

117TH CONGRESS
2D SESSION

H. R. 9050

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

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2022

Mrs. FLORES introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, Oversight and Reform, Foreign Affairs, and Ways and Means, 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 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. Drug testing and detection tools.
- Sec. 3. Coordination and information sharing.

- Sec. 4. Danger pay for Department of Homeland Security personnel deployed abroad.
- Sec. 5. Improving training to foreign-vetted law enforcement or national security units.
- Sec. 6. Enhancing the operations of U.S. Customs and Border Protection in foreign countries.
- Sec. 7. Drug seizure data improvement.
- Sec. 8. Drug performance measures.
- Sec. 9. Penalties for hindering immigration, border, and customs controls.
- Sec. 10. Modification of Homeland Security Investigations' authority for aircraft seizure and forfeiture.

1 **SEC. 2. DRUG TESTING AND DETECTION TOOLS.**

2 The Secretary of Homeland Security shall enhance
 3 the research and development needs and activities of the
 4 Department of Homeland Security related to fentanyl and
 5 other illicit drugs in accordance with section 309(a) of the
 6 Homeland Security Act of 2002 (6 U.S.C. 189(a))
 7 through coordination and communication with the Na-
 8 tional Laboratories (as defined in section 2 of the Energy
 9 Policy Act of 2005 (42 U.S.C. 15801)) or other appro-
 10 priate scientific research and development entities.

11 **SEC. 3. COORDINATION AND INFORMATION SHARING.**

12 (a) PUBLIC-PRIVATE PARTNERSHIPS.—

13 (1) STRATEGY.—Not later than 180 days after
 14 the date of enactment of this Act, the Secretary of
 15 Homeland Security shall develop a strategy to
 16 strengthen existing and establish new public-private
 17 partnerships with shipping, chemical, and pharma-
 18 ceutical industries to assist with early detection and
 19 interdiction of illicit drugs and precursor chemicals.

1 (2) CONTENTS.—The strategy required under
2 paragraph (1) shall contain goals and objectives for
3 employees of the Department of Homeland Security
4 to ensure the tactics, techniques, and procedures
5 gained from the public-private partnerships de-
6 scribed in paragraph (1) are included in policies,
7 best practices, and training for the Department.

8 (3) IMPLEMENTATION PLAN.—Not later than
9 180 days after developing the strategy required
10 under paragraph (1), the Secretary of Homeland Se-
11 curity shall develop an implementation plan for the
12 strategy, which shall outline departmental lead and
13 support roles, responsibilities, programs, and
14 timelines for accomplishing the goals and objectives
15 of the strategy.

16 (4) BRIEFING.—The Secretary of Homeland
17 Security shall provide annual briefings to the Com-
18 mittee on Homeland Security and Governmental Af-
19 fairs of the Senate and the Committee on Homeland
20 Security of the House of Representatives regarding
21 the progress made in addressing the implementation
22 plan developed pursuant to paragraph (3).

23 (b) ASSESSMENT OF DRUG TASK FORCES.—

24 (1) IN GENERAL.—The Secretary of Homeland
25 Security shall conduct an assessment of the

1 counterdrug task forces in which the Department of
2 Homeland Security, including components of the De-
3 partment, participates in or leads, which shall in-
4 clude—

5 (A) areas of potential overlap;

6 (B) opportunities for sharing information
7 and best practices;

8 (C) how the Department's processes for
9 ensuring accountability and transparency in its
10 vetting and oversight of partner agency task
11 force members align with best practices; and

12 (D) corrective action plans for any capa-
13 bility limitations and deficient or negative find-
14 ings identified in the report for any such task
15 forces led by the Department.

16 (2) REPORT.—Not later than 180 days after
17 the date of enactment of this Act, the Secretary of
18 Homeland Security shall submit a report to the
19 Committee on Homeland Security and Governmental
20 Affairs of the Senate and the Committee on Home-
21 land Security of the House of Representatives that
22 contains a summary of the results of the assessment
23 conducted pursuant to paragraph (1).

24 (3) CORRECTIVE ACTION PLAN.—The Secretary
25 of Homeland Security shall—

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

(B) provide annual briefings to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives regarding the progress made in implementing the corrective action plans.

