVAL ON FEDERAL LAND.—
15 Section 401(b) of such Act (21 U.S.C. 841(b)) is amended
16 by adding at the end the following:

17 “(8) Whoever violates subsection (a) by manufac-
18 turing or cultivating a controlled substance on Federal
19 land, and to facilitate or in the course of such violation
20 knowingly—

21 “(A) without authorization, diverts an aquifer,
22 spring, stream, river, or body of water; or

23 “(B) without authorization, removes vegetation
24 on Federal land;

1 shall be fined under title 18, United States Code, or im-
2 prisoned not more than 10 years, or both. Imprisonment
3 imposed under this paragraph shall run consecutively to
4 any imprisonment imposed for the offense under any other
5 provision of this title or title III.”.

6 (d) BOOBYTRAPS ON FEDERAL PROPERTY.—Section
7 401(d) of such Act (21 U.S.C. 841(d)) is amended by add-
8 ing at the end the following:

9 “(4) Imprisonment imposed under this subsection
10 shall run consecutively to any imprisonment imposed for
11 the offense under any other provision of this title or title
12 III.”.

13 (e) USE OR POSSESSION OF FIREARMS IN CONNec-
14 TION WITH DRUG OFFENSES ON FEDERAL LANDS.—Sec-
15 tion 924(e) of title 18, United States Code, is amended
16 by adding at the end the following:

17 “(6) In imposing a sentence under this subsection,
18 the court shall consider it as an aggravating factor war-
19 ranting a longer sentence of imprisonment if the offense
20 was a violation of the Controlled Substances Act or the
21 Controlled Substances Import and Export Act and took
22 place on Federal lands.”.

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