

110TH CONGRESS  
1ST SESSION

# H. R. 3806

To amend title 18, with respect to certain crimes affecting national security,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 2007

Mr. FORBES (for himself, Mr. SMITH of Texas, Mr. COBLE, Mr. GALLEGLY,  
and Mr. WOLF) introduced the following bill; which was referred to the  
Committee on the Judiciary

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## A BILL

To amend title 18, with respect to certain crimes affecting  
national security, 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 “Supporting Prosecu-  
5 tions of International Espionage Schemes Act of 2007”.

6 **SEC. 2. REVISION OF ESPIONAGE CRIMES.**

7 (a) IN GENERAL.—Chapter 37 of title 18, United  
8 States Code, is amended to read as follows:

1 **“CHAPTER 37—ESPIONAGE AND RELATED**  
2 **OFFENSES**

“Sec.

“791. Gathering or transmitting information connected with the national de-  
fense.

“792. Losing information connected with the national defense.

“793. Forfeiture.

“794. General provisions for chapter.

3 **“§ 791. Gathering or transmitting information con-**  
4 **nected with the national defense**

5 “Whoever, with intent or reason to believe that the  
6 information will be used to the injury of the United States,  
7 or to the advantage of any foreign power, knowingly—

8 “(1) without authorization obtains information  
9 connected with the national defense; or

10 “(2) provides information connected with the  
11 national defense to any person not entitled to receive  
12 it;

13 or attempts or conspires to do so, shall be imprisoned for  
14 life or for any term of years, and if death results, shall  
15 be subject to the death penalty.

16 **“§ 792. Losing information connected with the na-**  
17 **tional defense**

18 “Whoever, or having lawful possession or control of  
19 any information connected with the national defense—

20 “(1) recklessly permits that information to be  
21 lost, stolen, or destroyed; or

1           “(2) knowing that the information has been  
2           lost, or stolen, or destroyed, fails to make prompt re-  
3           port of that fact to an appropriate superior officer;  
4 shall be fined under this title or imprisoned not more than  
5 20 years, or both.

6 **“§ 793. Forfeiture**

7           “(a) IN GENERAL.—A person convicted of a violation  
8 of this chapter shall forfeit to the United States—

9           “(1) any property constituting, or derived from,  
10 any proceeds the person obtained, directly or indi-  
11 rectly, as the result of such violation; and

12           “(2) any of the person’s property used, or in-  
13 tended to be used, in any manner or part, to com-  
14 mit, or to facilitate the commission of, such viola-  
15 tion.

16           “(b) SENTENCE OF FORFEITURE.—The court, in im-  
17 posing sentence on a defendant for a conviction of a viola-  
18 tion of this section, shall order that the defendant forfeit  
19 to the United States all property described in subsection  
20 (a).

21           “(c) PROCEDURE.—Subsections (b), (c), and (e)  
22 through (p) of section 413 of the Comprehensive Drug  
23 Abuse Prevention and Control Act of 1970 shall apply  
24 to—

1           “(1) property subject to forfeiture under this  
2 subsection;

3           “(2) any seizure or disposition of such property;  
4 and

5           “(3) any administrative or judicial proceeding  
6 in relation to such property.

7 **“§ 794. General provisions for chapter**

8           “(a) DEFINITIONS.—In this chapter—

9           “(1) the term ‘foreign power’ has the meaning  
10 given that term in section 101(a) of the Foreign In-  
11 telligence Surveillance Act of 1978 (50 U.S.C.  
12 1801(a)); and

13           “(2) the term ‘information connected with the  
14 national defense’ means non-public information in  
15 whatever form, the disclosure of which could reason-  
16 ably harm national security.

17           “(b) EXCLUSION RELATING TO LAWFUL DEMANDS  
18 OF CONGRESS.—Nothing in this chapter prohibits the fur-  
19 nishing, upon lawful demand, of information to any regu-  
20 larly constituted committee of the Senate or House of  
21 Representatives of the United States of America, or joint  
22 committee thereof.

23           “(c) STATUTE OF LIMITATIONS.—No person shall be  
24 tried for an offense under this chapter unless the indict-  
25 ment is found or the information is instituted not later

1 than 10 years after the date on which the offense was com-  
2 mitted.”.

3 (b) CLERICAL AMENDMENT.—The item relating to  
4 chapter 37 in the table of chapters for part I of title 18,  
5 United States Code, is amended to read as follows:

“37. Espionage and related offenses ..... 791”.

6 **SEC. 3. CHAPTER 115 PENALTIES.**

7 (a) MISPRISION OF TREASON.—Section 2382 of title  
8 18, United States Code, is amended by striking “seven”  
9 and inserting “20”.

10 (b) REBELLION.—Section 2383 of title 18, United  
11 States Code, is amended by striking “ten” and inserting  
12 “20”.

13 **SEC. 4. COMPUTER ESPIONAGE.**

14 Section 1030 of title 18, United States Code, is  
15 amended—

16 (1) in subsection (a)(1)—

17 (A) by striking “willfully” each place it ap-  
18 pears and inserting “knowingly”; and

19 (B) by striking “foreign nation” and in-  
20 serting “foreign power (as defined in 101(a) of  
21 the Foreign Intelligence Surveillance Act of  
22 1978 (50 U.S.C. 1801(a))”;

23 (2) in subsection (c)(1)(A), by striking “ten”  
24 and inserting “20” and

1           (3) in subsection (c)(1)(B), by striking “twen-  
2           ty” and inserting “30”.