(c) COMBINATION OF BRIEFINGS.—The Secretary of Homeland Security may combine the briefings required under subsections (a)(4) and (b)(3).

SEC. 4. DANGER PAY FOR DEPARTMENT OF HOMELAND SECURITY PERSONNEL DEPLOYED ABROAD.

Section 151 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246; 5 U.S.C. 5928 note) is amended by inserting “the Department of Homeland Security,” after “Investigation,”.

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

The Secretary of Homeland Security, or the designee of the Secretary, may waive reimbursement for salary expenses of Department of Homeland Security for personnel

1 providing training to foreign-vetted law enforcement or
2 national security units in accordance with an agreement
3 with the Department of Defense pursuant to section 1535
4 of title 31, United States Code.

5 **SEC. 6. ENHANCING THE OPERATIONS OF U.S. CUSTOMS**
6 **AND BORDER PROTECTION IN FOREIGN**
7 **COUNTRIES.**

8 (a) OPERATIONS IN FOREIGN COUNTRIES AND SUP-
9 PORT TO FOREIGN AUTHORITIES.—

10 (1) IN GENERAL.—The Tariff Act of 1930 (19
11 U.S.C. 1304 et seq.) is amended by inserting after
12 section 629 the following:

13 **“SEC. 629A. OPERATIONS IN FOREIGN COUNTRIES AND**
14 **SUPPORT TO FOREIGN AUTHORITIES.**

15 “(a) IN GENERAL.—Notwithstanding any other pro-
16 vision of law, employees of U.S. Customs and Border Pro-
17 tection and other customs officers designated in accord-
18 ance with section 401(i) may provide the support de-
19 scribed in subsection (b) to authorities of the government
20 of a foreign county, including by conducting joint oper-
21 ations with appropriate law enforcement officials within
22 the territory of that country, if an arrangement has been
23 entered into between the Government of the United States
24 and the government of that country under which the provi-

1 sion of such support by U.S. Customs and Border Protec-
2 tion is permitted.

3 “(b) SUPPORT DESCRIBED.—Support described in
4 this subsection is air and marine support for—

5 “(1) the detection, deterrence, interdiction, and
6 disruption of—

7 “(A) the transit of illegal drugs into the
8 United States;

9 “(B) the illicit traffic of persons and goods
10 into the United States;

11 “(C) terrorist threats to the United States;
12 and

13 “(D) other threats to the security or econ-
14 omy of the United States;

15 “(2) emergency humanitarian efforts; and

16 “(3) law enforcement capacity-building ef-
17 forts.”.

18 (2) CONFORMING AMENDMENT.—Section 411(f)
19 of the Homeland Security Act of 2002 (6 U.S.C.
20 211(f)) is amended—

21 (A) by redesignating paragraph (4) as
22 paragraph (5); and

23 (B) by inserting after paragraph (3) the
24 following:

1 “(4) PERMISSIBLE ACTIVITIES.—Air and Ma-
 2 rine Operations may provide support to authorities
 3 of the government of a foreign country, including by
 4 conducting aviation and marine operations, in con-
 5 junction with appropriate government officials from
 6 the United States and such foreign country in ac-
 7 cordance with section 629A of the Tariff Act of
 8 1930.”.

9 (b) CLAIMS AGAINST U.S. CUSTOMS AND BORDER
 10 PROTECTION FOR ACTIONS IN FOREIGN COUNTRIES.—
 11 The Tariff Act of 1930 (19 U.S.C. 1304 et seq.) is further
 12 amended by inserting after section 629A, as added by sub-
 13 section (a)(1), the following:

14 **“SEC. 629B. PAYMENT OF CLAIMS AGAINST U.S. CUSTOMS**
 15 **AND BORDER PROTECTION FOR ACTIONS IN**
 16 **FOREIGN COUNTRIES.**

17 “(a) DEFINITIONS.—In this section:

18 “(1) COVERED CLAIM.—The term ‘covered
 19 claim’ means a claim against the United States—

20 “(A) for—

21 “(i) damage to, or loss of, real prop-
 22 erty of a foreign country or a political sub-
 23 division or resident of a foreign country,
 24 including damage or loss incident to use
 25 and occupancy of such real property;

1 “(ii) damage to, or loss of, personal
2 property of a foreign country or a political
3 subdivision or resident of a foreign coun-
4 try, including property bailed to the United
5 States; or

6 “(iii) personal injury to, or death of,
7 a resident of a foreign country; and

8 “(B) if the damage, loss, personal injury,
9 or death—

10 “(i) that occurred in a foreign coun-
11 try; and

12 “(ii) was caused by, or was otherwise
13 incident to the activities of, U.S. Customs
14 and Border Protection.

