

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6160

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 27, 2006

Received

NOVEMBER 13, 2006

Read twice and referred to the Committee on Homeland Security and  
Governmental Affairs

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## AN ACT

To recruit and retain Border Patrol agents.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “More Border Patrol  
3 Agents Now Act of 2006”.

4 **SEC. 2. BORDER PATROL AGENT ENHANCEMENT.**

5 (a) PLAN.—In order to address the recruitment and  
6 retention challenges faced by the United States Border  
7 Patrol, the Secretary of Homeland Security shall, not later  
8 than six months after the date of the enactment of this  
9 Act, submit to the Committee on Homeland Security and  
10 the Committee on Government Reform of the House of  
11 Representatives and the Committee on Homeland Security  
12 and Governmental Affairs of the Senate a plan to deter-  
13 mine how the Border Patrol can better recruit and retain  
14 Border Patrol agents with the appropriate skills and train-  
15 ing to effectively carry out its mission and responsibilities.

16 (b) CONTENTS.—The plan shall include, at a min-  
17 imum, the following components:

18 (1) A strategy for the utilization of the recruit-  
19 ment authority provided in subsection (a) of section  
20 9702 of title 5, United States Code (as added by  
21 section 3), as well as any other strategies the Sec-  
22 retary determines to be important in recruiting well-  
23 qualified Border Patrol agents.

24 (2) A strategy for the utilization of the reten-  
25 tion authority provided in subsection (b) of section  
26 9702 of title 5, United States Code (as added by

1 section 3), as well as any other strategies the Sec-  
2 retary determines to be important in retaining well-  
3 qualified Border Patrol agents.

4 (3) An assessment of the impact that current  
5 pay levels for Border Patrol agents has on the De-  
6 partment’s ability to recruit and retain Border Pa-  
7 trol agents, especially in high cost-of-living areas.

8 (4) An assessment of whether increased oppor-  
9 tunities for Border Patrol agents to transfer between  
10 duty stations would improve employee morale and  
11 enhance the Department’s ability to recruit and re-  
12 tain well-qualified Border Patrol agents.

13 **SEC. 3. RECRUITMENT AND RETENTION BONUSES FOR**  
14 **BORDER PATROL AGENT ENHANCEMENT.**

15 (a) IN GENERAL.—Chapter 97 of title 5, United  
16 States Code, is amended by adding at the end the fol-  
17 lowing new section:

18 **“§ 9702. Border Patrol agent enhancement**

19 “(a) RECRUITMENT BONUSES FOR BORDER PATROL  
20 AGENTS.—

21 “(1) IN GENERAL.—In order to carry out the  
22 plan described in section 2(a) of the More Border  
23 Patrol Agents Now Act of 2006, the Secretary of  
24 Homeland Security may pay a bonus to an indi-

1       vidual to recruit a sufficient number of Border Pa-  
2       trol agents.

3               “(2) BONUS AMOUNT.—

4                       “(A) IN GENERAL.—The amount of a  
5       bonus under this subsection shall be determined  
6       by the Secretary, but may not exceed 25 per-  
7       cent of the annual rate of basic pay of the posi-  
8       tion involved as of the beginning of the period  
9       of service referred to in paragraph (3)(A).

10                      “(B) LUMP-SUM.—A bonus under this sub-  
11       section shall be paid in the form of a lump-sum  
12       payment and shall not be considered to be part  
13       of basic pay.

14               “(3) SERVICE AGREEMENTS.—Payment of a  
15       bonus under this section shall be contingent upon  
16       the individual entering into a written service agree-  
17       ment with the United States Border Patrol. The  
18       agreement shall include—

19                      “(A) the period of service the individual  
20       shall be required to complete in return for the  
21       bonus; and

22                      “(B) the conditions under which the agree-  
23       ment may be terminated before the agreed-upon  
24       service period has been completed, and the ef-  
25       fect of such termination.

1           “(4) LIMITATION ON ELIGIBILITY.—A bonus  
2 under this section may not be paid to recruit an in-  
3 dividual for—

4           “(A) a position to which an individual is  
5 appointed by the President, by and with the ad-  
6 vice and consent of the Senate;

7           “(B) a position in the Senior Executive  
8 Service as a noncareer appointee (as defined in  
9 section 3132(a)); or

10           “(C) a position which has been excepted  
11 from the competitive service by reason of its  
12 confidential, policy-determining, policy-making,  
13 or policy-advocating character.

