

## Union Calendar No. 395

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5889

[Report No. 112-551]

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

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2012

Mr. SMITH of Texas (for himself, Mr. CONYERS, Mr. SENSENBRENNER, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary

JUNE 26, 2012

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

# **A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

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

7 **TITLE I—SAFETY OF MARITIME**  
8 **NAVIGATION**

9 **SEC. 101. AMENDMENT TO SECTION 2280 OF TITLE 18,**  
10 **UNITED STATES CODE.**

11 Section 2280 of title 18, United States Code, is  
12 amended—

13 (1) in subsection (b)—

14 (A) in paragraph (1)(A)(i), by striking “a  
15 ship flying the flag of the United States” and  
16 inserting “a vessel of the United States or a  
17 vessel subject to the jurisdiction of the United  
18 States (as defined in section 70502 of title  
19 46)”;

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

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

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

3           (3) by striking subsection (d);

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

6           “(d) DEFINITIONS.—As used in this section, section  
7           2280a, section 2281, and section 2281a, the term—

8           “(1) ‘applicable treaty’ means—

9                   “(A) the Convention for the Suppression of  
10                   Unlawful Seizure of Aircraft, done at The  
11                   Hague on 16 December 1970;

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

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

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

1           “(E) the Convention on the Physical Pro-  
2           tection of Nuclear Material, done at Vienna on  
3           26 October 1979;

4           “(F) the Protocol for the Suppression of  
5           Unlawful Acts of Violence at Airports Serving  
6           International Civil Aviation, supplementary to  
7           the Convention for the Suppression of Unlawful  
8           Acts against the Safety of Civil Aviation, done  
9           at Montreal on 24 February 1988;

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

14           “(H) International Convention for the  
15           Suppression of Terrorist Bombings, adopted by  
16           the General Assembly of the United Nations on  
17           15 December 1997; and

18           “(I) International Convention for the Sup-  
19           pression of the Financing of Terrorism, adopted  
20           by the General Assembly of the United Nations  
21           on 9 December 1999;

22           “(2) ‘armed conflict’ does not include internal  
23           disturbances and tensions, such as riots, isolated  
24           and sporadic acts of violence, and other acts of a  
25           similar nature;

1 “(3) ‘biological weapon’ means—

2 “(A) microbial or other biological agents,  
3 or toxins whatever their origin or method of  
4 production, of types and in quantities that have  
5 no justification for prophylactic, protective, or  
6 other peaceful purposes; or

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

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

12 “(A) toxic chemicals and their precursors,  
13 except where intended for—

14 “(i) industrial, agricultural, research,  
15 medical, pharmaceutical, or other peaceful  
16 purposes;

17 “(ii) protective purposes, namely those  
18 purposes directly related to protection  
19 against toxic chemicals and to protection  
20 against chemical weapons;

21 “(iii) military purposes not connected  
22 with the use of chemical weapons and not  
23 dependent on the use of the toxic prop-  
24 erties of chemicals as a method of warfare;  
25 or

1                   “(iv) law enforcement including do-  
2                   mestic riot control purposes,  
3                   as long as the types and quantities are con-  
4                   sistent with such purposes;

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

11                  “(C) any equipment specifically designed  
12                  for use directly in connection with the employ-  
13                  ment of munitions and devices specified in sub-  
14                  paragraph (B);

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

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

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

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

3           “(9) ‘military forces of a state’ means the  
4           armed forces of a state which are organized, trained,  
5           and equipped under its internal law for the primary  
6           purpose of national defense or security, and persons  
7           acting in support of those armed forces who are  
8           under their formal command, control, and responsi-  
9           bility;

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

13           “(11) ‘Non-Proliferation Treaty’ means the  
14           Treaty on the Non-Proliferation of Nuclear Weap-  
15           ons, done at Washington, London, and Moscow on  
16           1 July 1968;

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

24           “(13) ‘Nuclear Weapon State Party to the Non-  
25           Proliferation Treaty’ means a State Party to the



1 Non-Proliferation Treaty that is a nuclear-weapon  
2 State, as that term is defined in Article IX(3) of the  
3 Non-Proliferation Treaty;

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

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

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

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

11 “(A) serious bodily injury,

12 “(B) extensive destruction of a place of  
13 public use, State or government facility, infra-  
14 structure facility, or public transportation sys-  
15 tem, resulting in major economic loss, or