15 “(2) FOREIGN COUNTRY.—The term ‘foreign
16 country’ includes any place under the jurisdiction of
17 the United States in a foreign country.

18 “(b) IN GENERAL.—The Secretary of Homeland Se-
19 curity may settle and pay a covered claim in an amount
20 that does not exceed \$100,000 from amounts appropriated
21 for the operating expenses of U.S. Customs and Border
22 Protection.

23 “(c) APPOINTMENT OF APPROVAL AUTHORITIES.—
24 The Secretary of Homeland Security, or an employee of
25 the Department of Homeland Security who has been des-

1 ignated by the Secretary, may appoint, under such regula-
2 tions as the Secretary may prescribe—

3 “(1) a claims commission, composed of one or
4 more employees of the Department of Homeland Se-
5 curity, to settle and pay covered claims that do not
6 exceed \$100,000; and

7 “(2) an employee of the Department to act as
8 an approval authority for settlement and payment of
9 covered claims that do not exceed \$10,000.

10 “(d) PAYMENT OF CLAIMS EXCEEDING \$100,000.—

11 “(1) IN GENERAL.—If the Secretary of Home-
12 land Security determines that a covered claim that
13 exceeds \$100,000 is meritorious, the Secretary
14 may—

15 “(A) pay the claimant \$100,000; and

16 “(B) report to the Secretary of the Treas-
17 ury, for payment under section 1304 of title 31,
18 United States Code, the amount of the claim
19 that—

20 “(i) exceeds \$100,000; and

21 “(ii) the Secretary of Homeland Secu-
22 rity determines is meritorious.

23 “(2) ANNUAL REPORT.—The Secretary shall
24 submit an annual report to the Committee on Home-
25 land Security and Governmental Affairs of the Sen-

1 ate and the Committee on Homeland Security of the
2 House of Representatives that lists the claims dur-
3 ing the reporting period that exceeded \$100,000, in-
4 cluding the amount of the claim paid and a descrip-
5 tion of the nature of the claim. The report shall be
6 submitted in an unclassified form, but may include
7 a classified annex.

8 “(e) LIMITATIONS.—

9 “(1) CLAIMS CONSIDERED.—The claim of an
10 insured may be considered under this section, but
11 the claim of a subrogee may not be considered under
12 this section.

13 “(2) TIME LIMITATION ON FILING OF
14 CLAIMS.—A covered claim may not be filed after the
15 date that is 2 years after the occurrence of the dam-
16 age, loss, personal injury, or death that is the sub-
17 ject of the claim.

18 “(3) FULL SATISFACTION REQUIRED.—Except
19 as provided in subsection (d), the Secretary of
20 Homeland Security may not settle or pay a covered
21 claim unless the amount of the payment is accepted
22 by the claimant as full satisfaction for the claim.”.

23 **SEC. 7. DRUG SEIZURE DATA IMPROVEMENT.**

24 (a) STUDY.—Not later than 180 days after the date
25 of the enactment of this Act, the Secretary of Homeland

1 Security shall conduct a study to identify any opportuni-
2 ties for improving drug seizure data collection.

3 (b) ELEMENTS.—The study required under sub-
4 section (a) shall—

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

7 (2) address—

8 (A) any additional data fields or drug type
9 categories that should be added to U.S. Cus-
10 toms and Border Protection’s SEACATS, U.S.
11 Border Patrol’s e3 portal, and any other sys-
12 tems deemed appropriate by the Commissioner
13 of U.S. Customs and Border Protection, in ac-
14 cordance with the first recommendation in the
15 Government Accountability Office’s report
16 GAO–22–104725, entitled “Border Security:
17 CBP Could Improve How It Categorizes Drug
18 Seizure Data and Evaluates Training”;

