

109TH CONGRESS
1ST SESSION

H. R. 1986

To amend title 10, United States Code, to authorize the Secretary of Defense to assign members of the Army, Navy, Air Force, and Marine Corps, under certain circumstances and subject to certain conditions, to assist the Department of Homeland Security in the performance of border protection functions.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2005

Mr. GOODE (for himself, Mr. JONES of North Carolina, Mr. TANCREDO, Mr. SESSIONS, Mr. NORWOOD, Mr. LEWIS of Kentucky, Mr. DUNCAN, Mr. CULBERSON, Mr. DEAL of Georgia, Mrs. CUBIN, Mr. PRICE of Georgia, Mr. SULLIVAN, Mr. FORBES, Mr. KING of Iowa, Mrs. JO ANN DAVIS of Virginia, Mr. HAYES, Mr. BOOZMAN, Mr. SAM JOHNSON of Texas, Mr. SHIMKUS, Ms. FOXX, Mr. GUTKNECHT, Mr. HAYWORTH, Mr. GOODLATTE, Mr. SHUSTER, Mr. WAMP, Mr. GALLEGLY, Mr. GARRETT of New Jersey, Mr. HOSTETTLER, Mr. TAYLOR of North Carolina, Mr. ALEXANDER, Mr. BARRETT of South Carolina, Mr. SENSENBRENNER, Ms. GINNY BROWN-WAITE of Florida, Mr. BRADY of Texas, and Mr. COBLE) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Homeland Security, 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 10, United States Code, to authorize the Secretary of Defense to assign members of the Army, Navy, Air Force, and Marine Corps, under certain circumstances and subject to certain conditions, to assist

the Department of Homeland Security in the performance of border protection functions.

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. ASSIGNMENT OF MEMBERS OF THE ARMED**
 4 **FORCES TO ASSIST BUREAU OF BORDER SE-**
 5 **CURITY AND BUREAU OF CITIZENSHIP AND**
 6 **IMMIGRATION SERVICES OF THE DEPART-**
 7 **MENT OF HOMELAND SECURITY.**

8 (a) ASSIGNMENT AUTHORITY OF SECRETARY OF DE-
 9 FENSE.—Chapter 18 of title 10, United States Code, is
 10 amended by inserting after section 374 the following new
 11 section:

12 **“§ 374a. Assignment of members to assist border pa-**
 13 **trol and control**

14 “(a) ASSIGNMENT AUTHORIZED.—Upon submission
 15 of a request consistent with subsection (b), the Secretary
 16 of Defense may assign members of the Army, Navy, Air
 17 Force, and Marine Corps to assist—

18 “(1) the Bureau of Border Security of the De-
 19 partment of Homeland Security in preventing the
 20 entry of terrorists, drug traffickers, and illegal aliens
 21 into the United States; and

22 “(2) the United States Customs Service of the
 23 Department of Homeland Security in the inspection
 24 of cargo, vehicles, and aircraft at points of entry

1 into the United States to prevent the entry of weap-
2 ons of mass destruction, components of weapons of
3 mass destruction, prohibited narcotics or drugs, or
4 other terrorist or drug trafficking items.

5 “(b) REQUEST FOR ASSIGNMENT.—The assignment
6 of members under subsection (a) may occur only if—

7 “(1) the assignment is at the request of the
8 Secretary of Homeland Security; and

9 “(2) the request is accompanied by a certifi-
10 cation by the Secretary of Homeland Security that
11 the assignment of members pursuant to the request
12 is necessary to respond to a threat to national secu-
13 rity posed by the entry into the United States of ter-
14 rorists, drug traffickers, or illegal aliens.

15 “(c) TRAINING PROGRAM REQUIRED.—The Sec-
16 retary of Homeland Security and the Secretary of De-
17 fense, shall establish a training program to ensure that
18 members receive general instruction regarding issues af-
19 fecting law enforcement in the border areas in which the
20 members may perform duties under an assignment under
21 subsection (a). A member may not be deployed at a border
22 location pursuant to an assignment under subsection (a)
23 until the member has successfully completed the training
24 program.

1 “(d) CONDITIONS OF USE.—(1) Whenever a member
2 who is assigned under subsection (a) to assist the Bureau
3 of Border Security or the United States Customs Service
4 is performing duties at a border location pursuant to the
5 assignment, a civilian law enforcement officer from the
6 agency concerned shall accompany the member.

7 “(2) Nothing in this section shall be construed to—

8 “(A) authorize a member assigned under sub-
9 section (a) to conduct a search, seizure, or other
10 similar law enforcement activity or to make an ar-
11 rest; and

12 “(B) supersede section 1385 of title 18 (popu-
13 larly known as the ‘Posse Comitatus Act’).

14 “(e) ESTABLISHMENT OF ONGOING JOINT TASK
15 FORCES.—(1) The Secretary of Homeland Security may
16 establish ongoing joint task forces if the Secretary of
17 Homeland Security determines that the joint task force,
18 and the assignment of members to the joint task force,
19 is necessary to respond to a threat to national security
20 posed by the entry into the United States of terrorists,
21 drug traffickers, or illegal aliens.

22 “(2) If established, the joint task force shall fully
23 comply with the standards as set forth in this section.

24 “(f) NOTIFICATION REQUIREMENTS.—The Secretary
25 of Homeland Security shall provide to the Governor of the

1 State in which members are to be deployed pursuant to
2 an assignment under subsection (a) and to local govern-
3 ments in the deployment area notification of the deploy-
4 ment of the members to assist the Department of Home-
5 land Security under this section and the types of tasks
6 to be performed by the members.

7 “(g) REIMBURSEMENT REQUIREMENT.—Section 377
8 of this title shall apply in the case of members assigned
9 under subsection (a).

10 “(h) TERMINATION OF AUTHORITY.—No assignment
11 may be made or continued under subsection (a) after Sep-
12 tember 30, 2007.”.

13 (b) COMMENCEMENT OF TRAINING PROGRAM.—The
14 training program required by subsection (b) of section
15 374a of title 10, United States Code, shall be established
16 as soon as practicable after the date of the enactment of
17 this Act.

18 (c) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of such chapter is amended by inserting
20 after the item relating to section 374 the following new
21 item:

“374a. Assignment of members to assist border patrol and control.”.

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