

“(1) FENCING NEAR SAN DIEGO, CALIFORNIA.—In carrying out subsection (a), the Secretary shall provide for the construction along the 14 miles of the international land border of the United States, starting at the Pacific Ocean and extending eastward, of second and third fences, in addition to the existing reinforced fence, and for roads between the fences.”.

#### SEC. 104. PORTS OF ENTRY.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Division C of Public Law 104-208, is amended by the addition, at the end of that section, of the following new subsection:

“(e) CONSTRUCTION AND IMPROVEMENTS.—The Secretary is authorized to—

“(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

“(2) make necessary improvements to the ports of entry.”.

#### Subtitle B—Other Border Security Initiatives

##### SEC. 111. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS ENTERING AND DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

“(c) The Secretary is authorized to require aliens entering and departing the United States to provide biometric data and other information relating to their immigration status.”.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. (1225(d))) is amended by adding at the end the following:

“(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsections (a) and (b), immigration officers are authorized to collect biometric data from—

“(A) any applicant for admission or any alien who is paroled under section 212(d)(5), seeking to or permitted to land temporarily as an alien crewman, or seeking to or permitted transit through the United States; or

“(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).”.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

“(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.”.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended.

(1) in subsection (a)(7); by adding at the end the following:

“(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who fails or has failed to comply with a lawful request for biometric data under section 215(c), 235(d), or 252(d) is inadmissible.”; and

(2) in subsection (d), by inserting after paragraph (1) the following:

“(2) The Secretary may waive the application of subsection. (a)(7)(C) for an individual alien or class of aliens.”.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

“(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the re-

quirements of chapter 5 of title 5; United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.”; and

(2) in subsection (1)—

(A) by striking “There are authorized” and inserting the following:

“(1) IN GENERAL.—There are authorized”; and

(B) by adding at the end the following:

“(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2008 and 2009 to implement the automated biometric entry and exit data system at all land border ports of entry.”.

##### SEC. 112. UNLAWFUL FLIGHT FROM IMMIGRATION OR CUSTOMS CONTROLS.

(a) IN GENERAL.—Section 758 of Title 18, United States Code, is amended to read as follows:

##### “§ 758. Unlawful Flight from Immigration or Customs Controls

“(a) EVADING A CHECKPOINT.—Any person who, while operating a motor vehicle or vessel, knowingly flees or evades a checkpoint operated by the Department of Homeland Security or any other Federal law enforcement agency, and then knowingly or recklessly disregards or disobeys the lawful command of any law enforcement agent, shall be fined under this title, imprisoned not more than five years, or both.

“(b) FAILURE TO STOP.—Any person who, while operating a motor vehicle, aircraft, or vessel, knowingly or recklessly disregards or disobeys the lawful command of an officer of the Department of Homeland Security engaged in the enforcement of the immigration, customs, or maritime laws, or the lawful command of any law enforcement agent assisting such officer, shall be fined under this title, imprisoned not more than two years, or both.

“(c) ALTERNATIVE PENALTIES.—Notwithstanding the penalties provided in subsection (a) or (b), any person who violates such subsection shall—

“(1) be fined under this title, imprisoned not more than 10 years, or both, if the violation involved the operation of a motor vehicle, aircraft, or vessel—

“(A) in excess of the applicable or posted speed limit,

“(B) in excess of the rated capacity of the motor vehicle, aircraft, or vessel, or

“(C) in an otherwise dangerous or reckless manner;

“(2) be fined under this title, imprisoned not more than 20 years, or both, if the violation created a substantial and foreseeable risk of serious bodily injury or death to any person;

“(3) be fined under this title, imprisoned not more than 30 years, or both, if the violation caused serious bodily injury to any person; or

“(4) be fined under this title, imprisoned for any term of years or life, or both, if the violation resulted in the death of any person.

“(d) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be punished in the same manner as a person who completes the offense.

“(e) FORFEITURE.—Any property, real or personal, constituting or traceable to the gross proceeds of the offense and any property, real or personal, used or intended to be used to commit or facilitate the commission of the offense shall be subject to forfeiture.

“(f) FORFEITURE PROCEDURES.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 of

this title, relating to civil forfeitures, including section 981(d) of such title, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in that section shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security or the Attorney General. Nothing in this section shall limit the authority of the Secretary to seize and forfeit motor vehicles, aircraft, or vessels under the Customs laws or any other laws of the United States.

“(g) DEFINITIONS.—For purposes of this section—

“(1) the term “checkpoint” includes, but is not limited to, any customs or immigration inspection at a port of entry;

“(2) the term “lawful command” includes, but is not limited to, a command to stop, decrease speed, alter course, or land, whether communicated orally, visually, by means of lights or sirens, or by radio, telephone, or other wire communication;

“(3) the term “law enforcement agent” means any Federal, State, local or tribal official authorized to enforce criminal law, and, when conveying a command covered under subsection (b) of this section, an air traffic controller;

“(4) The term “motor vehicle” means any motorized or self-propelled means of terrestrial transportation; and

“(5) The term “serious bodily injury” has the meaning given in section 2119(2) of this title.”.

##### SEC. 113. RELEASE OF ALIENS FROM NON-CONTIGUOUS COUNTRIES.

Section 236(a)(2) (8 U.S.C. 1226(a)(2)) is amended—

(1) by striking “on”;

(2) in subparagraph (A)—

(A) by inserting “except as provided under subparagraph (B), upon the giving of a” before “bond”; and

(B) by striking “or” at the end;

(3) by redesignating subparagraph (6) as subparagraph (C); and

(4) by inserting after subparagraph (A) the following:

“(B) upon the giving of a bond of not less than \$5,000 with security approved by, and containing conditions prescribed by, the Secretary or the Attorney General, if the alien—

“(i) is a national of a noncontiguous country;

“(ii) has not been admitted or paroled into the United States; and

“(iii) was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the Secretary of Homeland Security; or”.

##### SEC. 114. SEIZURE OF CONVEYANCE WITH CONCEALED COMPARTMENT: EXPANDING THE DEFINITION OF CONVEYANCES WITH HIDDEN COMPARTMENTS SUBJECT TO FORFEITURE.

(a) IN GENERAL.—Section 1703 of Title 19, United States Code is amended—

(1) by amending the title of such section to read as follows:

##### “§ 1703. Seizure and forfeiture of vessels, vehicles, other conveyances and instruments of international traffic”;

(2) by amending the title of subsection (a) to read as follows:

(a) “Vessels, vehicles, other conveyances and instruments of international traffic subject to seizure and forfeiture”;

(3) by amending the title of subsection (b) to read as follows:

“(b) Vessels, vehicles, other conveyances and instruments of international traffic defined”;

(4) by inserting “,vehicle, other conveyance or instrument of international traffic” after the word “vessel” everywhere it appears in the text of subsections (a) and (b); and