

118TH CONGRESS
1ST SESSION

S. 1464

To restrict the flow of illicit drugs into the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 4, 2023

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

A BILL

To restrict the flow of illicit drugs into the United States, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Enhancing DHS Drug Seizures Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Coordination and information sharing.

Sec. 3. Danger pay for Department of Homeland Security personnel deployed abroad.

Sec. 4. Improving training to foreign-vetted law enforcement or national security units.

Sec. 5. Enhancing the operations of U.S. Customs and Border Protection in foreign countries.

Sec. 6. Drug seizure data improvement.

Sec. 7. Drug performance measures.

Sec. 8. Penalties for hindering immigration, border, and customs controls.

1 **SEC. 2. COORDINATION AND INFORMATION SHARING.**

2 (a) PUBLIC-PRIVATE PARTNERSHIPS.—

3 (1) STRATEGY.—Not later than 180 days after
4 the date of enactment of this Act, the Secretary of
5 Homeland Security shall develop a strategy to
6 strengthen existing and establish new public-private
7 partnerships with shipping, chemical, and pharma-
8 ceutical industries to assist with early detection and
9 interdiction of illicit drugs and precursor chemicals.

10 (2) CONTENTS.—The strategy required under
11 paragraph (1) shall contain goals and objectives for
12 employees of the Department of Homeland Security
13 to ensure the tactics, techniques, and procedures
14 gained from the public-private partnerships de-
15 scribed in paragraph (1) are included in policies,
16 best practices, and training for the Department.

17 (3) IMPLEMENTATION PLAN.—Not later than
18 180 days after developing the strategy required
19 under paragraph (1), the Secretary of Homeland Se-
20 curity shall develop an implementation plan for the
21 strategy, which shall outline departmental lead and
22 support roles, responsibilities, programs, and

1 timelines for accomplishing the goals and objectives
2 of the strategy.

3 (4) BRIEFING.—The Secretary of Homeland
4 Security shall provide annual briefings to the Com-
5 mittee on Homeland Security and Governmental Af-
6 fairs of the Senate and the Committee on Homeland
7 Security of the House of Representatives regarding
8 the progress made in addressing the implementation
9 plan developed pursuant to paragraph (3).

10 (b) ASSESSMENT OF DRUG TASK FORCES.—

11 (1) IN GENERAL.—The Secretary of Homeland
12 Security shall conduct an assessment of the
13 counterdrug task forces in which the Department of
14 Homeland Security, including components of the De-
15 partment, participates in or leads, which shall in-
16 clude—

17 (A) areas of potential overlap;

18 (B) opportunities for sharing information
19 and best practices;

20 (C) how the Department’s processes for
21 ensuring accountability and transparency in its
22 vetting and oversight of partner agency task
23 force members align with best practices; and

24 (D) corrective action plans for any capa-
25 bility limitations and deficient or negative find-

1 ings identified in the report for any such task
2 forces led by the Department.

3 (2) REPORT.—Not later than 180 days after
4 the date of enactment of this Act, the Secretary of
5 Homeland Security shall submit a report to the
6 Committee on Homeland Security and Governmental
7 Affairs of the Senate and the Committee on Home-
8 land Security of the House of Representatives that
9 contains a summary of the results of the assessment
10 conducted pursuant to paragraph (1).

11 (3) CORRECTIVE ACTION PLAN.—The Secretary
12 of Homeland Security shall—

13 (A) implement the corrective action plans
14 described in paragraph (1)(D) immediately
15 after the submission of the report pursuant to
16 paragraph (2); and

17 (B) provide annual briefings to the Com-
18 mittee on Homeland Security and Govern-
19 mental Affairs of the Senate and the Committee
20 on Homeland Security of the House of Rep-
21 resentatives regarding the progress made in im-
22 plementing the corrective action plans.

23 (c) COMBINATION OF BRIEFINGS.—The Secretary of
24 Homeland Security may combine the briefings required

1 under subsections (a)(4) and (b)(3) and provide such com-
2 bined briefings through fiscal year 2026.

3 **SEC. 3. DANGER PAY FOR DEPARTMENT OF HOMELAND SE-**
4 **CURITY PERSONNEL DEPLOYED ABROAD.**

5 (a) IN GENERAL.—Subtitle H of title VIII of the
6 Homeland Security Act of 2002 (6 U.S.C. 451 et seq.)
7 is amended by inserting after section 881 the following:

8 **“SEC. 881A. DANGER PAY ALLOWANCE.**

9 “(a) AUTHORIZATION.—An employee of the Depart-
10 ment, while stationed in a foreign area, may be granted
11 a danger pay allowance, not to exceed 35 percent of the
12 basic pay of such employee, for any period during which
13 such foreign area experiences a civil insurrection, a civil
14 war, ongoing terrorist acts, or wartime conditions that
15 threaten physical harm or imminent danger to the health
16 or well-being of such employee.

