

113TH CONGRESS
1ST SESSION

H. R. 1417

To require the Secretary of Homeland Security to develop a comprehensive strategy to gain and maintain operational control of the international borders of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2013

Mr. McCAUL (for himself, Mrs. MILLER of Michigan, Ms. JACKSON LEE, and Mr. THOMPSON of Mississippi) introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To require the Secretary of Homeland Security to develop a comprehensive strategy to gain and maintain operational control of the international borders of 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.**

4 This Act may be cited as the “Border Security Re-
5 sults Act of 2013”.

6 **SEC. 2. REPORTS ON CURRENT BORDER SECURITY STATUS.**

7 Not later than 60 days after the date of the enact-
8 ment of this Act and every 180 days thereafter, the Sec-

1 retary of Homeland Security shall submit to the appro-
2 priate congressional committees a report that assesses and
3 describes, as of such date, the state of operational control
4 of the international borders of the United States.

5 **SEC. 3. STRATEGY TO ACHIEVE OPERATIONAL CONTROL**
6 **OF THE BORDER.**

7 (a) STRATEGY TO SECURE THE BORDER.—Not later
8 than 120 days after the date of the enactment of this Act,
9 the Secretary of Homeland Security shall submit to the
10 appropriate congressional committees a comprehensive
11 strategy for gaining and maintaining operational control
12 of high traffic areas of the international borders of the
13 United States by the date that is not later than two years
14 after the date of the submission of the implementation
15 plan required under subsection (b). The strategy shall in-
16 clude, at a minimum, a consideration of the following:

17 (1) An assessment of principal border security
18 threats.

19 (2) Efforts to analyze and disseminate border
20 security and border threat information between De-
21 partment of Homeland Security border security com-
22 ponents.

23 (3) Efforts to increase situational awareness.

24 (4) A comprehensive border security technology
25 plan for detection technology capabilities, including a

1 documented justification and rationale for tech-
2 nology choices, deployment locations, fixed versus
3 mobile assets, and a timetable for procurement and
4 deployment.

5 (5) Surveillance capabilities developed or uti-
6 lized by the Department of Defense, including any
7 technology determined to be excess by the Depart-
8 ment of Defense.

9 (6) Use of manned aircraft and unmanned aer-
10 ial systems, including the camera and sensor tech-
11 nology deployed on such assets.

12 (7) Technology required to enhance security at
13 ports of entry, including the installation of nonintru-
14 sive detection equipment, radiation portal monitors,
15 biometric technology, and other sensors and tech-
16 nology that the Secretary determines necessary.

17 (8) Operational coordination of Department of
18 Homeland Security border security components.

19 (9) Cooperative agreements with State, local,
20 tribal, and other Federal law enforcement agencies
21 that have jurisdiction on the northern border, south-
22 ern border, and in the maritime environment.

23 (10) Agreements with foreign governments that
24 support the border security efforts of the United
25 States.

1 (11) Staffing requirements for all border secu-
2 rity functions.

3 (12) Metrics required under subsections (e), (f),
4 and (g).

5 (b) IMPLEMENTATION PLAN.—

6 (1) IN GENERAL.—Not later than 60 days after
7 the submission of the strategy under subsection (a),
8 the Secretary of Homeland Security shall submit to
9 the appropriate congressional committees an imple-
10 mentation plan for each of the Department of
11 Homeland Security border security components to
12 carry out such strategy.

13 (2) GOVERNMENT ACCOUNTABILITY OFFICE RE-
14 VIEW.—

15 (A) IN GENERAL.—The Secretary of
16 Homeland Security shall make available to the
17 Government Accountability Office the imple-
18 mentation plan required under paragraph (1).

19 (B) REPORT.—Not later than 90 days
20 after receiving the implementation plan in ac-
21 cordance with subparagraph (A), the Comp-
22 troller General of the United States shall sub-
23 mit to the appropriate congressional committees
24 a report on such plan.

1 (c) SITUATIONAL AWARENESS.—Not later than two
2 years after the date of the enactment of this Act, the Sec-
3 retary of Homeland Security shall achieve situational
4 awareness of the international borders of the United
5 States.

6 (d) PERIODIC UPDATES.—Not later than 180 days
7 after the submission of each Quadrennial Homeland Secu-
8 rity Review required under section 707 of the Homeland
9 Security Act of 2002 (6 U.S.C. 347) beginning with the
10 first such Review that is due after the implementation
11 plan is submitted under subsection (b), the Secretary of
12 Homeland Security shall submit to the appropriate con-
13 gressional committees an updated—

- 14 (1) strategy under subsection (a); and
15 (2) implementation plan under subsection (b).