19 (B) how all the Department of Homeland
20 Security components that collect drug seizure
21 data can standardize their data collection ef-
22 forts and deconflict drug seizure reporting;

23 (C) how the Department of Homeland Se-
24 curity can better identify, collect, and analyze
25 additional data on precursor chemicals, syn-

1 thetic drugs, novel psychoactive substances, and
2 analogues that have been seized by U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement; and

3 (D) how the Department of Homeland Security can improve its model of anticipated drug
4 flow into the United States.

5 (c) IMPLEMENTATION OF FINDINGS.—Following the
6 completion of the study required under subsection (a)—

7 (1) the Secretary of Homeland Security, in accordance with the Office of National Drug Control
8 Policy’s 2022 National Drug Control Strategy, shall
9 modify Department of Homeland Security drug seizure policies and training programs, as appropriate,
10 consistent with the findings of such study; and

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

16 **SEC. 8. DRUG PERFORMANCE MEASURES.**

17 Not later than 180 days after the date of enactment
18 of this Act, the Secretary of Homeland Security shall de-

1 develop and implement a Department of Homeland Security
2 plan—

3 (1) to ensure that components of the Depart-
4 ment develop and maintain outcome-based perform-
5 ance measures that adequately assess the success of
6 drug interdiction; and

7 (2) for how to utilize the existing drug-related
8 metrics and performance measures to achieve the
9 missions, goals, and targets of the Department, and
10 if additional metrics and measures are needed.

11 **SEC. 9. PENALTIES FOR HINDERING IMMIGRATION, BOR-**
12 **DER, AND CUSTOMS CONTROLS.**

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

16 **“SEC. 274E. DESTROYING OR EVADING BORDER CONTROLS.**

17 **“(a) ILLICIT SPOTTING.—**

18 **“(1) IN GENERAL.—**It shall be unlawful to
19 knowingly surveil, track, monitor, or transmit the lo-
20 cation, movement, or activities of any officer or em-
21 ployee of a Federal, State, or Tribal law enforce-
22 ment agency with the intent to knowingly and will-
23 fully—

24 **“(A)** secure a financial gain;

1 “(B) further the objectives of a criminal
2 organization; and

3 “(C) violate—

4 “(i) section 274(a)(1)(A)(i);

5 “(ii) the customs and trade laws of
6 the United States (as defined in section
7 2(4) of the Trade Facilitation and Trade
8 Enforcement Act of 2015 (Public Law
9 114–125));

10 “(iii) any other Federal law relating
11 to transporting controlled substances, agri-
12 culture, or monetary instruments into the
13 United States; or

14 “(iv) any Federal law relating to bor-
15 der controls measures of the United
16 States.

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

21 “(b) DESTRUCTION OF UNITED STATES BORDER
22 CONTROLS.—

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

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

“(ii) otherwise construct, excavate, or make any structure intended to defeat, circumvent or evade such a fence, barrier, sensor camera, or other physical or electronic device deployed by the Federal Government to control an international border of, or a port of entry to, the United States; and

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

“(i) secure a financial gain;

“(ii) further the objectives of a criminal organization; and

“(iii) violate—

“(I) section 274(a)(1)(A)(i);

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

1 “(III) any other Federal law re-
 2 lating to transporting controlled sub-
 3 stances, agriculture, or monetary in-
 4 struments into the United States; or

5 “(IV) any Federal law relating to
 6 border controls measures of the
 7 United States.

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

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

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

16 **SEC. 10. MODIFICATION OF HOMELAND SECURITY INVES-**
 17 **TIGATIONS’ AUTHORITY FOR AIRCRAFT SEI-**
 18 **ZURE AND FORFEITURE.**

19 Section 46306(d)(1) of title 49, United States Code,
 20 is amended by striking “or the Commissioner of U.S. Cus-
 21 toms and Border Protection” and inserting “, the Com-
 22 missioner of U.S. Customs and Border Protection, or the
 23 Director of U.S. Immigration and Customs Enforce-
 24 ment.”.