17 “(b) NOTICE.—Before granting or terminating a
18 danger pay allowance to any employee pursuant to sub-
19 section (a), the Secretary, after consultation with the Sec-
20 retary of State, shall notify the Committee on Foreign Re-
21 lations of the Senate and the Committee on Foreign Af-
22 fairs of the House of Representatives of—

23 “(1) the intent to make such payments and the
24 circumstances justifying such payments; or

1 “(2) the intent to terminate such payments and
2 the circumstances justifying such termination.”.

3 **SEC. 4. IMPROVING TRAINING TO FOREIGN-VETTED LAW**
4 **ENFORCEMENT OR NATIONAL SECURITY**
5 **UNITS.**

6 The Secretary of Homeland Security, or the designee
7 of the Secretary, may waive reimbursement for salary ex-
8 penses of Department of Homeland Security for personnel
9 providing training to foreign-vetted law enforcement or
10 national security units in accordance with an agreement
11 with the Department of Defense pursuant to section 1535
12 of title 31, United States Code.

13 **SEC. 5. ENHANCING THE OPERATIONS OF U.S. CUSTOMS**
14 **AND BORDER PROTECTION IN FOREIGN**
15 **COUNTRIES.**

16 Section 411(f) of the Homeland Security Act of 2002
17 (6 U.S.C. 211(f)) is amended—

18 (1) by redesignating paragraph (4) as para-
19 graph (5); and

20 (2) by inserting after paragraph (3) the fol-
21 lowing:

22 “(4) PERMISSIBLE ACTIVITIES.—

23 “(A) IN GENERAL.—Employees of U.S.
24 Customs and Border Protection and other cus-
25 toms officers designated in accordance with the

1 authorities granted to officers and agents of Air
2 and Marine Operations may provide the support
3 described in subparagraph (B) to authorities of
4 the government of a foreign country, including
5 by conducting joint operations with appropriate
6 government officials within the territory of such
7 country, if an agreement has been entered into
8 between the Government of the United States
9 and the government of such country that per-
10 mits such support by such employees and offi-
11 cers.

12 “(B) SUPPORT DESCRIBED.—The support
13 described in this subparagraph is support for—

14 “(i) the monitoring, locating, tracking,
15 and deterrence of—

16 “(I) illegal drugs to the United
17 States;

18 “(II) the illicit smuggling of per-
19 sons and goods into the United
20 States;

21 “(III) terrorist threats to the
22 United States; and

23 “(IV) other threats to the secu-
24 rity or economy of the United States;

1 “(ii) emergency humanitarian efforts;
2 and
3 “(iii) law enforcement capacity-build-
4 ing efforts.

5 “(C) PAYMENT OF CLAIMS.—The Sec-
6 retary may expend funds, which have been ap-
7 propriated or otherwise made available to U.S.
8 Customs and Border Protection for operations
9 and support, to pay claims for money damages
10 against the United States, in accordance with
11 the first paragraph of section 2672 of title 28,
12 United States Code, which arise in a foreign
13 country in connection with U.S. Customs and
14 Border Protection operations in such country.”.

15 **SEC. 6. DRUG SEIZURE DATA IMPROVEMENT.**

16 (a) STUDY.—Not later than 180 days after the date
17 of the enactment of this Act, the Secretary of Homeland
18 Security shall conduct a study to identify any opportuni-
19 ties for improving drug seizure data collection.

20 (b) ELEMENTS.—The study required under sub-
21 section (a) shall—

22 (1) include a survey of the entities that use
23 drug seizure data; and

24 (2) address—

1 (A) any additional data fields or drug type
2 categories that should be added to U.S. Customs and Border Protection’s SEACATS, U.S.
3 Border Patrol’s e3 portal, and any other systems deemed appropriate by the Commissioner
4 of U.S. Customs and Border Protection, in accordance with the first recommendation in the
5 Government Accountability Office’s report GAO–22–104725, entitled “Border Security:
6 CBP Could Improve How It Categorizes Drug Seizure Data and Evaluates Training”;
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12 (B) how all the Department of Homeland Security components that collect drug seizure
13 data can standardize their data collection efforts and deconflict drug seizure reporting;
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16 (C) how the Department of Homeland Security can better identify, collect, and analyze
17 additional data on precursor chemicals, synthetic drugs, novel psychoactive substances, and
18 analogues that have been seized by U.S. Customs and Border Protection and U.S. Immigration
19 and Customs Enforcement; and
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23 (D) how the Department of Homeland Security can improve its model of anticipated drug
24 flow into the United States.
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1 (c) IMPLEMENTATION OF FINDINGS.—Following the
2 completion of the study required under subsection (a)—

