

112TH CONGRESS
2^D SESSION

H. R. 5889

AN ACT

To amend title 18, United States Code, to provide for protection of maritime navigation and prevention of nuclear terrorism, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Nuclear Terrorism
3 Conventions Implementation and Safety of Maritime Navi-
4 gation Act of 2012”.

5 **TITLE I—SAFETY OF MARITIME**
6 **NAVIGATION**

7 **SEC. 101. AMENDMENT TO SECTION 2280 OF TITLE 18,**
8 **UNITED STATES CODE.**

9 Section 2280 of title 18, United States Code, is
10 amended—

11 (1) in subsection (b)—

12 (A) in paragraph (1)(A)(i), by striking “a
13 ship flying the flag of the United States” and
14 inserting “a vessel of the United States or a
15 vessel subject to the jurisdiction of the United
16 States (as defined in section 70502 of title
17 46)”;

18 (B) in paragraph (1)(A)(ii), by inserting “,
19 including the territorial seas” after “in the
20 United States”; and

21 (C) in paragraph (1)(A)(iii), by inserting
22 “, by a United States corporation or legal enti-
23 ty,” after “by a national of the United States”;

24 (2) in subsection (c), by striking “section 2(c)”
25 and inserting “section 13(c)”;

26 (3) by striking subsection (d);

1 (4) by striking subsection (e) and inserting
2 after subsection (c):

3 “(d) DEFINITIONS.—As used in this section, section
4 2280a, section 2281, and section 2281a, the term—

5 “(1) ‘applicable treaty’ means—

6 “(A) the Convention for the Suppression of
7 Unlawful Seizure of Aircraft, done at The
8 Hague on 16 December 1970;

9 “(B) the Convention for the Suppression of
10 Unlawful Acts against the Safety of Civil Avia-
11 tion, done at Montreal on 23 September 1971;

12 “(C) the Convention on the Prevention and
13 Punishment of Crimes against Internationally
14 Protected Persons, including Diplomatic
15 Agents, adopted by the General Assembly of the
16 United Nations on 14 December 1973;

17 “(D) International Convention against the
18 Taking of Hostages, adopted by the General
19 Assembly of the United Nations on 17 Decem-
20 ber 1979;

21 “(E) the Convention on the Physical Pro-
22 tection of Nuclear Material, done at Vienna on
23 26 October 1979;

24 “(F) the Protocol for the Suppression of
25 Unlawful Acts of Violence at Airports Serving

1 International Civil Aviation, supplementary to
2 the Convention for the Suppression of Unlawful
3 Acts against the Safety of Civil Aviation, done
4 at Montreal on 24 February 1988;

5 “(G) the Protocol for the Suppression of
6 Unlawful Acts against the Safety of Fixed Plat-
7 forms Located on the Continental Shelf, done
8 at Rome on 10 March 1988;

9 “(H) International Convention for the
10 Suppression of Terrorist Bombings, adopted by
11 the General Assembly of the United Nations on
12 15 December 1997; and

13 “(I) International Convention for the Sup-
14 pression of the Financing of Terrorism, adopted
15 by the General Assembly of the United Nations
16 on 9 December 1999;

17 “(2) ‘armed conflict’ does not include internal
18 disturbances and tensions, such as riots, isolated
19 and sporadic acts of violence, and other acts of a
20 similar nature;

21 “(3) ‘biological weapon’ means—

22 “(A) microbial or other biological agents,
23 or toxins whatever their origin or method of
24 production, of types and in quantities that have

1 no justification for prophylactic, protective, or
2 other peaceful purposes; or

3 “(B) weapons, equipment, or means of de-
4 livery designed to use such agents or toxins for
5 hostile purposes or in armed conflict;

6 “(4) ‘chemical weapon’ means, together or sepa-
7 rately—

8 “(A) toxic chemicals and their precursors,
9 except where intended for—

10 “(i) industrial, agricultural, research,
11 medical, pharmaceutical, or other peaceful
12 purposes;

13 “(ii) protective purposes, namely those
14 purposes directly related to protection
15 against toxic chemicals and to protection
16 against chemical weapons;

17 “(iii) military purposes not connected
18 with the use of chemical weapons and not
19 dependent on the use of the toxic prop-
20 erties of chemicals as a method of warfare;
21 or

