

109TH CONGRESS
1ST SESSION

H. R. 3622

To authorize the Governor of a State to organize and call into service a militia of able-bodied and eligible citizens to help prevent individuals from unlawfully crossing an international border and entering the United States anywhere other than a port of entry, to appropriate funds to support this service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2005

Mr. CULBERSON (for himself, Mr. AKIN, Mr. BARTLETT of Maryland, Mr. BONILLA, Mr. BROWN of South Carolina, Mr. BURGESS, Mr. BURTON of Indiana, Mr. CARTER, Mrs. CUBIN, Mrs. JO ANN DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DOOLITTLE, Mr. DUNCAN, Mr. GOHMERT, Mr. GOODE, Mr. GUTKNECHT, Mr. HALL, Mr. HAYWORTH, Mr. HERGER, Mr. ISTOOK, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. LEWIS of Kentucky, Mr. MCCAUL of Texas, Mr. MCHENRY, Mr. MARCHANT, Mr. MICA, Mr. MILLER of Florida, Mrs. MYRICK, Mr. NORWOOD, Mr. OTTER, Mr. PENCE, Mr. PITTS, Mr. POE, Mr. PRICE of Georgia, Mr. ROGERS of Alabama, Mr. ROHRABACHER, Mr. ROYCE, Mr. SCHWARZ of Michigan, Mr. SIMPSON, Mr. SMITH of Texas, Mr. SULLIVAN, Mr. TANCREDO, Mr. WAMP, Mr. WESTMORELAND, Mr. WILSON of South Carolina, Mr. YOUNG of Alaska, and Mr. GARRETT of New Jersey) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Armed Services, 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 authorize the Governor of a State to organize and call into service a militia of able-bodied and eligible citizens to help prevent individuals from unlawfully crossing an

international border and entering the United States anywhere other than a port of entry, to appropriate funds to support this service, 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 Protection
5 Corps Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) Federal authorities do not have sufficient
9 manpower or resources to patrol and defend the
10 international borders of the United States to prevent
11 individuals from entering the United States illegally.

12 (2) An ever-increasing number of heavily armed
13 and dangerous criminals, violent gang members, and
14 drug smugglers are entering the United States ille-
15 gally over our international borders.

16 (3) Federal and State law enforcement authori-
17 ties have identified an alarming increase in the num-
18 ber of foreign nationals from countries with known
19 connections to terrorist organizations who are hiding
20 among this crowd of dangerous illegal immigrants,
21 and camouflaging themselves among an immense
22 and rapidly growing number of foreign nationals

1 who are entering the United States illegally in
2 search of work.

3 (4) The United States is at war with terrorist
4 criminal organizations and individuals from foreign
5 nations who are fanatically committed to the de-
6 struction of the United States, who have repeatedly
7 demonstrated their ability and willingness to hide
8 their true identities and their evil purposes, and who
9 will enter and move about the United States illegally
10 and use sneak attacks and any criminal means or
11 method available to them to cause the mass destruc-
12 tion of human life in the United States.

13 (5) The history of the United States from the
14 first days of the American Revolution is filled with
15 innumerable examples of honorable and invaluable
16 service by citizen volunteers, organized into well-reg-
17 ulated local militias, who have ably defended the
18 frontiers and borders of the United States whenever
19 and wherever Federal military or law enforcement
20 authorities were unable or unwilling to do so.

21 (6) The uniquely devious, criminal, cowardly,
22 and fanatically determined nature of the terrorist
23 criminal organizations and individuals that have de-
24 clared war on the people of the United States com-
25 pel the Congress to invoke its constitutional author-

1 ity to authorize all able-bodied and eligible United
2 States citizens to serve in a militia in defense of our
3 international borders under the direct command and
4 control of the Governors of the border States.

5 (7) Therefore, in light of these facts, in re-
6 sponse to the continuing threat of these terrorist
7 criminal organizations to carry out future attacks on
8 the people of the United States similar to the ter-
9 rorist attacks of September 11, 2001, and in order
10 to quickly supplement the inadequate manpower and
11 resources now deployed by the Federal Government
12 in defense of our international borders, it is nec-
13 essary to invoke congressional authority under arti-
14 cle 1, section 8, of the Constitution, to call forth
15 “the Militia to execute the Laws of the Union”, to
16 provide authorization and funding for “organizing,
17 arming, and disciplining, the Militia”, and to assist
18 the States with statutory guidance and funding to
19 provide for the common defense of the lives, liberty,
20 and domestic tranquility of the people of the United
21 States.

