

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. 1464

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. PETERS

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

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 secu-
rity 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
23 timelines for accomplishing the goals and objectives
24 of the strategy.

25 (4) BRIEFING.—The Secretary of Homeland
26 Security shall provide annual briefings to the Com-

1 mittee on Homeland Security and Governmental Af-
2 fairs of the Senate and the Committee on Homeland
3 Security of the House of Representatives regarding
4 the progress made in addressing the implementation
5 plan developed pursuant to paragraph (3).

6 (b) ASSESSMENT OF DRUG TASK FORCES.—

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

13 (A) areas of potential overlap;

14 (B) opportunities for sharing information
15 and best practices;

16 (C) how the Department's processes for
17 ensuring accountability and transparency in its
18 vetting and oversight of partner agency task
19 force members align with best practices; and

20 (D) corrective action plans for any capa-
21 bility limitations and deficient or negative find-
22 ings identified in the report for any such task
23 forces led by the Department.

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

1 Homeland Security shall submit a report to the
2 Committee on Homeland Security and Governmental
3 Affairs of the Senate and the Committee on Home-
4 land Security of the House of Representatives that
5 contains a summary of the results of the assessment
6 conducted pursuant to paragraph (1).

7 (3) CORRECTIVE ACTION PLAN.—The Secretary
8 of Homeland Security shall—

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

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

19 (c) COMBINATION OF BRIEFINGS.—The Secretary of
20 Homeland Security may combine the briefings required
21 under subsections (a)(4) and (b)(3) and provide such com-
22 bined briefings through fiscal year 2026.

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

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

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

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

15 “(b) NOTICE.—Before granting or terminating a
16 danger pay allowance to any employee pursuant to sub-
17 section (a), the Secretary, after consultation with the Sec-
18 retary of State, shall notify the Committee on Homeland
19 Security and Governmental Affairs of the Senate, the
20 Committee on Foreign Relations of the Senate, the Com-
21 mittee on Homeland Security of the House of Representa-
22 tives, and the Committee on Foreign Affairs of the House
23 of Representatives of—

24 “(1) the intent to make such payments and the
25 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 arrangement has been entered
8 into between the Government of the United
9 States and the government of such country that
10 permits such support by such employees and of-
11 ficers.

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.—

6 “(i) IN GENERAL.—Subject to clauses
7 (ii) and (iv), the Secretary may expend
8 funds that have been appropriated or oth-
9 erwise made available for the operating ex-
10 penses of the Department to pay claims for
11 money damages against the United States,
12 in accordance with the first paragraph of
13 section 2672 of title 28, United States
14 Code, which arise in a foreign country in
15 connection with U.S. Customs and Border
16 Protection operations in such country.

17 “(ii) SUBMISSION DEADLINE.—A
18 claim may be allowed under clause (i) only
19 if it is presented not later than 2 years
20 after it accrues.

21 “(iii) REPORT.—Not later than 90
22 days after the date on which the expendi-
23 ture authority under clause (i) expires pur-
24 suant to clause (iv), the Secretary shall
25 submit a report to Congress that describes,

1 for each of the payments made pursuant to
2 clause (i)—

3 “(I) the foreign entity that re-
4 ceived such payment;

5 “(II) the amount paid to such
6 foreign entity;

7 “(III) the country in which such
8 foreign entity resides or has its prin-
9 cipal place of business; and

10 “(IV) a detailed account of the
11 circumstances justify such payment.

12 “(iv) SUNSET.—The expenditure au-
13 thority under clause (i) shall expire on the
14 date that is 5 years after the date of the
15 enactment of the Enhancing DHS Drug
16 Seizures Act.”.

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

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

22 (b) ELEMENTS.—The study required under sub-
23 section (a) shall—

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

1 (2) address—

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

13 (B) how all the Department of Homeland
14 Security components that collect drug seizure
15 data can standardize their data collection ef-
16 forts and deconflict drug seizure reporting;

17 (C) how the Department of Homeland Se-
18 curity can better identify, collect, and analyze
19 additional data on precursor chemicals, syn-
20 thetic drugs, novel psychoactive substances, and
21 analogues that have been seized by U.S. Cus-
22 toms and Border Protection and U.S. Immigra-
23 tion and Customs Enforcement; and

1 (D) how the Department of Homeland Se-
2 curity can improve its model of anticipated drug
3 flow into the United States.

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

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

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

18 **SEC. 7. DRUG PERFORMANCE MEASURES.**

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

1 performance measures to achieve the missions, goals, and
2 targets of the Department.

3 **SEC. 8. PENALTIES FOR HINDERING IMMIGRATION, BOR-**
4 **DER, AND CUSTOMS CONTROLS.**

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

8 **“SECTION 274E. DESTROYING OR EVADING BORDER CON-**
9 **TROLS.**

10 “(a) IN GENERAL.—It shall be unlawful to knowingly
11 and without lawful authorization—

12 “(1)(A) destroy or significantly damage any
13 fence, barrier, sensor, camera, or other physical or
14 electronic device deployed by the Federal Govern-
15 ment to control an international border of, or a port
16 of entry to, the United States; or

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

23 “(2) in carrying out an act described in para-
24 graph (1), have the intent to knowingly and will-
25 fully—

1 “(A) secure a financial gain;

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

4 “(C) violate—

5 “(i) section 274(a)(1)(A)(i);

6 “(ii) the customs and trade laws of
7 the United States (as defined in section
8 2(4) of the Trade Facilitation and Trade
9 Enforcement Act of 2015 (Public Law
10 114–125));

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

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

18 “(b) PENALTY.—Any person who violates subsection
19 (a) shall be fined under title 18, United States Code, im-
20 prisoned for not more than 5 years, or both.”.

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

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