22 “(iv) law enforcement including do-
23 mestic riot control purposes,
24 as long as the types and quantities are con-
25 sistent with such purposes;

1 “(B) munitions and devices, specifically de-
2 signed to cause death or other harm through
3 the toxic properties of those toxic chemicals
4 specified in subparagraph (A), which would be
5 released as a result of the employment of such
6 munitions and devices; and

7 “(C) any equipment specifically designed
8 for use directly in connection with the employ-
9 ment of munitions and devices specified in sub-
10 paragraph (B);

11 “(5) ‘covered ship’ means a ship that is navi-
12 gating or is scheduled to navigate into, through or
13 from waters beyond the outer limit of the territorial
14 sea of a single country or a lateral limit of that
15 country’s territorial sea with an adjacent country;

16 “(6) ‘explosive material’ has the meaning given
17 the term in section 841(c) and includes explosive as
18 defined in section 844(j) of this title;

19 “(7) ‘infrastructure facility’ has the meaning
20 given the term in section 2332f(e)(5) of this title;

21 “(8) ‘international organization’ has the mean-
22 ing given the term in section 831(f)(3) of this title;

23 “(9) ‘military forces of a state’ means the
24 armed forces of a state which are organized, trained,
25 and equipped under its internal law for the primary

1 purpose of national defense or security, and persons
2 acting in support of those armed forces who are
3 under their formal command, control, and responsi-
4 bility;

5 “(10) ‘national of the United States’ has the
6 meaning stated in section 101(a)(22) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1101(a)(22));

8 “(11) ‘Non-Proliferation Treaty’ means the
9 Treaty on the Non-Proliferation of Nuclear Weap-
10 ons, done at Washington, London, and Moscow on
11 1 July 1968;

12 “(12) ‘Non-Proliferation Treaty State Party’
13 means any State Party to the Non-Proliferation
14 Treaty, to include Taiwan, which shall be considered
15 to have the obligations under the Non-Proliferation
16 Treaty of a party to that treaty other than a Nu-
17 clear Weapon State Party to the Non-Proliferation
18 Treaty;

19 “(13) ‘Nuclear Weapon State Party to the Non-
20 Proliferation Treaty’ means a State Party to the
21 Non-Proliferation Treaty that is a nuclear-weapon
22 State, as that term is defined in Article IX(3) of the
23 Non-Proliferation Treaty;

24 “(14) ‘place of public use’ has the meaning
25 given the term in section 2332f(e)(6) of this title;

1 “(15) ‘precursor’ has the meaning given the
2 term in section 229F(6)(A) of this title;

3 “(16) ‘public transport system’ has the meaning
4 given the term in section 2332f(e)(6) of this title;

5 “(17) ‘serious injury or damage’ means—

6 “(A) serious bodily injury,

7 “(B) extensive destruction of a place of
8 public use, State or government facility, infra-
9 structure facility, or public transportation sys-
10 tem, resulting in major economic loss, or

11 “(C) substantial damage to the environ-
12 ment, including air, soil, water, fauna, or flora;

13 “(18) ‘ship’ means a vessel of any type whatso-
14 ever not permanently attached to the sea-bed, in-
15 cluding dynamically supported craft, submersibles,
16 or any other floating craft, but does not include a
17 warship, a ship owned or operated by a government
18 when being used as a naval auxiliary or for customs
19 or police purposes, or a ship which has been with-
20 drawn from navigation or laid up;

21 “(19) ‘source material’ has the meaning given
22 that term in the International Atomic Energy Agen-
23 cy Statute, done at New York on 26 October 1956;

24 “(20) ‘special fissionable material’ has the
25 meaning given that term in the International Atomic

1 Energy Agency Statute, done at New York on 26
2 October 1956;

3 “(21) ‘territorial sea of the United States’
4 means all waters extending seaward to 12 nautical
5 miles from the baselines of the United States deter-
6 mined in accordance with international law;

7 “(22) ‘toxic chemical’ has the meaning given
8 the term in section 229F(8)(A) of this title;

9 “(23) ‘transport’ means to initiate, arrange or
10 exercise effective control, including decisionmaking
11 authority, over the movement of a person or item;
12 and