16 (e) METRICS FOR SECURING THE BORDER BETWEEN
17 PORTS OF ENTRY.—Not later than 90 days after the date
18 of the enactment of this Act, the Secretary of Homeland
19 Security shall implement metrics to measure the effective-
20 ness of security between ports of entry, which shall in-
21 clude, at a minimum, the following:

- 22 (1) An effectiveness rate which measures the
23 number of illegal border crossers who are turned
24 back, and the amount of narcotics seized, against
25 the total estimated number of illegal border crossers

1 and amount of narcotics the Department of Home-
2 land Security's border security components fail to
3 apprehend or seize, as the case may be.

4 (2) Estimates, using alternate methodologies,
5 including recidivism and survey data, of total at-
6 tempted illegal border crossings, the rate of appre-
7 hension of attempted illegal border crossings, and
8 the inflow into the United States of illegal border
9 crossers who evade apprehension.

10 (3) Estimates of the impacts of the Border Pa-
11 trol's Consequence Delivery System on the rate of
12 recidivism of illegal border crossers.

13 (4) An understanding of the current level of sit-
14 uational awareness.

15 (5) Amount of narcotics seized between ports of
16 entry.

17 (f) METRICS FOR SECURING THE BORDER AT PORTS
18 OF ENTRY.—Not later than 90 days after the date of the
19 enactment of this Act, the Secretary of Homeland Security
20 shall implement metrics to measure the effectiveness of se-
21 curity at ports of entry, which shall include, at a min-
22 imum, the following:

23 (1) An effectiveness rate which measures the
24 number of illegal border crossers who are turned
25 back, and the amount of narcotics seized, against

1 the total estimated number of illegal border crossers
2 and amount of narcotics the Department of Home-
3 land Security's border security components fail to
4 apprehend or seize, as the case may be.

5 (2) The number of infractions related to per-
6 sonnel and cargo committed by major violators who
7 are apprehended by U.S. Customs and Border Pro-
8 tection at such ports of entry.

9 (3) The estimated number of such infractions
10 committed by major violators who are not so appre-
11 hended.

12 (4) Estimates, using alternate methodologies,
13 including recidivism and survey data, of total at-
14 tempted illegal border crossings, the rate of appre-
15 hension of attempted illegal border crossings, and
16 the inflow into the United States of illegal border
17 crossers who evade apprehension.

18 (g) METRICS FOR SECURING THE MARITIME BOR-
19 DER.—Not later than 90 days after the date of the enact-
20 ment of this Act, the Secretary of Homeland Security shall
21 implement metrics to measure the effectiveness of security
22 in the maritime environment, which shall include, at a
23 minimum, the following:

24 (1) An effectiveness rate which measures the
25 number of migrants apprehended, the number of mi-

1 grants turned back, and the amount of narcotics
2 seized, against the total estimated numbers of mi-
3 grants and amount of narcotics the Department of
4 Homeland Security's maritime security components
5 fail to apprehend or seize, as the case may be.

6 (2) An understanding of the current level of sit-
7 uational awareness.

8 (3) A response rate which measures the Depart-
9 ment's ability to respond to known maritime threats
10 by placing assets on-scene, compared to the total
11 number of events with respect to which the Depart-
12 ment has known threat information.

13 (4) Partnerships with international, State, local,
14 tribal, and other Federal law enforcement agencies.

15 (h) INDEPENDENT ASSESSMENT BY A NATIONAL
16 LABORATORY WITHIN THE DEPARTMENT OF HOMELAND
17 SECURITY LABORATORY NETWORK.—The Secretary of
18 Homeland Security shall request the head of a national
19 laboratory within the Department of Homeland Security
20 laboratory network with prior expertise in border security
21 to—

22 (1) provide an independent assessment of the
23 metrics implemented in accordance with subsections
24 (e), (f), and (g) to ensure each such metric's suit-
25 ability and statistical validity; and

1 (2) make recommendations for other suitable
2 metrics that may be used to measure the effective-
3 ness of border security.