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

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

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

4           “(20) ‘special fissionable material’ has the  
5 meaning given that term in the International Atomic  
6 Energy Agency Statute, done at New York on 26  
7 October 1956;

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

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

14           “(23) ‘transport’ means to initiate, arrange or  
15 exercise effective control, including decisionmaking  
16 authority, over the movement of a person or item;  
17 and

18           “(24) ‘United States’, when used in a geo-  
19 graphical sense, includes the Commonwealth of  
20 Puerto Rico, the Commonwealth of the Northern  
21 Mariana Islands, and all territories and possessions  
22 of the United States.”; and

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

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

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

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

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

1 of such country the evidence in the master's possession  
2 that pertains to the alleged offense.

3 “(g)(1) CIVIL FORFEITURE.—Any real or personal  
4 property used or intended to be used to commit or to fa-  
5 cilitate the commission of a violation of this section, the  
6 gross proceeds of such violation, and any real or personal  
7 property traceable to such property or proceeds, shall be  
8 subject to forfeiture.

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

19 **SEC. 102. NEW SECTION 2280a OF TITLE 18, UNITED STATES**  
20 **CODE.**

21 Chapter 111 of title 18, United States Code, is  
22 amended by adding after section 2280 the following new  
23 section:

1 **“§ 2280a. Violence against maritime navigation and**  
2 **maritime transport involving weapons of**  
3 **mass destruction**

4 “(a) OFFENSES.—

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

8 “(A) when the purpose of the act, by its  
9 nature or context, is to intimidate a population,  
10 or to compel a government or an international  
11 organization to do or to abstain from doing any  
12 act—

13 “(i) uses against or on a ship or dis-  
14 charges from a ship any explosive or radio-  
15 active material, biological, chemical, or nu-  
16 clear weapon or other nuclear explosive de-  
17 vice in a manner that causes or is likely to  
18 cause death to any person or serious injury  
19 or damage;

20 “(ii) discharges from a ship oil, lique-  
21 fied natural gas, or another hazardous or  
22 noxious substance that is not covered by  
23 clause (i), in such quantity or concentra-  
24 tion that causes or is likely to cause death  
25 to any person or serious injury or damage;  
26 or

1           “(iii) uses a ship in a manner that  
2 causes death to any person or serious in-  
3 jury or damage;

4           “(B) transports on board a ship—

5           “(i) any explosive or radioactive mate-  
6 rial, knowing that it is intended to be used  
7 to cause, or in a threat to cause, death to  
8 any person or serious injury or damage for  
9 the purpose of intimidating a population,  
10 or compelling a government or an inter-  
11 national organization to do or to abstain  
12 from doing any act;

13           “(ii) any biological, chemical, or nu-  
14 clear weapon or other nuclear explosive de-  
15 vice, knowing it to be a biological, chem-  
16 ical, or nuclear weapon or other nuclear  
17 explosive device;

18           “(iii) any source material, special fis-  
19 sionable material, or equipment or material  
20 especially designed or prepared for the  
21 processing, use, or production of special  
22 fissionable material, knowing that it is in-  
23 tended to be used in a nuclear explosive ac-  
24 tivity or in any other nuclear activity not  
25 under safeguards pursuant to an Inter-

1 national Atomic Energy Agency com-  
2 prehensive safeguards agreement, except  
3 where—

4 “(I) such item is transported to  
5 or from the territory of, or otherwise  
6 under the control of, a Non-Prolifera-  
7 tion Treaty State Party; and

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

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

23 “(I) the country to the territory  
24 of which or under the control of which  
25 such item is transferred is a Nuclear

1           Weapon State Party to the Non-Pro-  
2           liferation Treaty; 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                   a 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                  “(v) any equipment, materials, or  
12                  software or related technology that signifi-  
13                  cantly contributes to the delivery of a nu-  
14                  clear weapon or other nuclear explosive de-  
15                  vice, with the intention that it will be used  
16                  for such purpose, except where—

17                           “(I) such item is transported to  
18                           or from the territory of, or otherwise  
19                           under the control of, a Non-Prolifera-  
20                           tion Treaty State Party; and

21                           “(II) such item is intended for  
22                           the delivery system of a nuclear weap-  
23                           on or other nuclear explosive device of  
24                           a Nuclear Weapon State Party to the  
25                           Non-Proliferation Treaty; or