13 “(24) ‘United States’, when used in a geo-
14 graphical sense, includes the Commonwealth of
15 Puerto Rico, the Commonwealth of the Northern
16 Mariana Islands, and all territories and possessions
17 of the United States.”; and

18 (5) by inserting after subsection (d) (as added
19 by paragraph (4) of this section) the following:

20 “(e) EXCEPTIONS.—This section shall not apply to—

21 “(1) the activities of armed forces during an
22 armed conflict, as those terms are understood under
23 the law of war, which are governed by that law; or

24 “(2) activities undertaken by military forces of
25 a state in the exercise of their official duties.

1 “(f) DELIVERY OF SUSPECTED OFFENDER.—The
2 master of a covered ship flying the flag of the United
3 States who has reasonable grounds to believe that there
4 is on board that ship any person who has committed an
5 offense under section 2280 or section 2280a may deliver
6 such person to the authorities of a country that is a party
7 to the Convention for the Suppression of Unlawful Acts
8 against the Safety of Maritime Navigation. Before deliv-
9 ering such person to the authorities of another country,
10 the master shall notify in an appropriate manner the At-
11 torney General of the United States of the alleged offense
12 and await instructions from the Attorney General as to
13 what action to take. When delivering the person to a coun-
14 try which is a state party to the Convention, the master
15 shall, whenever practicable, and if possible before entering
16 the territorial sea of such country, notify the authorities
17 of such country of the master’s intention to deliver such
18 person and the reasons therefor. If the master delivers
19 such person, the master shall furnish to the authorities
20 of such country the evidence in the master’s possession
21 that pertains to the alleged offense.

22 “(g)(1) CIVIL FORFEITURE.—Any real or personal
23 property used or intended to be used to commit or to fa-
24 cilitate the commission of a violation of this section, the
25 gross proceeds of such violation, and any real or personal

1 property traceable to such property or proceeds, shall be
2 subject to forfeiture.

3 “(2) APPLICABLE PROCEDURES.—Seizures and for-
4 feitures under this section shall be governed by the provi-
5 sions of chapter 46 of title 18, United States Code, relat-
6 ing to civil forfeitures, except that such duties as are im-
7 posed upon the Secretary of the Treasury under the cus-
8 toms laws described in section 981(d) shall be performed
9 by such officers, agents, and other persons as may be des-
10 ignated for that purpose by the Secretary of Homeland
11 Security, the Attorney General, or the Secretary of De-
12 fense.”.

13 **SEC. 102. NEW SECTION 2280a OF TITLE 18, UNITED STATES**
14 **CODE.**

15 (a) IN GENERAL.—Chapter 111 of title 18, United
16 States Code, is amended by adding after section 2280 the
17 following new section:

18 **“§ 2280a. Violence against maritime navigation and**
19 **maritime transport involving weapons of**
20 **mass destruction**

21 “(a) OFFENSES.—

22 “(1) IN GENERAL.—Subject to the exceptions in
23 subsection (c), a person who unlawfully and inten-
24 tionally—

1 “(A) when the purpose of the act, by its
2 nature or context, is to intimidate a population,
3 or to compel a government or an international
4 organization to do or to abstain from doing any
5 act—

6 “(i) uses against or on a ship or dis-
7 charges from a ship any explosive or radio-
8 active material, biological, chemical, or nu-
9 clear weapon or other nuclear explosive de-
10 vice in a manner that causes or is likely to
11 cause death to any person or serious injury
12 or damage;

13 “(ii) discharges from a ship oil, lique-
14 fied natural gas, or another hazardous or
15 noxious substance that is not covered by
16 clause (i), in such quantity or concentra-
17 tion that causes or is likely to cause death
18 to any person or serious injury or damage;
19 or

20 “(iii) uses a ship in a manner that
21 causes death to any person or serious in-
22 jury or damage;

23 “(B) transports on board a ship—

24 “(i) any explosive or radioactive mate-
25 rial, knowing that it is intended to be used

1 to cause, or in a threat to cause, death to
2 any person or serious injury or damage for
3 the purpose of intimidating a population,
4 or compelling a government or an inter-
5 national organization to do or to abstain
6 from doing any act;