14           “(5) TERMINATION.—The authority to pay bo-  
15 nuses under this subsection shall terminate five  
16 years after the date of the enactment of this section.

17           “(b) RETENTION BONUSES FOR BORDER PATROL  
18 AGENTS.—

19           “(1) IN GENERAL.—In order to carry out the  
20 plan described in section 2(a) of the More Border  
21 Patrol Agents Now Act of 2006, the Secretary of  
22 Homeland Security may pay a retention bonus to a  
23 Border Patrol agent.

24           “(2) SERVICE AGREEMENT.—Payment of a  
25 bonus under this subsection is contingent upon the

1 employee entering into a written service agreement  
2 with the United States Border Patrol to complete a  
3 period of service with the Border Patrol. Such agree-  
4 ment shall include—

5 “(A) the period of service the employee  
6 shall be required to complete in return for the  
7 bonus; and

8 “(B) the conditions under which the agree-  
9 ment may be terminated before the agreed-upon  
10 service period has been completed, and the ef-  
11 fect of such termination.

12 “(3) BONUS AMOUNT.—

13 “(A) IN GENERAL.—The amount of a  
14 bonus under this subsection shall be determined  
15 by the Secretary, but may not exceed 25 per-  
16 cent of the annual rate of basic pay of the posi-  
17 tion involved as of the beginning of the period  
18 of service referred to in paragraph (2)(A).

19 “(B) LUMP-SUM.—A bonus under this sub-  
20 section shall be paid in the form of a lump-sum  
21 payment and shall not be considered to be part  
22 of basic pay.

23 “(4) LIMITATION.—A bonus under this sub-  
24 section may not be based on any period of service

1 which is the basis for a recruitment bonus under  
2 subsection (a).

3 “(5) TERMINATION OF AUTHORITY.—The au-  
4 thority to grant bonuses under this subsection shall  
5 expire five years after the date of the enactment of  
6 this section.

7 “(c) WAIVER AUTHORITY RELATING TO REEM-  
8 PLOYED ANNUITANTS.—

9 “(1) IN GENERAL.—In order to help address  
10 the challenges faced by the United States Border  
11 Patrol, the Secretary of Homeland Security may ap-  
12 point annuitants to positions within the United  
13 States Border Patrol in accordance with succeeding  
14 provisions of this subsection.

15 “(2) EXCLUSION FROM OFFSET.—An annuitant  
16 serving in a position within the United States Bor-  
17 der Patrol pursuant to an appointment made under  
18 paragraph (1)—

19 “(A) shall not be subject to the provisions  
20 of section 8344 or 8468, as the case may be;  
21 and

22 “(B) shall not, for purposes of subchapter  
23 III of chapter 83 or chapter 84, be considered  
24 an employee.

25 “(3) LIMITATIONS.—

1           “(A) APPOINTMENTS.—The authority to  
2           make any appointments under paragraph (1)  
3           shall terminate five years after the date of the  
4           enactment of this subsection.

5           “(B) EXCLUSION.—The provisions of para-  
6           graph (2) shall not, in the case of any annu-  
7           itant appointed under paragraph (1), remain in  
8           effect—

9                   “(i) with respect to more than five  
10                  years of service (in the aggregate); nor

11                   “(ii) with respect to any service per-  
12                  formed after the end of the ten-year period  
13                  beginning on the date of the enactment of  
14                  this subsection.

15           “(4) NO DISPLACEMENT.—No appointment  
16           under this subsection may be made if such appoint-  
17           ment would result in the displacement of any Border  
18           Patrol employee.

19           “(5) DEFINITION.—For purposes of this sub-  
20           section, the term ‘annuitant’ has the meaning given  
21           such term by section 8331 or 8401, as the case may  
22           be.”.

1           (b) CONFORMING AMENDMENT.—The table of con-  
2 tents for chapter 97 of title 5, United States Code, is  
3 amended by adding at the end the following:

“9702. Border Patrol agent enhancement.”.

Passed the House of Representatives September 26,  
2006.

Attest:

KAREN L. HAAS,  
*Clerk.*