3 (1) the Secretary of Homeland Security, in ac-
4 cordance with the Office of National Drug Control
5 Policy’s 2022 National Drug Control Strategy, shall
6 modify Department of Homeland Security drug sei-
7 zure policies and training programs, as appropriate,
8 consistent with the findings of such study; and

9 (2) the Commissioner of U.S. Customs and
10 Border Protection, in consultation with the Director
11 of U.S. Immigration and Customs Enforcement,
12 shall make any necessary updates to relevant sys-
13 tems to include the results of confirmatory drug
14 testing results.

15 **SEC. 7. DRUG PERFORMANCE MEASURES.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Secretary of Homeland Security shall de-
18 velop and implement a Department of Homeland Security
19 plan to ensure that components of the Department develop
20 and maintain outcome-based performance measures that
21 adequately assess the success of drug interdiction efforts
22 and how to utilize the existing drug-related metrics and
23 performance measures to achieve the missions, goals, and
24 targets of the Department.

1 **SEC. 8. PENALTIES FOR HINDERING IMMIGRATION, BOR-**
2 **DER, AND CUSTOMS CONTROLS.**

3 (a) PERSONNEL AND STRUCTURES.—Title II of the
4 Immigration and Nationality Act (8 U.S.C. 1151 et seq.)
5 is amended by inserting after section 274D the following:

6 **“SECTION 274E. DESTROYING OR EVADING BORDER CON-**
7 **TROLS.**

8 “(a) ILLICIT SPOTTING.—

9 “(1) IN GENERAL.—It shall be unlawful to
10 knowingly surveil, track, monitor, or transmit the lo-
11 cation, movement, or activities of any officer or em-
12 ployee of a Federal, State, or Tribal law enforce-
13 ment agency with the intent to knowingly and will-
14 fully—

15 “(A) secure a financial gain;

16 “(B) further the objectives of a criminal
17 organization; and

18 “(C) violate—

19 “(i) section 274(a)(1)(A)(i);

20 “(ii) the customs and trade laws of
21 the United States (as defined in section
22 2(4) of the Trade Facilitation and Trade
23 Enforcement Act of 2015 (Public Law
24 114–125));

25 “(iii) any other Federal law relating
26 to transporting controlled substances, agri-

1 culture, or monetary instruments into the
2 United States; or

3 “(iv) any Federal law relating to bor-
4 der controls measures of the United
5 States.

6 “(2) PENALTY.—Any person who violates para-
7 graph (1) shall be fined under title 18, United
8 States Code, imprisoned for not more than 5 years,
9 or both.

10 “(b) DESTRUCTION OF UNITED STATES BORDER
11 CONTROLS.—

12 “(1) IN GENERAL.—It shall be unlawful to
13 knowingly and without lawful authorization—

14 “(A)(i) destroy or significantly damage any
15 fence, barrier, sensor, camera, or other physical
16 or electronic device deployed by the Federal
17 Government to control an international border
18 of, or a port of entry to, the United States; or

19 “(ii) otherwise construct, excavate, or
20 make any structure intended to defeat, cir-
21 cumvent or evade such a fence, barrier, sensor
22 camera, or other physical or electronic device
23 deployed by the Federal Government to control
24 an international border of, or a port of entry to,
25 the United States; and

1 “(B) in carrying out an act described in
2 paragraph (1), have the intent to knowingly
3 and willfully—

4 “(i) secure a financial gain;

5 “(ii) further the objectives of a crimi-
6 nal organization; and

7 “(iii) violate—

8 “(I) section 274(a)(1)(A)(i);

9 “(II) the customs and trade laws
10 of the United States (as defined in
11 section 2(4) of the Trade Facilitation
12 and Trade Enforcement Act of 2015
13 (Public Law 114–125));

14 “(III) any other Federal law re-
15 lating to transporting controlled sub-
16 stances, agriculture, or monetary in-
17 struments into the United States; or

18 “(IV) any Federal law relating to
19 border controls measures of the
20 United States.

21 “(2) PENALTY.—Any person who violates para-
22 graph (1) shall be fined under title 18, United
23 States Code, imprisoned for not more than 5 years,
24 or both.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 for the Immigration and Nationality Act (8 U.S.C. 1101
3 et seq.) is amended by inserting after the item relating
4 to section 274D the following:

“Sec. 274E. Destroying or evading border controls.”.

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