1           “(vi) any equipment, materials, or  
2           software or related technology that signifi-  
3           cantly contributes to the design, manufac-  
4           ture, or delivery of a biological or chemical  
5           weapon, with the intention that it will be  
6           used for such purpose;

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

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

21          “(E) attempts to do any act prohibited  
22          under subparagraphs (A), (B) or (D), or con-  
23          spires to do any act prohibited by subpara-  
24          graphs (A) through (E) or subsection (a)(2),

1 shall be fined under this title, imprisoned not more  
2 than 20 years, or both; and if the death of any per-  
3 son results from conduct prohibited by this para-  
4 graph, shall be imprisoned for any term of years or  
5 for life.

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

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

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

14 “(A) such activity is committed—

15 “(i) against or on board a vessel of  
16 the United States or a vessel subject to the  
17 jurisdiction of the United States (as de-  
18 fined in section 70502 of title 46) at the  
19 time the prohibited activity is committed;

20 “(ii) in the United States, including  
21 the territorial seas; or

22 “(iii) by a national of the United  
23 States, by a United States corporation or  
24 legal entity, or by a stateless person whose  
25 habitual residence is in the United States;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23           “(1) the activities of armed forces during an  
24 armed conflict, as those terms are understood under  
25 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           Chapter 111 of title 18, United States Code, is  
6 amended by adding after section 2281 the following new  
7 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 **SEC. 105. ANCILLARY MEASURE.**

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

13 **TITLE II—PREVENTION OF**  
14 **NUCLEAR TERRORISM**

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

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

19 **“§ 2332i. Acts of nuclear terrorism**

20 “(a) OFFENSES.—

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

23 “(A) possesses radioactive material or  
24 makes or possesses a device—



1                   “(i) with the intent to cause death or  
2                   serious bodily injury; or

3                   “(ii) with the intent to cause substan-  
4                   tial damage to property or the environ-  
5                   ment; or

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

13                  “(i) with the intent to cause death or  
14                  serious bodily injury or with the knowledge  
15                  that such act is likely to cause death or se-  
16                  rious bodily injury;

17                  “(ii) with the intent to cause substan-  
18                  tial damage to property or the environment  
19                  or with the knowledge that such act is like-  
20                  ly to cause substantial damage to property  
21                  or the environment; or

22                  “(iii) with the intent to compel a per-  
23                  son, an international organization or a  
24                  country to do or refrain from doing an act,

1           shall be punished as prescribed in subsection  
2           (c).

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

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

16          “(b) JURISDICTION.—Conduct prohibited by sub-  
17          section (a) is within the jurisdiction of the United States  
18          if—

19                 “(1) the prohibited conduct takes place in the  
20                 United States or the special aircraft jurisdiction of  
21                 the United States;

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

24                         “(A) is committed by a national of the  
25                         United States, a United States corporation or

1 legal entity or a stateless person whose habitual  
2 residence is in the United States;

3 “(B) is committed on board a vessel of the  
4 United States or a vessel subject to the jurisdic-  
5 tion of the United States (as defined in section  
6 70502 of title 46) or on board an aircraft that  
7 is registered under United States law, at the  
8 time the offense is committed; or

9 “(C) is committed in an attempt to compel  
10 the United States to do or abstain from doing  
11 any act, or constitutes a threat directed at the  
12 United States;

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

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

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

24 “(d) NONAPPLICABILITY.—This section does not  
25 apply to—

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

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

6           “(e) DEFINITIONS.—As used in this section, the  
7 term—

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

10          “(2) ‘device’ means:

11               “(A) any nuclear explosive device; or

12               “(B) any radioactive material dispersal or  
13 radiation-emitting device that may, owing to its  
14 radiological properties, cause death, serious  
15 bodily injury or substantial damage to property  
16 or the environment;

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

19          “(4) ‘military forces of a state’ means the  
20 armed forces of a country that are organized,  
21 trained and equipped under its internal law for the  
22 primary purpose of national defense or security and  
23 persons acting in support of those armed forces who  
24 are under their formal command, control and re-  
25 sponsibility;

1           “(5) ‘national of the United States’ has the  
2 meaning given that term in section 101(a)(22) of  
3 the Immigration and Nationality Act (8 U.S.C.  
4 1101(a)(22));

5           “(6) ‘nuclear facility’ means:

6                   “(A) any nuclear reactor, including reac-  
7 tors on vessels, vehicles, aircraft or space ob-  
8 jects for use as an energy source in order to  
9 propel such vessels, vehicles, aircraft or space  
10 objects or for any other purpose;

11                   “(B) any plant or conveyance being used  
12 for the production, storage, processing or trans-  
13 port of radioactive material; or

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

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

23           “(8) ‘radioactive material’ means nuclear mate-  
24 rial and other radioactive substances that contain  
25 nuclides that undergo spontaneous disintegration (a

1 process accompanied by emission of one or more  
2 types of ionizing radiation, such as alpha-, beta-,  
3 neutron particles and gamma rays) and that may,  
4 owing to their radiological or fissile properties, cause  
5 death, serious bodily injury or substantial damage to  
6 property or to the environment;

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

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

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

15 “(12) ‘United States corporation or legal entity’  
16 means any corporation or other entity organized  
17 under the laws of the United States or any State,  
18 Commonwealth, territory, possession or district of  
19 the United States;

20 “(13) ‘vessel’ has the meaning given that term  
21 in section 1502(19) of title 33; and

22 “(14) ‘vessel of the United States’ has the  
23 meaning given that term in section 70502 of title  
24 46.”.

1 (b) CLERICAL AMENDMENT.—The table of sections  
2 at the beginning of chapter 113B of title 18, United  
3 States Code, is amended by inserting after section 2332h  
4 the following:

“2332i. Acts of nuclear terrorism.”.

5 (c) DISCLAIMER.—Nothing contained in this section  
6 is intended to affect the applicability of any other Federal  
7 or State law that might pertain to the underlying conduct.

8 **SEC. 202. AMENDMENT TO SECTION 831 OF TITLE 18 OF THE**  
9 **U.S. CODE.**

10 Section 831 of title 18, United States Code, is  
11 amended—

12 (a) in subsection (a)—

13 (1) by redesignating paragraphs (3) through  
14 (8) as (4) through (9);

15 (2) by inserting after paragraph (2) the fol-  
16 lowing:

17 “(3) without lawful authority, intentionally car-  
18 ries, sends or moves nuclear material into or out of  
19 a country;”;

20 (3) in redesignated paragraph (8), by striking  
21 “an offense under paragraph (1), (2), (3), or (4)”  
22 and inserting “any act prohibited under paragraphs  
23 (1) through (5)”; and

24 (4) in redesignated paragraph (9), by striking  
25 “an offense under paragraph (1), (2), (3), or (4)”

1 and inserting “any act prohibited under paragraphs  
2 (1) through (7)”;

3 (b) in subsection (b)—

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

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

8 (c) in subsection (c)—

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

12 (2) by striking paragraph (5);

13 (3) in paragraph (4), by striking the final “or”;

14 (4) by inserting after paragraph (4):

15 “(5) the offense is committed on board a vessel  
16 of the United States or a vessel subject to the juris-  
17 diction of the United States (as defined in section  
18 70502 of title 46) or on board an aircraft that is  
19 registered under United States law, at the time the  
20 offense is committed;

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

24 “(7) the offense is committed in an attempt to  
25 compel the United States to do or abstain from



1 doing any act, or constitutes a threat directed at the  
2 United States.”.

3 (d) redesignating subsections (d) through (f) as (e)  
4 through (g), respectively;

5 (e) inserting after subsection (c):

6 “(d) NONAPPLICABILITY.—This section does not  
7 apply to—

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

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

13 (f) in redesignated subsection (g)—

14 (1) in paragraph (6), by striking the final  
15 “and”;

16 (2) in paragraph (7), by striking the final pe-  
17 riod and inserting a semicolon; and

18 (3) by inserting after paragraph 7 the fol-  
19 lowing:

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

22 “(9) the term ‘military forces of a state’ means  
23 the armed forces of a country that are organized,  
24 trained and equipped under its internal law for the  
25 primary purpose of national defense or security and

1 persons acting in support of those armed forces who  
2 are under their formal command, control and re-  
3 sponsibility;

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

7 “(11) the term ‘state or government facility’  
8 has the meaning given that term in 2332f(e)(3) of  
9 this title; and

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



Union Calendar No. 395

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5889**

[Report No. 112-551]

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## **A BILL**

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

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JUNE 26, 2012

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed