

116TH CONGRESS  
2D SESSION

# H. R. 7786

To provide civil liability for injuries in law enforcement free zones, and  
for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2020

Mr. ROY (for himself and Mr. BUDD) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, 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

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## A BILL

To provide civil liability for injuries in law enforcement free  
zones, 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 “Restitution for Eco-  
5       nomic losses Caused by Leaders who Allow Insurrection  
6       and Mayhem Act” or the “RECLAIM Act”.

7       **SEC. 2. FINDINGS.**

8       Congress finds the following:

1           (1) Law enforcement officers are vital to the  
2 protection and safety of communities.

3           (2) Elected officials and other senior officials  
4 abuse the public's trust and endanger their citizens  
5 when they refuse to provide law enforcement services  
6 to protect life and property.

7           (3) The right to life, liberty, and property are  
8 ensured by the Constitution of the United States,  
9 and the protection of these rights is the duty of the  
10 Federal, State, and local governments.

11          (4) Many local governments have refused to  
12 protect the fundamental rights described in para-  
13 graph (3) by voluntarily standing down law enforce-  
14 ment officers and allowing roving mobs to destroy  
15 property and individual livelihoods, including in—

16               (A) Minneapolis, Minnesota, where unrest  
17 and violence destroyed hundreds of buildings  
18 and further eroded trust in local law enforce-  
19 ment officers to devastating effect; and

20               (B) Portland, Oregon, where a mob set fire  
21 to the Multnomah County Justice Center,  
22 looted numerous businesses in the downtown  
23 area, injured two police officers, and physically  
24 assaulted multiple peaceful protestors and other  
25 individuals.

1           (5) Other local governments have gone further  
2           still by recognizing autonomous zones in which law  
3           enforcement officers are not allowed to operate, in-  
4           cluding in Seattle, Washington, where the decision of  
5           the Mayor of Seattle to withdraw law enforcement  
6           officers from multiple blocks of the City of Seattle  
7           to create a police free “autonomous zone” led to sig-  
8           nificant destruction of property, 4 shootings, and the  
9           murder of 2 young Americans in the zone.

10          (6) Elected officials or other senior officials in  
11          the State and local governments who refuse to pro-  
12          tect life and property from the ravages of a riot or  
13          mob behavior make their communities less safe by  
14          inviting more crime and violence, and act with willful  
15          disregard for the safety, comfort, and livelihoods of  
16          the individuals who they refuse to protect.

17          (7) State and local governments that publicly  
18          announce the withdrawal of law enforcement protec-  
19          tion from individuals or geographical areas so as to  
20          encourage and endorse the political and social view-  
21          points of protestors or rioters erode the public’s  
22          trust and fail to provide equal protection of the law.

1 **SEC. 3. CIVIL ACTIONS FOR INJURIES IN LAW ENFORCE-**  
2 **MENT FREE ZONES.**

3 Section 1979 of the Revised Statutes (42 U.S.C.  
4 1983) is amended—

5 (1) by inserting “(a)” before “Every person”;  
6 and

7 (2) by adding at the end the following:

8 “(b)(1) In this subsection—

9 “(A) the term ‘law enforcement free zone’—

10 “(i) means a geographical area or struc-  
11 ture that law enforcement officers are lawfully  
12 entitled to access but are instructed, demanded,  
13 or forced—

14 “(I) not to access; or

15 “(II) to access only in exceptional cir-  
16 cumstances; and

17 “(ii) does not include a geographical area  
18 or structure from which law enforcement offi-  
19 cers are briefly withheld as a tactical decision  
20 intended to resolve safely and expeditiously a  
21 specific and ongoing unlawful incident posing  
22 an imminent threat to the safety of individuals  
23 or law enforcement officers; and

24 “(B) the term ‘riot’ has the meaning given the  
25 term in section 2102 of title 18, United States Code.

1       “(2) A person with the lawful authority to direct a  
 2 law enforcement agency shall be subject to treble damages  
 3 for a violation of subsection (a) if the violation relates to  
 4 the person’s use of such authority to—

5               “(A) establish or recognize, whether formally or  
 6 informally, a law enforcement free zone; or

7               “(B) prohibit law enforcement officers from  
 8 taking law enforcement action related to a riot for  
 9 any reason other than to prevent imminent harm to  
 10 the safety of law enforcement officers.”.

11 **SEC. 4. LIABILITY FOR LAW-ENFORCEMENT FREE ZONES**  
 12 **AND STANDING DOWN DURING RIOTING.**

13 (a) DEFINITIONS.—In this section:

14               (1) LAW ENFORCEMENT FREE ZONE.—The  
 15 term “law enforcement free zone” has the meaning  
 16 given the term in subsection (b) of section 1979 of  
 17 the Revised Statutes (42 U.S.C. 1983), as added by  
 18 section 3 of this Act.

19               (2) RIOT.—The term “riot” has the meaning  
 20 given the term in section 2102 of title 18, United  
 21 States Code.

22 (b) LIABILITY FOR LAW ENFORCEMENT FREE  
 23 ZONES.—

24               (1) IN GENERAL.—A person with the lawful au-  
 25 thority to direct a law enforcement agency shall be

1        liable to any person who suffers severe physical in-  
2        jury or death as the result of a third-party's crimi-  
3        nal conduct or whose property is substantially dam-  
4        aged or destroyed as the result of a third-party's  
5        criminal conduct if—

6                (A) the person directed the law enforce-  
7                ment agency to establish or recognize, whether  
8                formally or informally, a law enforcement free  
9                zone;

10              (B) the criminal conduct and associated  
11              harm was foreseeable and occurred in the law  
12              enforcement free zone;

13              (C) the law enforcement free zone created  
14              an opportunity that otherwise would not have  
15              existed for the third party's crime to occur; and

16              (D) the criminal conduct affected inter-  
17              state commerce as described in paragraph (2).

18              (2) AFFECTING INTERSTATE COMMERCE.—For  
19              purposes of paragraph (1), criminal conduct shall be  
20              considered to have affected interstate commerce if—

21              (A) the person injured by the criminal con-  
22              duct traveled in interstate or foreign commerce  
23              with the intent to enter the law enforcement  
24              free zone;

1 (B) the criminal conduct is a violation of  
2 a Federal criminal law;

3 (C) the person who committed the criminal  
4 conduct traveled in interstate or foreign com-  
5 merce, or used any facility of interstate or for-  
6 eign commerce, with intent to commit the  
7 crime; or

8 (D) the property damaged or destroyed by  
9 the criminal conduct is used in or affecting  
10 interstate or foreign commerce.

11 (c) LIABILITY FOR STANDING DOWN DURING  
12 RIOTS.—A person with the lawful authority to direct a  
13 law enforcement agency who uses that authority to pro-  
14 hibit law enforcement officers from taking law enforce-  
15 ment action that would prevent or materially mitigate sig-  
16 nificant physical injury or death or damage or destruction  
17 of property caused by or related to a riot for any reason  
18 other than to prevent imminent harm to the safety of law  
19 enforcement officers shall be liable to any person who sub-  
20 sequently suffers significant physical injury or death or  
21 whose property is subsequently destroyed or damaged as  
22 the result of a third-party's criminal conduct, if—

23 (1) the person injured traveled in interstate or  
24 foreign commerce with the intent to enter the law  
25 enforcement free zone;

1           (2) the injury was caused by an act that is a  
2           violation of a Federal criminal law;

3           (3) the person who caused the injury traveled  
4           in interstate or foreign commerce, or used any facil-  
5           ity of interstate or foreign commerce, with intent to  
6           commit the criminal conduct; or

7           (4) the property damaged or destroyed is used  
8           in or affecting interstate or foreign commerce.

9   **SEC. 5. ELIGIBILITY FOR LAW ENFORCEMENT GRANTS AND**  
10           **EMERGENCY AND DISASTER FUNDING.**

11           (a) BYRNE GRANT PROGRAM.—Section 501 of title  
12 I of the Omnibus Crime Control and Safe Streets Act of  
13 1968 (34 U.S.C. 10152) is amended by adding at the end  
14 the following:

15           “(h) PROTECTION OF INDIVIDUALS AND PROP-  
16 ERTY.—

17           “(1) DEFINITIONS.—In this subsection—

18                   “(A) the term ‘law enforcement free zone’  
19           has the meaning given the term in section  
20           1979(b) of the Revised Statutes (42 U.S.C.  
21           1983(b)); and

22                   “(B) the term ‘riot’ has the meaning given  
23           the term in section 2102 of title 18, United  
24           States Code.



