

111TH CONGRESS
1ST SESSION

H. R. 1440

To amend title 46, United States Code, to improve maritime law enforcement.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 2009

Mr. LOBIONDO (for himself, Mr. YOUNG of Alaska, and Mr. OLSON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, 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 amend title 46, United States Code, to improve maritime law enforcement.

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 title may be cited as the “Maritime Law En-
5 forcement Improvement Act of 2009”.

6 **SEC. 2. MARITIME LAW ENFORCEMENT.**

7 (a) IN GENERAL.—Subtitle VII of title 46, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 **“CHAPTER 707—MARITIME LAW**
2 **ENFORCEMENT**

“Sec.

“70701. Offense.

“70702. Attempt or conspiracy.

“70703. Affirmative defenses.

“70704. Penalties.

“70705. Criminal forfeiture.

“70706. Civil forfeiture.

“70707. Extension beyond territorial jurisdiction.

“70708. Claim of failure to comply with international law; jurisdiction of court.

“70709. Federal activities.

“70710. Definitions.

3 **“§ 70701. Offense**

4 “It shall be unlawful for any person on board a cov-
5 ered vessel to transport or facilitate the transportation,
6 harboring, or concealment of an alien on board such vessel
7 knowing or having reason to believe that the alien is at-
8 tempting to unlawfully enter the United States.

9 **“§ 70702. Attempt or conspiracy**

10 “Any person on board a covered vessel who attempts
11 or conspires to commit a violation of section 70701 shall
12 be subject to the same penalties as those prescribed for
13 the violation, the commission of which was the object of
14 the attempt or conspiracy.

15 **“§ 70703. Affirmative defenses**

16 “It is an affirmative defense to a prosecution under
17 this section, which the defendant must prove by a prepon-
18 derance of the evidence, that—

19 “(1)(A) the alien was on board pursuant to a
20 rescue at sea, or was a stowaway; or

1 “(B) the entry into the United States was a
2 necessary response to an imminent threat of death
3 or serious bodily injury to the alien;

4 “(2) the defendant, as soon as reasonably prac-
5 ticable, informed the Coast Guard of the presence of
6 the alien on the vessel and the circumstances of the
7 rescue; and

8 “(3) the defendant complied with all orders
9 given by law enforcement officials of the United
10 States.

11 **“§ 70704. Penalties**

12 “Any person who commits a violation of this chapter
13 shall be imprisoned for not more than 20 years or fined
14 not more than \$250,000, or both; except that—

15 “(1) in the case of an offense that involves the
16 transit of the person’s spouse, child, sibling, parent,
17 grandparent, niece, or nephew, the person shall be
18 imprisoned for not more than 1 year or fined not
19 more than \$100,000, or both;

20 “(2) in any case in which the violation causes
21 serious bodily injury to any person, regardless of
22 where the injury occurs, the person shall be impris-
23 oned for not more than 30 years or fined not more
24 than \$500,000, or both; and

1 “(3) in any case in which the violation causes
2 or results in the death of any person regardless of
3 where the death occurs, the person shall be impris-
4 oned for not more than life or fined not more than
5 \$1,000,000, or both.

6 **“§ 70705. Criminal forfeiture**

7 “The court, at the time of sentencing a person con-
8 victed of an offense under this chapter, shall order for-
9 feited to the United States any vessel used in the offense
10 in the same manner and to the same extent as if it were
11 a vessel used in an offense under section 274 of the Immi-
12 gration and Nationality Act (8 U.S.C. 1324).

13 **“§ 70706. Civil forfeiture**

14 “A vessel that has been used in the commission of
15 a violation of this chapter shall be seized and subject to
16 forfeiture in the same manner and to the same extent as
17 if it were used in the commission of a violation of section
18 274(a) of the Immigration and Nationality Act (8 U.S.C.
19 1324(a)).

20 **“§ 70707. Extension beyond territorial jurisdiction**

21 “Sections 70701 and 70702 apply even though the
22 act is committed outside the territorial jurisdiction of the
23 United States.

1 **“§ 70708. Claim of failure to comply with inter-**
2 **national law; jurisdiction of court**

3 “A claim of failure to comply with international law
4 in the enforcement of this chapter may be invoked as a
5 basis for a defense solely by a foreign nation. A failure
6 to comply with international law shall not divest a court
7 of jurisdiction or otherwise constitute a defense to any
8 proceeding under this chapter.

9 **“§ 70709. Federal activities**

10 “Nothing in this chapter applies to otherwise lawful
11 activities carried out by or at the direction of the United
12 States Government.

13 **“§ 70710. Definitions**

14 “In this chapter, the following definitions apply:

15 “(1) ALIEN.—The term ‘alien’ has the meaning
16 given that term in section 70105(f).

17 “(2) COVERED VESSEL.—The term ‘covered
18 vessel’ means a vessel of the United States, or a ves-
19 sel subject to the jurisdiction of the United States,
20 that is less than 300 gross tons (or an alternate ton-
21 nage prescribed by the Secretary under section
22 14104 of this title) as measured under section
23 14502 of this title.

24 “(3) SERIOUS BODILY INJURY.—The term ‘seri-
25 ous bodily injury’ has the meaning given that term
26 in section 1365 of title 18, United States Code.

1 “(4) UNITED STATES.—The term ‘United
2 States’ has the meaning given that term is section
3 114.

4 “(5) VESSEL OF THE UNITED STATES.—The
5 term ‘vessel of the United States’ has the meaning
6 given that term in section 70502.

7 “(6) VESSEL SUBJECT TO THE JURISDICTION
8 OF THE UNITED STATES.—The term ‘vessel subject
9 to the jurisdiction of the United States’ has the
10 meaning given that term in section 70502.”.

11 (b) CLERICAL AMENDMENT.—The analysis for such
12 subtitle is amended by inserting after the item relating
13 to chapter 705 the following:

“707. Maritime Law Enforcement70701.”.