22 **SEC. 3. PROGRAM AUTHORIZED.**

23 (a) IN GENERAL.—The Governor of a State on an
24 international border of the United States is authorized to
25 establish and command a militia, to be known as the “Bor-

1 der Protection Corps” for the State. The Border Protec-
2 tion Corps for a State shall include only United States
3 citizens with no criminal history and no history of mental
4 illness. Such militia shall be called into service by the Gov-
5 ernor of the State for the purpose of patrolling and de-
6 fending the international border of the State with Canada
7 or Mexico, in order to prevent individuals from crossing
8 the international border and entering the United States
9 at any location other than an authorized port of entry.
10 The members of the militia shall work in cooperation with
11 State and local law enforcement officials, as directed by
12 the Governor, and with the United States Border Patrol.
13 All members of the militia shall take an oath to uphold
14 the laws and Constitution of the United States and of the
15 State, in a form to be prescribed by the State, and shall
16 have the right to keep and bear arms.

17 (b) LIMITED BY STATE LAW.—All United States citi-
18 zens called into service by the Governor of a State under
19 subsection (a) are authorized to use any means and any
20 force authorized by State law to prevent individuals from
21 unlawfully entering the United States at any location
22 other than a port of entry, and to take into custody indi-
23 viduals who have so entered the United States. The Gov-
24 ernor of a State is authorized to call eligible United States
25 citizens into service in the militia, and to equip, train, dis-

1 cipline, and otherwise control the operation of such militia
2 forces in defense of the international borders of the United
3 States under such terms, conditions, and requirements as
4 are contained in the laws and constitution of the State.

5 (c) DISPOSITION OF DETAINED INDIVIDUALS.—All
6 individuals taken into custody under subsection (b) shall
7 be promptly delivered to a Federal law enforcement au-
8 thority. A Federal law enforcement authority may not re-
9 lease any individual so detained in the United States. All
10 such individuals shall be removed to the country from
11 which they entered the United States, but only after Fed-
12 eral law enforcement authorities are fully satisfied that
13 each individual so removed is not a violent or dangerous
14 criminal, a terrorist, or a potential terrorist, in which case
15 that individual shall be prosecuted in the United States
16 to the fullest extent provided by law.

17 **SEC. 4. FUNDING.**

18 (a) IN GENERAL.—Any State whose Governor calls
19 forth eligible United States citizens into service in a militia
20 to patrol and defend the international borders of the
21 United States in accordance with section 3 shall be
22 promptly reimbursed by the Secretary of Homeland Secu-
23 rity for funds expended by the State in accordance with
24 such section to pay the following costs:

1 (1) Costs of calling up eligible United States
2 citizens to serve in the militia.

3 (2) Costs of equipping, training, disciplining,
4 and otherwise controlling the operation of the mili-
5 tia, as well as the costs of paying overtime to State
6 and local law enforcement and corrections officers
7 engaged in duties relating to activities authorized by
8 this Act.

9 (3) Costs of detaining, housing, and trans-
10 porting individuals who unlawfully enter the United
11 States at a location other than a port of entry and
12 are taken into custody by the militia.

13 (b) ACCOUNT.—Reimbursement under subsection (a)
14 shall be made from funds deposited into a separate ac-
15 count in the Treasury of the United States entitled the
16 “Border Protection Corps Establishment and Operation
17 Account”. All deposits into the Border Protection Corps
18 Establishment and Operation Account shall remain avail-
19 able until expended to the Secretary of Homeland Security
20 to carry out subsection (a).

21 (c) TRANSFER OF UNEXPENDED HOMELAND SECU-
22 RITY FUNDS.—Notwithstanding any other provision of
23 law, the Secretary of the Treasury shall transfer and de-
24 posit into the Border Protection Corps Establishment and
25 Operation Account any funds that—

1 (1) were appropriated by a provision of law
2 making appropriations for the Department of Home-
3 land Security for a fiscal year;

4 (2) were made available until expended by such
5 provision of law; and

6 (3) have remained unexpended for a period of
7 2 years or more.

8 **SEC. 5. RELATIONSHIP TO NATIONAL GUARD AND OTHER**
9 **AUTHORIZED DEFENSE FORCES.**

10 A Border Protection Corps established under this Act
11 shall be considered a defense force authorized by section
12 109(e) of title 32, United States Code.

13 **SEC. 6. REGULATIONS.**

14 The Secretary of Homeland Security shall promptly
15 issue regulations governing the distribution of funds under
16 section 4 of this Act for all reasonable and necessary costs
17 and other expenses incurred by a State and the Border
18 Protection Corps under this Act, and providing uniform
19 standards which the United States Border Patrol, Home-
20 land Security forces and all other federal law enforcement
21 authorities shall follow to implement the requirements of
22 this Act. The provisions of this Act shall take effect imme-
23 diately upon enactment, and the promulgation of any such
24 regulations are not a necessary precondition to the imme-
25 diate deployment of the Border Protection Corps by the

1 Governor of a State, or to the work of local and state law
2 enforcement authorities or corrections officers as author-
3 ized by the Act. Any reasonable and necessary expense or
4 cost authorized by this Act incurred by the State or the
5 Border Protection Corps prior to the promulgation of such
6 regulations are eligible for reimbursement under the terms
7 and conditions of this Act.

8 **SEC. 7. DEFINITION.**

9 For purposes of this Act, the term “State” means
10 any of the several States of the United States that borders
11 Canada or Mexico.

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