1           “(2) REQUIRED PROTECTION OF INDIVIDUALS  
2           AND PROPERTY.—Beginning in the first fiscal year  
3           after the date of enactment of the RECLAIM Act,  
4           a State or unit of local government that receives a  
5           grant under this part shall take all reasonable steps  
6           to protect individuals from physical injury and prop-  
7           erty from depredation caused by unlawful acts with-  
8           in the jurisdiction of the State or unit of local gov-  
9           ernment, as the case may be.

10           “(3) FAILURE TO PROTECT DESCRIBED.—For  
11           purposes of paragraph (2), a State or unit of local  
12           government shall be considered to have failed to take  
13           all reasonable steps to protect individuals from phys-  
14           ical injury and property from depredation only if—

15                   “(A) a senior official, governing body, or  
16                   policy from the State or unit of local govern-  
17                   ment prohibits, or prohibited during the rel-  
18                   evant fiscal year, law enforcement officers from  
19                   taking law enforcement action that would pre-  
20                   vent or materially mitigate physical injury or  
21                   property depredation caused by or related to a  
22                   riot for any reason other than to prevent immi-  
23                   nent harm to the safety of law enforcement offi-  
24                   cers;

1           “(B) a senior official, governing body, or  
2           policy from the State or unit of local govern-  
3           ment established or recognized during the rel-  
4           evant fiscal year, whether formally or infor-  
5           mally, a law enforcement free zone for any rea-  
6           son other than to prevent imminent harm to the  
7           safety of law enforcement officers;

8           “(C) the State or unit of local government  
9           has a custom or policy not to prosecute an indi-  
10          vidual who engages in unlawful activity as part  
11          of a riot; or

12          “(D) the State or unit of local government  
13          declines to prosecute an individual who engages  
14          in unlawful activity as part of a riot because  
15          the unlawful activity is related to or associated  
16          with expression of speech protected by the First  
17          Amendment to the Constitution of the United  
18          States.

19          “(4) PENALTY FOR NONCOMPLIANCE.—If the  
20          Attorney General determines that a State or unit of  
21          local government has failed to comply with this sub-  
22          section, the Attorney General may reduce the  
23          amount of the award for the State or unit of local  
24          government under this part for the fiscal year fol-  
25          lowing the determination by, the greater of—

1 “(A) 25 percent; or

2 “(B) an amount equal to twice the mone-  
3 tary value of the property damaged and the  
4 personal injury caused by the failure of the  
5 State or unit of local government to take rea-  
6 sonable steps to protect against the damage and  
7 injury.”.

8 (b) COPS GRANT PROGRAM.—Section 1701 of title  
9 I of the Omnibus Crime Control and Safe Streets Act of  
10 1968 (34 U.S.C. 10381) is amended by adding at the end  
11 the following:

12 “(n) PROTECTION OF INDIVIDUALS AND PROP-  
13 ERTY.—

14 “(1) DEFINITIONS.—In this subsection—

15 “(A) the term ‘law enforcement free zone’  
16 has the meaning given the term in section  
17 1979(b) of the Revised Statutes (42 U.S.C.  
18 1983(b)); and

19 “(B) the term ‘riot’ has the meaning given  
20 the term in section 2102 of title 18, United  
21 States Code.

22 “(2) REQUIRED PROTECTION OF INDIVIDUALS  
23 AND PROPERTY.—Beginning in the first fiscal year  
24 after the date of enactment of the RECLAIM Act,  
25 a State or unit of local government that receives a

1 grant under this section shall take all reasonable  
2 steps to protect individuals from physical injury and  
3 property from depredation caused by unlawful acts  
4 within the jurisdiction of the State or unit of local  
5 government, as the case may be.