4 (i) EVALUATION BY THE GOVERNMENT ACCOUNT-
5 ABILITY OFFICE.—

6 (1) IN GENERAL.—The Secretary of Homeland
7 Security shall make available to the Government Ac-
8 countability Office the data and methodology used to
9 develop the metrics implemented under subsections
10 (e), (f), and (g) and the independent assessment de-
11 scribed under subsection (h).

12 (2) REPORT.—Not later than 270 days after re-
13 ceiving the data and methodology described in para-
14 graph (1), the Comptroller General of the United
15 States shall submit to the appropriate congressional
16 committees a report on the suitability and statistical
17 validity of such data and methodology.

18 (j) CERTIFICATIONS RELATING TO OPERATIONAL
19 CONTROL.—

20 (1) BY THE SECRETARY OF HOMELAND SECUR-
21 ITY.—If the Secretary of Homeland Security deter-
22 mines that operational control of the international
23 borders of the United States has been achieved, the
24 Secretary shall submit to the appropriate congres-

1 sional committees and the Comptroller General of
2 the United States a certification that so attests.

3 (2) BY THE COMPTROLLER GENERAL.—

4 (A) REVIEW.—The Comptroller General of
5 the United States shall review the certification
6 of the Secretary of Homeland Security under
7 paragraph (1) to verify if such certification is
8 accurate.

9 (B) VERIFICATION AND SUBMISSION.—If
10 the Comptroller General of the United States
11 verifies the accuracy of the certification of the
12 Secretary of Homeland Security under para-
13 graph (1), the Comptroller General shall, not
14 later than 120 days after such verification, sub-
15 mit to the appropriate congressional committees
16 a certification that so attests.

17 (k) GOVERNMENT ACCOUNTABILITY OFFICE REPORT
18 ON BORDER SECURITY DUPLICATION.—Not later than
19 one year after the date of the enactment of this Act, the
20 Comptroller General of the United States shall submit to
21 the appropriate congressional committees a report ad-
22 dressing areas of overlap in responsibilities within the bor-
23 der security functions of the Department of Homeland Se-
24 curity.

1 (l) REPORTS.—Not later than 60 days after the date
2 of the enactment of this Act and annually thereafter, the
3 Secretary of Homeland Security shall submit to the appro-
4 priate congressional committee a report on the following:

5 (1) A resource allocation model for current and
6 future year staffing requirements that includes opti-
7 mal staffing levels at all land, air, and sea ports of
8 entry, and an explanation of U.S. Customs and Bor-
9 der Protection methodology for aligning staffing lev-
10 els and workload to threats and vulnerabilities
11 across all mission areas.

12 (2) Detailed information on the level of man-
13 power available at all land, air, and sea ports of
14 entry and between ports of entry, including the num-
15 ber of canine and agricultural officers assigned to
16 each such port of entry.

17 (3) Detailed information that describes the dif-
18 ference between the staffing the model suggests and
19 the actual staffing at each port of entry and between
20 the ports of entry.

21 (m) DEFINITIONS.—In this Act:

22 (1) APPROPRIATE CONGRESSIONAL COMMIT-
23 TEES.—The term “appropriate congressional com-
24 mittees” means the Committee on Homeland Secu-
25 rity of the House of Representatives and the Com-

1 mittee on Homeland Security and Governmental Af-
2 fairs of the Senate.

3 (2) HIGH TRAFFIC AREAS.—The term “high
4 traffic areas” means locations identified through sit-
5 uational awareness that are within close proximity of
6 the northern and southern borders of the United
7 States that have the most illicit cross-border activity.

8 (3) MAJOR VIOLATOR.—The term “major viola-
9 tor” means a person or entity that has engaged in
10 serious criminal activities at any land, air, or sea
11 port of entry, including possession of narcotics,
12 smuggling of prohibited products, human smuggling,
13 weapons possession, use of fraudulent United States
14 documents, or other offenses serious enough to re-
15 sult in arrest.

16 (4) OPERATIONAL CONTROL.—The term “oper-
17 ational control” means a condition in which there is
18 a 90 percent probability that illegal border crossers
19 are apprehended and narcotics and other contraband
20 are seized in high traffic areas.

21 (5) SITUATIONAL AWARENESS.—The term “sit-
22 uational awareness” means knowledge and an under-
23 standing of current illicit cross-border activity, in-
24 cluding cross-border threats and trends concerning
25 illicit trafficking and unlawful crossings along the

1 international borders of the United States and in the
2 maritime environment, and the ability to predict fu-
3 ture shifts in such threats and trends.

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