

117TH CONGRESS
1ST SESSION

H. R. 5399

To prohibit certain actions that impede border security on certain Federal land, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 28, 2021

Mr. GOODEN of Texas (for himself, Mr. BABIN, Mr. ROSENDALE, Mr. WEBER of Texas, Mr. ESTES, Mr. FALLON, and Mr. JOHNSON of Louisiana) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit certain actions that impede border security on certain Federal land, 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 “National Security and
5 Federal Lands Protection Act”.

1 **SEC. 2. PROHIBITION ON ACTIONS THAT IMPEDE BORDER**
2 **SECURITY ON CERTAIN FEDERAL LAND.**

3 (a) PROHIBITION ON SECRETARIES OF THE INTE-
4 RIOR AND AGRICULTURE.—The Secretary of the Interior
5 or the Secretary of Agriculture shall not impede, prohibit,
6 or restrict activities of U.S. Customs and Border Protec-
7 tion on Federal land located within 100 miles of an inter-
8 national land border that is under the jurisdiction of the
9 Secretary of the Interior or the Secretary of Agriculture,
10 to execute search and rescue operations and to prevent
11 all unlawful entries into the United States, including en-
12 tries by terrorists, other unlawful aliens, instruments of
13 terrorism, narcotics, and other contraband through the
14 international land borders of the United States.

15 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
16 BORDER PROTECTION.—U.S. Customs and Border Pro-
17 tection shall have immediate access to Federal land within
18 100 miles of the international land border under the juris-
19 diction of the Secretary of the Interior or the Secretary
20 of Agriculture for purposes of conducting the following ac-
21 tivities on such land that prevent all unlawful entries into
22 the United States, including entries by terrorists, other
23 unlawful aliens, instruments of terrorism, narcotics, and
24 other contraband through the international land borders
25 of the United States:

26 (1) Construction and maintenance of roads.

1 (2) Construction and maintenance of barriers.

2 (3) Use of vehicles to patrol, apprehend, or res-
3 cue.

4 (4) Installation, maintenance, and operation of
5 communications and surveillance equipment and sen-
6 sors.

7 (5) Deployment of temporary tactical infra-
8 structure.

9 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
10 ITY.—

11 (1) IN GENERAL.—Notwithstanding any other
12 provision of law (including any termination date re-
13 lating to the waiver referred to in this subsection),
14 the waiver by the Secretary of Homeland Security
15 on April 1, 2008, under section 102(c)(1) of the Ille-
16 gal Immigration Reform and Immigrant Responsi-
17 bility Act of 1996 (8 U.S.C. 1103 note; Public Law
18 104–208) of the laws described in paragraph (2)
19 with respect to certain sections of the international
20 border between the United States and Mexico and
21 between the United States and Canada shall be con-
22 sidered to apply to all Federal land under the juris-
23 diction of the Secretary of the Interior or the Sec-
24 retary of Agriculture within 100 miles of the inter-
25 national land borders of the United States for the

1 activities of U.S. Customs and Border Protection de-
2 scribed in subsection (c).

3 (2) DESCRIPTION OF LAWS WAIVED.—The laws
4 referred to in paragraph (1) are limited to the Wil-
5 derness Act (16 U.S.C. 1131 et seq.), the National
6 Environmental Policy Act of 1969 (42 U.S.C. 4321
7 et seq.), the Endangered Species Act of 1973 (16
8 U.S.C. 1531 et seq.), the National Historic Preser-
9 vation Act (16 U.S.C. 470 et seq.), Public Law 86–
10 523 (16 U.S.C. 469 et seq.), the Act of June 8,
11 1906 (commonly known as the “Antiquities Act of
12 1906”; 16 U.S.C. 431 et seq.), the Wild and Scenic
13 Rivers Act (16 U.S.C. 1271 et seq.), the Federal
14 Land Policy and Management Act of 1976 (43
15 U.S.C. 1701 et seq.), the National Wildlife Refuge
16 System Administration Act of 1966 (16 U.S.C.
17 668dd et seq.), the Fish and Wildlife Act of 1956
18 (16 U.S.C. 742a et seq.), the Fish and Wildlife Co-
19 ordination Act (16 U.S.C. 661 et seq.), subchapter
20 II of chapter 5, and chapter 7, of title 5, United
21 States Code (commonly known as the “Administra-
22 tive Procedure Act”), the National Park Service Or-
23 ganic Act (16 U.S.C. 1 et seq.), the General Au-
24 thorities Act of 1970 (Public Law 91–383) (16
25 U.S.C. 1a–1 et seq.), sections 401(7), 403, and 404

1 of the National Parks and Recreation Act of 1978
2 (Public Law 95–625, 92 Stat. 3467), and the Ari-
3 zona Desert Wilderness Act of 1990 (16 U.S.C.
4 1132 note; Public Law 101–628).

5 (d) PROTECTION OF LEGAL USES.—This section
6 shall not be construed to provide—

7 (1) authority to restrict legal uses, such as
8 grazing, hunting, mining, or public-use recreational
9 and backcountry airstrips on land under the jurisdic-
10 tion of the Secretary of the Interior or the Secretary
11 of Agriculture; or

12 (2) any additional authority to restrict legal ac-
13 cess to such land.

14 (e) EFFECT ON STATE AND PRIVATE LAND.—This
15 Act shall—

16 (1) have no force or effect on State or private
17 lands; and

18 (2) not provide authority on or access to State
19 or private lands.

20 (f) TRIBAL SOVEREIGNTY.—Nothing in this section
21 supersedes, replaces, negates, or diminishes treaties or
22 other agreements between the United States and Indian
23 tribes.

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