6 “(3) FAILURE TO PROTECT DESCRIBED.—For  
7 purposes of paragraph (2), a State or unit of local  
8 government shall be considered to have failed to take  
9 all reasonable steps to protect individuals from phys-  
10 ical injury and property from depredation only if—

11 “(A) a senior official, governing body, or  
12 policy from the State or unit of local govern-  
13 ment prohibits, or prohibited during the rel-  
14 evant fiscal year, law enforcement officers from  
15 taking law enforcement action that would pre-  
16 vent or materially mitigate physical injury or  
17 property depredation caused by or related to a  
18 riot for any reason other than to prevent immi-  
19 nent harm to the safety of law enforcement offi-  
20 cers;

21 “(B) a senior official, governing body, or  
22 policy from the State or unit of local govern-  
23 ment established or recognized during the rel-  
24 evant fiscal year, whether formally or infor-  
25 mally, a law enforcement free zone for any rea-

1 son other than to prevent imminent harm to the  
2 safety of law enforcement officers;

3 “(C) the State or unit of local government  
4 has a custom or policy not to prosecute an indi-  
5 vidual who engages in unlawful activity as part  
6 of a riot; or

7 “(D) the State or unit of local government  
8 declines to prosecute an individual who engages  
9 in unlawful activity as part of a riot because  
10 the unlawful activity is related to or associated  
11 with expression of speech protected by the First  
12 Amendment to the Constitution of the United  
13 States.

14 “(4) PENALTY FOR NONCOMPLIANCE.—If the  
15 Attorney General determines that a State or unit of  
16 local government has failed to comply with this sub-  
17 section, the Attorney General may reduce the  
18 amount of the award for the State or unit of local  
19 government under this section for the fiscal year fol-  
20 lowing the determination by, the greater of—

21 “(A) 25 percent; or

22 “(B) an amount equal to twice the mone-  
23 tary value of the property damaged and the  
24 personal injury caused by the failure of the  
25 State or unit of local government to take rea-

1           sonable steps to protect against the damage and  
2           injury.”.

3           (c) EMERGENCY ASSISTANCE.—Title VII of the Rob-  
4 ert T. Stafford Disaster Relief and Emergency Assistance  
5 Act (42 U.S.C. 5201 et seq.) is amended by adding at  
6 the end the following:

7   **“SEC. 707. LIMITATION ON FUNDING ELIGIBILITY.**

8           “(a) DEFINITIONS.—In this section—

9           “(1) the term ‘law enforcement free zone’ has  
10          the meaning given the term in section 1979(b) of  
11          the Revised Statutes (42 U.S.C. 1983(b)); and

12          “(2) the term ‘riot’ has the meaning given the  
13          term in section 2102 of title 18, United States Code.

14          “(b) REQUIRED PROTECTION OF INDIVIDUALS AND  
15 PROPERTY.—A State or unit of local government shall not  
16 be eligible for any major disaster assistance under title  
17 IV or emergency assistance under title V under a major  
18 disaster or emergency declaration, respectively, relating to  
19 a riot or other civil unrest within the jurisdiction unless  
20 the State or unit of local government takes all reasonable  
21 steps to protect individuals from physical injury and prop-  
22 erty from depredation caused by unlawful acts occurring  
23 as part of the riot or unrest within the jurisdiction of the  
24 State or unit of local government, as the case may be.

1       “(c) FAILURE TO PROTECT DESCRIBED.—For pur-  
2 poses of subsection (b), a State or unit of local government  
3 shall be considered to have failed to take all reasonable  
4 steps to protect individuals from physical injury and prop-  
5 erty from depredation only if—

6               “(1) a senior official, governing body, or policy  
7 from the State or unit of local government prohibits  
8 law enforcement officers from taking law enforce-  
9 ment action that would prevent or materially miti-  
10 gate physical injury or property depredation caused  
11 by or related to a riot for any reason other than to  
12 prevent imminent harm to the safety of law enforce-  
13 ment officers;

14               “(2) a senior official, governing body, or policy  
15 from the State or unit of local government estab-  
16 lished or recognized, whether formally or informally,  
17 a law enforcement free zone for any reason other  
18 than to prevent imminent harm to the safety of law  
19 enforcement officers;

20               “(3) the State or unit of local government has  
21 a custom or policy not to prosecute an individual  
22 who engages in unlawful activity as part of a riot;  
23 or

24               “(4) the State or unit of local government de-  
25 clines to prosecute an individual who engages in un-

1       lawful activity as part of a riot because the unlawful  
2       activity is related to or associated with expression of  
3       speech protected by the First Amendment to the  
4       Constitution of the United States.

5       “(d) RULE OF CONSTRUCTION.—Nothing in this sec-  
6       tion shall be construed to limit the eligibility of an indi-  
7       vidual or private entity to receive major disaster assistance  
8       under title IV or emergency assistance under title V.”.

○