

115TH CONGRESS
1ST SESSION

S. 595

To provide U.S. Customs and Border Protection with additional flexibility to expedite the hiring process for applicants for law enforcement positions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2017

Mr. FLAKE (for himself, Mr. MCCAIN, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide U.S. Customs and Border Protection with additional flexibility to expedite the hiring process for applicants for law enforcement positions, 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 “Boots on the Border
5 Act of 2017”.

1 **SEC. 2. EXPANDED AUTHORITY TO WAIVE POLYGRAPH EX-**
2 **AMINATIONS FOR CERTAIN APPLICANTS FOR**
3 **LAW ENFORCEMENT POSITIONS WITH U.S.**
4 **CUSTOMS AND BORDER PROTECTION.**

5 Section 3 of the Anti-Border Corruption Act of 2010
6 (6 U.S.C. 221) is amended by striking subsection (b) and
7 inserting the following:

8 “(b) **WAIVER.**—The Commissioner of U.S. Customs
9 and Border Protection may waive the polygraph examina-
10 tion requirement under subsection (a)(1) for any of the
11 following applicants:

12 “(1) An applicant who, at the time the appli-
13 cant applies for a law enforcement position with
14 U.S. Customs and Border Protection, is a State or
15 local law enforcement officer, if the officer—

16 “(A) has served as a State or local law en-
17 forcement officer for not less than 3 years with
18 no break in service;

19 “(B) is authorized by law to engage in or
20 supervise the prevention, detection, or investiga-
21 tion of any violation of law, or the apprehen-
22 sion, arrest, prosecution, or incarceration of any
23 individual for any violation of law;

24 “(C) is not under investigation, has not
25 been found to have engaged in criminal activity
26 or serious misconduct, has not resigned from a

1 position as a law enforcement officer under in-
2 vestigation or in lieu of termination, and has
3 not been dismissed from a position as a law en-
4 forcement officer; and

5 “(D) has successfully completed a poly-
6 graph examination as a condition of employ-
7 ment with the applicant’s law enforcement
8 agency.

9 “(2) An applicant who, at the time the appli-
10 cant applies for a law enforcement position with
11 U.S. Customs and Border Protection, is a Federal
12 law enforcement officer, if the officer—

13 “(A) has served as a Federal law enforce-
14 ment officer for not less than 3 years with no
15 break in service;

16 “(B) has authority to make arrests, con-
17 duct investigations, conduct searches, make sei-
18 zures, bear firearms, and serve orders, war-
19 rants, and other processes;

20 “(C) is not under investigation, has not
21 been found to have engaged in criminal activity
22 or serious misconduct, has not resigned from a
23 position as a law enforcement officer under in-
24 vestigation or in lieu of termination, and has

1 not been dismissed from a position as a law en-
2 forcement officer; and

3 “(D) has undergone an in-scope Tier 4
4 background investigation or a Tier 5 single
5 scope background investigation as a condition
6 of employment with the applicant’s law enforce-
7 ment agency.

8 “(3) An applicant who, at the time the appli-
9 cant applies for a law enforcement position with
10 U.S. Customs and Border Protection, is a
11 transitioning member of the Armed Forces, a vet-
12 eran, or a member of the National Guard, if such
13 individual—

14 “(A) has served in the Armed Forces for
15 not less than 4 years;

16 “(B) holds, or has held during the 5 years
17 preceding applying for the position, a Secret,
18 Top Secret, or Top Secret/Sensitive Compart-
19 mented Information clearance and was not
20 granted any waiver to obtain such clearance;

21 “(C) has undergone, during the 5 years
22 preceding applying for the position, an in-scope
23 Tier 4 background investigation or a Tier 5 sin-
24 gle scope background investigation; and

1 “(D) was discharged or released, or is eli-
2 gible to be discharged or released, from the
3 Armed Forces under honorable conditions and
4 has not engaged in criminal activity or serious
5 misconduct under the Uniform Code of Military
6 Justice under chapter 47 of title 10, United
7 States Code.

8 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion shall be construed to authorize the Commissioner to
10 hire an individual for a law enforcement position under
11 subsection (a) who is not suitable for employment and eli-
12 gible for a position designated as relating to national secu-
13 rity.

14 “(d) BACKGROUND INVESTIGATIONS.—An individual
15 who receives a waiver under subsection (b) who holds a
16 Tier 4 background investigation shall be subject to a Tier
17 5 single scope background investigation.

18 “(e) AUTHORITY TO ADMINISTER POLYGRAPH EX-
19 AMINATIONS AFTER WAIVER.—The Commissioner may
20 administer a polygraph examination to an individual who
21 applied for a law enforcement position with U.S. Customs
22 and Border Protection and received a waiver under sub-
23 section (b) if the Commissioner determines, based on in-
24 formation discovered before the completion of a back-
25 ground investigation of the individual, that a polygraph

1 examination is necessary for the Commissioner to make
 2 a final determination with respect to the suitability of the
 3 individual for the position.

4 “(f) DEFINITIONS.—In this section:

5 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—

6 The term ‘Federal law enforcement officer’ means a
 7 ‘law enforcement officer’, as defined in section
 8 8331(20) or 8401(17) of title 5, United States Code.

9 “(2) TRANSITIONING MEMBER OF THE ARMED

10 FORCES.—The term ‘transitioning member of the
 11 Armed Forces’ means a member of the Armed
 12 Forces serving on active duty on the date on which
 13 the member applies for a law enforcement position
 14 with U.S. Customs and Border Protection who ex-
 15 pects to be discharged or released from the Armed
 16 Forces and plans to take a position in the competi-
 17 tive service (as defined section 2102 of title 5,
 18 United States Code).

19 “(3) VETERAN.—The term ‘veteran’ has the
 20 meaning given that term in section 101(2) of title
 21 38, United States Code.”.

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