7 “(ii) any biological, chemical, or nu-
8 clear weapon or other nuclear explosive de-
9 vice, knowing it to be a biological, chem-
10 ical, or nuclear weapon or other nuclear
11 explosive device;

12 “(iii) any source material, special fis-
13 sionable material, or equipment or material
14 especially designed or prepared for the
15 processing, use, or production of special
16 fissionable material, knowing that it is in-
17 tended to be used in a nuclear explosive ac-
18 tivity or in any other nuclear activity not
19 under safeguards pursuant to an Inter-
20 national Atomic Energy Agency com-
21 prehensive safeguards agreement, except
22 where—

23 “(I) such item is transported to
24 or from the territory of, or otherwise

1 under the control of, a Non-Prolifera-
2 tion Treaty State Party; and

3 “(II) the resulting transfer or re-
4 ceipt (including internal to a country)
5 is not contrary to the obligations
6 under the Non-Proliferation Treaty of
7 the Non-Proliferation Treaty State
8 Party from which, to the territory of
9 which, or otherwise under the control
10 of which such item is transferred;

11 “(iv) any equipment, materials, or
12 software or related technology that signifi-
13 cantly contributes to the design or manu-
14 facture of a nuclear weapon or other nu-
15 clear explosive device, with the intention
16 that it will be used for such purpose, ex-
17 cept where—

18 “(I) the country to the territory
19 of which or under the control of which
20 such item is transferred is a Nuclear
21 Weapon State Party to the Non-Pro-
22 liferation Treaty; and

23 “(II) the resulting transfer or re-
24 ceipt (including internal to a country)
25 is not contrary to the obligations

1 under the Non-Proliferation Treaty of
2 a Non-Proliferation Treaty State
3 Party from which, to the territory of
4 which, or otherwise under the control
5 of which such item is transferred;

6 “(v) any equipment, materials, or
7 software or related technology that signifi-
8 cantly contributes to the delivery of a nu-
9 clear weapon or other nuclear explosive de-
10 vice, with the intention that it will be used
11 for such purpose, except where—

12 “(I) such item is transported to
13 or from the territory of, or otherwise
14 under the control of, a Non-Prolifera-
15 tion Treaty State Party; and

16 “(II) such item is intended for
17 the delivery system of a nuclear weap-
18 on or other nuclear explosive device of
19 a Nuclear Weapon State Party to the
20 Non-Proliferation Treaty; or

21 “(vi) any equipment, materials, or
22 software or related technology that signifi-
23 cantly contributes to the design, manufac-
24 ture, or delivery of a biological or chemical

1 weapon, with the intention that it will be
2 used for such purpose;

3 “(C) transports another person on board a
4 ship knowing that the person has committed an
5 act that constitutes an offense under section
6 2280 or subparagraphs (A), (B), (D), or (E) of
7 this section or an offense set forth in an appli-
8 cable treaty, as specified in section 2280(d)(1),
9 and intending to assist that person to evade
10 criminal prosecution;

11 “(D) injures or kills any person in connec-
12 tion with the commission or the attempted com-
13 mission of any of the offenses set forth in sub-
14 paragraphs (A) through (C), or subsection
15 (a)(2), to the extent that the subsection (a)(2)
16 offense pertains to subparagraph (A); or

17 “(E) attempts to do any act prohibited
18 under subparagraphs (A), (B) or (D), or con-
19 spires to do any act prohibited by subpara-
20 graphs (A) through (E) or subsection (a)(2),

21 shall be fined under this title, imprisoned not more
22 than 20 years, or both; and if the death of any per-
23 son results from conduct prohibited by this para-
24 graph, shall be imprisoned for any term of years or
25 for life.

1 “(2) THREATS.—A person who threatens, with
2 apparent determination and will to carry the threat
3 into execution, to do any act prohibited under para-
4 graph (1)(A) shall be fined under this title, impris-
5 oned not more than 5 years, or both.

6 “(b) JURISDICTION.—There is jurisdiction over the
7 activity prohibited in subsection (a)—

8 “(1) in the case of a covered ship, if—

9 “(A) such activity is committed—

10 “(i) against or on board a vessel of
11 the United States or a vessel subject to the
12 jurisdiction of the United States (as de-
13 fined in section 70502 of title 46) at the
14 time the prohibited activity is committed;

15 “(ii) in the United States, including
16 the territorial seas; or

17 “(iii) by a national of the United
18 States, by a United States corporation or
19 legal entity, or by a stateless person whose
20 habitual residence is in the United States;

21 “(B) during the commission of such activ-
22 ity, a national of the United States is seized,
23 threatened, injured, or killed; or

24 “(C) the offender is later found in the
25 United States after such activity is committed;

1 “(2) in the case of a ship navigating or sched-
2 uled to navigate solely within the territorial sea or
3 internal waters of a country other than the United
4 States, if the offender is later found in the United
5 States after such activity is committed; or

6 “(3) in the case of any vessel, if such activity
7 is committed in an attempt to compel the United
8 States to do or abstain from doing any act.

9 “(c) EXCEPTIONS.—This section shall not apply to—

10 “(1) the activities of armed forces during an
11 armed conflict, as those terms are understood under
12 the law of war, which are governed by that law; or

13 “(2) activities undertaken by military forces of
14 a state in the exercise of their official duties.

15 “(d)(1) CIVIL FORFEITURE.—Any real or personal
16 property used or intended to be used to commit or to fa-
17 cilitate the commission of a violation of this section, the
18 gross proceeds of such violation, and any real or personal
19 property traceable to such property or proceeds, shall be
20 subject to forfeiture.

21 “(2) APPLICABLE PROCEDURES.—Seizures and for-
22 feitures under this section shall be governed by the provi-
23 sions of chapter 46 of title 18, United States Code, relat-
24 ing to civil forfeitures, except that such duties as are im-
25 posed upon the Secretary of the Treasury under the cus-

1 toms laws described in section 981(d) shall be performed
 2 by such officers, agents, and other persons as may be des-
 3 ignated for that purpose by the Secretary of Homeland
 4 Security, the Attorney General, or the Secretary of De-
 5 fense.”.

6 (b) CONFORMING AMENDMENT.—The table of sec-
 7 tions at the beginning of chapter 111 of title 18, United
 8 States Code, is amended by adding after the item relating
 9 to section 2280 the following new item:

“2280a. Violence against maritime navigation and maritime transport involving
 weapons of mass destruction.”.

10 **SEC. 103. AMENDMENTS TO SECTION 2281 OF TITLE 18,**
 11 **UNITED STATES CODE.**

12 Section 2281 of title 18, United States Code, is
 13 amended—

14 (1) in subsection (c), by striking “section 2(c)”
 15 and inserting “section 13(c)”;

16 (2) in subsection (d), by striking the definitions
 17 of “national of the United States,” “territorial sea
 18 of the United States,” and “United States”; and

19 (3) by inserting after subsection (d) the fol-
 20 lowing:

21 “(e) EXCEPTIONS.—This section does not apply to—

22 “(1) the activities of armed forces during an
 23 armed conflict, as those terms are understood under
 24 the law of war, which are governed by that law; or

1 “(2) activities undertaken by military forces of
2 a state in the exercise of their official duties.”.

3 **SEC. 104. NEW SECTION 2281a OF TITLE 18, UNITED STATES**
4 **CODE.**

5 (a) IN GENERAL.—Chapter 111 of title 18, United
6 States Code, is amended by adding after section 2281 the
7 following new section:

8 **“§ 2281a. Additional offenses against maritime fixed**
9 **platforms**

10 “(a) OFFENSES.—

11 “(1) IN GENERAL.—A person who unlawfully
12 and intentionally—

13 “(A) when the purpose of the act, by its
14 nature or context, is to intimidate a population,
15 or to compel a government or an international
16 organization to do or to abstain from doing any
17 act—

18 “(i) uses against or on a fixed plat-
19 form or discharges from a fixed platform
20 any explosive or radioactive material, bio-
21 logical, chemical, or nuclear weapon in a
22 manner that causes or is likely to cause
23 death or serious injury or damage; or

24 “(ii) discharges from a fixed platform
25 oil, liquefied natural gas, or another haz-

1 ardous or noxious substance that is not
2 covered by clause (i), in such quantity or
3 concentration that causes or is likely to
4 cause death or serious injury or damage;

5 “(B) injures or kills any person in connec-
6 tion with the commission or the attempted com-
7 mission of any of the offenses set forth in sub-
8 paragraph (A); or

9 “(C) attempts or conspires to do anything
10 prohibited under subparagraphs (A) or (B),
11 shall be fined under this title, imprisoned not more
12 than 20 years, or both; and if death results to any
13 person from conduct prohibited by this paragraph,
14 shall be imprisoned for any term of years or for life.

15 “(2) THREAT TO SAFETY.—A person who
16 threatens, with apparent determination and will to
17 carry the threat into execution, to do any act prohib-
18 ited under paragraph (1)(A), shall be fined under
19 this title, imprisoned not more than 5 years, or both.

20 “(b) JURISDICTION.—There is jurisdiction over the
21 activity prohibited in subsection (a) if—

22 “(1) such activity is committed against or on
23 board a fixed platform—

24 “(A) that is located on the continental
25 shelf of the United States;

1 “(B) that is located on the continental
2 shelf of another country, by a national of the
3 United States or by a stateless person whose
4 habitual residence is in the United States; or

5 “(C) in an attempt to compel the United
6 States to do or abstain from doing any act;

7 “(2) during the commission of such activity
8 against or on board a fixed platform located on a
9 continental shelf, a national of the United States is
10 seized, threatened, injured, or killed; or

11 “(3) such activity is committed against or on
12 board a fixed platform located outside the United
13 States and beyond the continental shelf of the
14 United States and the offender is later found in the
15 United States.

16 “(c) EXCEPTIONS.—This section does not apply to—

17 “(1) the activities of armed forces during an
18 armed conflict, as those terms are understood under
19 the law of war, which are governed by that law; or

20 “(2) activities undertaken by military forces of
21 a state in the exercise of their official duties.

22 “(d) DEFINITIONS.—In this section—

23 “(1) ‘continental shelf’ means the sea-bed and
24 subsoil of the submarine areas that extend beyond a
25 country’s territorial sea to the limits provided by

1 customary international law as reflected in Article
 2 76 of the 1982 Convention on the Law of the Sea;
 3 and

4 “(2) ‘fixed platform’ means an artificial island,
 5 installation, or structure permanently attached to
 6 the sea-bed for the purpose of exploration or exploi-
 7 tation of resources or for other economic purposes.”.

8 (b) CONFORMING AMENDMENT.—The table of sec-
 9 tions at the beginning of chapter 111 of title 18, United
 10 States Code, is amended by adding after the item relating
 11 to section 2281 the following new item:

“2281a. Additional offenses against maritime fixed platforms.”.

12 **SEC. 105. ANCILLARY MEASURE.**

13 Section 2332b(g)(5)(B) of title 18, United States
 14 Code, is amended by inserting “2280a (relating to mari-
 15 time safety),” before “2281”, and by striking “2281” and
 16 inserting “2281 through 2281a”.

17 **TITLE II—PREVENTION OF**
 18 **NUCLEAR TERRORISM**

19 **SEC. 201. NEW SECTION 2332I OF TITLE 18.**

20 (a) IN GENERAL.—Chapter 113B of title 18, United
 21 States Code, is amended by adding after section 2332h
 22 the following:

23 **“§ 2332i. Acts of nuclear terrorism**

24 “(a) OFFENSES.—

1 “(1) IN GENERAL.—Whoever knowingly and
2 unlawfully—

3 “(A) possesses radioactive material or
4 makes or possesses a device—

5 “(i) with the intent to cause death or
6 serious bodily injury; or

7 “(ii) with the intent to cause substan-
8 tial damage to property or the environ-
9 ment; or

10 “(B) uses in any way radioactive material
11 or a device, or uses or damages or interferes
12 with the operation of a nuclear facility in a
13 manner that causes the release of or increases
14 the risk of the release of radioactive material,
15 or causes radioactive contamination or exposure
16 to radiation—

17 “(i) with the intent to cause death or
18 serious bodily injury or with the knowledge
19 that such act is likely to cause death or se-
20 rious bodily injury;

21 “(ii) with the intent to cause substan-
22 tial damage to property or the environment
23 or with the knowledge that such act is like-
24 ly to cause substantial damage to property
25 or the environment; or

1 “(iii) with the intent to compel a per-
2 son, an international organization or a
3 country to do or refrain from doing an act,
4 shall be punished as prescribed in subsection
5 (c).

6 “(2) THREATS.—Whoever, under circumstances
7 in which the threat may reasonably be believed,
8 threatens to commit an offense under paragraph (1)
9 shall be punished as prescribed in subsection (c).
10 Whoever demands possession of or access to radio-
11 active material, a device or a nuclear facility by
12 threat or by use of force shall be punished as pre-
13 scribed in subsection (c).

14 “(3) ATTEMPTS AND CONSPIRACIES.—Whoever
15 attempts to commit an offense under paragraph (1)
16 or conspires to commit an offense under paragraphs
17 (1) or (2) shall be punished as prescribed in sub-
18 section (c).

19 “(b) JURISDICTION.—Conduct prohibited by sub-
20 section (a) is within the jurisdiction of the United States
21 if—

22 “(1) the prohibited conduct takes place in the
23 United States or the special aircraft jurisdiction of
24 the United States;

1 “(2) the prohibited conduct takes place outside
2 of the United States and—

3 “(A) is committed by a national of the
4 United States, a United States corporation or
5 legal entity or a stateless person whose habitual
6 residence is in the United States;

7 “(B) is committed on board a vessel of the
8 United States or a vessel subject to the jurisdic-
9 tion of the United States (as defined in section
10 70502 of title 46) or on board an aircraft that
11 is registered under United States law, at the
12 time the offense is committed; or

13 “(C) is committed in an attempt to compel
14 the United States to do or abstain from doing
15 any act, or constitutes a threat directed at the
16 United States;

17 “(3) the prohibited conduct takes place outside
18 of the United States and a victim or an intended vic-
19 tim is a national of the United States or a United
20 States corporation or legal entity, or the offense is
21 committed against any state or government facility
22 of the United States; or

23 “(4) a perpetrator of the prohibited conduct is
24 found in the United States.

1 “(c) PENALTIES.—Whoever violates this section shall
2 be fined not more than \$2,000,000 and shall be impris-
3 oned for any term of years or for life.

4 “(d) NONAPPLICABILITY.—This section does not
5 apply to—

6 “(1) the activities of armed forces during an
7 armed conflict, as those terms are understood under
8 the law of war, which are governed by that law; or

9 “(2) activities undertaken by military forces of
10 a state in the exercise of their official duties.

11 “(e) DEFINITIONS.—As used in this section, the
12 term—

13 “(1) ‘armed conflict’ has the meaning given
14 that term in section 2332f(e)(11) of this title;

15 “(2) ‘device’ means:

16 “(A) any nuclear explosive device; or

17 “(B) any radioactive material dispersal or
18 radiation-emitting device that may, owing to its
19 radiological properties, cause death, serious
20 bodily injury or substantial damage to property
21 or the environment;

22 “(3) ‘international organization’ has the mean-
23 ing given that term in section 831(f)(3) of this title;

24 “(4) ‘military forces of a state’ means the
25 armed forces of a country that are organized,

1 trained and equipped under its internal law for the
2 primary purpose of national defense or security and
3 persons acting in support of those armed forces who
4 are under their formal command, control and re-
5 sponsibility;

6 “(5) ‘national of the United States’ has the
7 meaning given that term in section 101(a)(22) of
8 the Immigration and Nationality Act (8 U.S.C.
9 1101(a)(22));

10 “(6) ‘nuclear facility’ means:

11 “(A) any nuclear reactor, including reac-
12 tors on vessels, vehicles, aircraft or space ob-
13 jects for use as an energy source in order to
14 propel such vessels, vehicles, aircraft or space
15 objects or for any other purpose;

16 “(B) any plant or conveyance being used
17 for the production, storage, processing or trans-
18 port of radioactive material; or

19 “(C) a facility (including associated build-
20 ings and equipment) in which nuclear material
21 is produced, processed, used, handled, stored or
22 disposed of, if damage to or interference with
23 such facility could lead to the release of signifi-
24 cant amounts of radiation or radioactive mate-
25 rial;

1 “(7) ‘nuclear material’ has the meaning given
2 that term in section 831(f)(1) of this title;

3 “(8) ‘radioactive material’ means nuclear mate-
4 rial and other radioactive substances that contain
5 nuclides that undergo spontaneous disintegration (a
6 process accompanied by emission of one or more
7 types of ionizing radiation, such as alpha-, beta-,
8 neutron particles and gamma rays) and that may,
9 owing to their radiological or fissile properties, cause
10 death, serious bodily injury or substantial damage to
11 property or to the environment;

12 “(9) ‘serious bodily injury’ has the meaning
13 given that term in section 831(f)(4) of this title;

14 “(10) ‘state’ has the same meaning as that
15 term has under international law, and includes all
16 political subdivisions thereof;

17 “(11) ‘state or government facility’ has the
18 meaning given that term in section 2332f(e)(3) of
19 this title;

20 “(12) ‘United States corporation or legal entity’
21 means any corporation or other entity organized
22 under the laws of the United States or any State,
23 Commonwealth, territory, possession or district of
24 the United States;

1 (3) in paragraph (8), as redesignated, by strik-
2 ing “an offense under paragraph (1), (2), (3), or
3 (4)” and inserting “any act prohibited under para-
4 graphs (1) through (5)”; and

5 (4) in paragraph (9), as redesignated, by strik-
6 ing “an offense under paragraph (1), (2), (3), or
7 (4)” and inserting “any act prohibited under para-
8 graphs (1) through (7)”;

9 (b) in subsection (b)—

10 (1) in paragraph (1), by striking “(7)” and in-
11 serting “(8)”; and

12 (2) in paragraph (2), by striking “(8)” and in-
13 serting “(9)”;

14 (c) in subsection (c)—

15 (1) in subparagraph (2)(A), by adding after
16 “United States” the following: “or a stateless person
17 whose habitual residence is in the United States”;

18 (2) by striking paragraph (5);

19 (3) in paragraph (4), by striking “or” at the
20 end;

21 (4) by inserting after paragraph (4), the fol-
22 lowing:

23 “(5) the offense is committed on board a vessel
24 of the United States or a vessel subject to the juris-
25 diction of the United States (as defined in section

1 70502 of title 46) or on board an aircraft that is
2 registered under United States law, at the time the
3 offense is committed;

4 “(6) the offense is committed outside the
5 United States and against any state or government
6 facility of the United States; or

7 “(7) the offense is committed in an attempt to
8 compel the United States to do or abstain from
9 doing any act, or constitutes a threat directed at the
10 United States.”.

11 (d) by redesignating subsections (d) through (f) as
12 (e) through (g), respectively;

13 (e) by inserting after subsection (c):

14 “(d) NONAPPLICABILITY.—This section does not
15 apply to—

16 “(1) the activities of armed forces during an
17 armed conflict, as those terms are understood under
18 the law of war, which are governed by that law; or

19 “(2) activities undertaken by military forces of
20 a state in the exercise of their official duties.”; and
21 (f) in subsection (g), as redesignated—

22 (1) in paragraph (6), by striking “and” at the
23 end;

24 (2) in paragraph (7), by striking the period at
25 the end and inserting a semicolon; and

1 (3) by inserting after paragraph (7), the fol-
2 lowing:

3 “(8) the term ‘armed conflict’ has the meaning
4 given that term in section 2332f(e)(11) of this title;

5 “(9) the term ‘military forces of a state’ means
6 the armed forces of a country that are organized,
7 trained and equipped under its internal law for the
8 primary purpose of national defense or security and
9 persons acting in support of those armed forces who
10 are under their formal command, control and re-
11 sponsibility;

12 “(10) the term ‘state’ has the same meaning as
13 that term has under international law, and includes
14 all political subdivisions thereof;

15 “(11) the term ‘state or government facility’
16 has the meaning given that term in section
17 2332f(e)(3) of this title; and

18 “(12) the term ‘vessel of the United States’ has
19 the meaning given that term in section 70502 of
20 title 46.”.

Passed the House of Representatives June 28, 2012.

Attest:

Clerk.

112TH CONGRESS
2^D SESSION

H. R. 5889

AN ACT

To amend title 18, United States Code, to provide for protection of maritime navigation and prevention of nuclear terrorism, and for other purposes.