3 **SEC. 5. SIMPLIFICATION OF SECTION 831.**

4           Section 831 of title 18, United States Code, is  
5 amended—

6           (1) in subsection (a), by striking “, if one of the  
7           circumstances described in subsection (c) occurs”  
8           and inserting “in the United States, the special mar-  
9           itime and territorial jurisdiction of the United  
10          States, or the special aircraft jurisdiction of the  
11          United States (as defined in section 46501 of title  
12          49)”; and

13          (2) by amending subsection (c) to read as fol-  
14          lows:

15          “(c) There is extraterritorial jurisdiction over an of-  
16          fense under this section.”.

17 **SEC. 6. DESTRUCTION OF OR DAMAGE TO NUCLEAR FACIL-**  
18 **ITY.**

19          (a) IN GENERAL.—Chapter 65 of title 18, United  
20          States Code, is amended by inserting after section 1366  
21          the following:

22 **“§ 1366A. Damage to nuclear facility and related**  
23 **crimes**

24          “(a) OFFENSE.—Whoever knowingly—

1           “(1) causes physical damage to a nuclear facil-  
2           ity or to nuclear fuel;

3           “(2) without authorization causes an interrup-  
4           tion of normal operation of a nuclear facility;

5 or attempts or conspires to do so, shall be fined under  
6 this title or imprisoned not more than 30 years or both,  
7 and if death results to any person, shall subject to the  
8 death penalty and the maximum term of imprisonment  
9 shall be life or any term of years.

10       “(b) DEFINITIONS.—In this section—

11           “(1) the term ‘nuclear facility’ means any pro-  
12           duction facility or utilization facility, nuclear storage  
13           facility, or any uranium enrichment facility, as de-  
14           fined for the purposes of the Atomic Energy Act of  
15           1954, that is licenced under the Atomic Energy Act  
16           of 1954; and

17           “(2) the term ‘nuclear fuel’ means any fuel for  
18           a nuclear facility or any spent nuclear fuel from a  
19           nuclear facility.”.

20       (b) CLERICAL AMENDMENT.—The table of sections  
21 at the beginning of chapter 65 of title 18, United States  
22 Code, is amended by inserting after the item relating to  
23 section 1366 the following new item:

“1366A. Destruction of or damage to nuclear facility.”.

1 **SEC. 7. ELIMINATION OF OBSOLETE OR SUPERSEDED**  
2 **CRIMINAL PROVISIONS IN THE ATOMIC EN-**  
3 **ERGY ACT OF 1954.**

4 The Atomic Energy Act of 1954 is amended—

5 (1) by striking sections 91, 221, 224, 225, 226,  
6 227, and 235;

7 (2) by striking subsections a. and b. of section  
8 57;

9 (3) in section 222 a., by striking “57 or”; and

10 (4) by striking subsection b. of section 222.

11 **SEC. 8. EXPORT CONTROL VIOLATIONS.**

12 (a) **IN GENERAL.**—Chapter 27 of title 18, United  
13 States Code, is amended by adding at the end the fol-  
14 lowing:

15 **“§ 555. Export control violations**

16 “(a) **OFFENSE.**—Whoever knowingly violates a re-  
17 quirement of section 38 or 39 of the Arms Export Control  
18 Act (22 U.S.C. 2778; 2779) or of the Export Administra-  
19 tion Act of 1979 (50 U.S.C. App 2401 et seq.) or a rule  
20 made under either of those sections or that Act, or at-  
21 tempts or conspires to do so, shall be fined not more than  
22 \$1,000,000 or imprisoned not more than 20 years, or  
23 both.

24 “(b) **STATE OF MIND PROOF.**—This section does not  
25 require proof that the defendant knew the requirement ex-

1 listed if the defendant had reason to know that such was  
2 the case.”.

3 (b) CLERICAL AMENDMENT.—The table of sections  
4 at the beginning of chapter 27 of title 18, United States  
5 Code, is amended by adding at the end the following new  
6 item:

“555. Export control violations.”.

7 (c) CONFORMING AMENDMENTS.—

8 (1) ARMS EXPORT CONTROL ACT.—Section 38  
9 of the Arms Export Control Act (22 U.S.C. 2778)  
10 is amended by striking subsection (c).

11 (2) EXPORT ADMINISTRATION ACT.—Section 11  
12 of the Export Administration Act (50 U.S.C. App.  
13 2410) is amended by striking subsections (a) and  
14 (b).

15 **SEC. 9. WIRETAPPING EQUIPMENT PROHIBITION CHANGE.**

16 Section 2512(2)(b) of title 18, United States Code,  
17 is amended by inserting “or otherwise authorized by”  
18 after “under contract with”.

19 **SEC. 10. IMPROVEMENT OF CRIMINAL CASE DISPOSITION**  
20 **REPORTING.**

21 Not later than 180 days after the date of the enact-  
22 ment of this Act, the Attorney General, in consultation  
23 with the Secretary of the Department of Homeland Secu-  
24 rity, the Secretary of the State Department, and the Sec-  
25 retary of the Department of Commerce, shall implement

1 a policy to notify appropriate officials at the Department  
2 of Homeland Security, Department of State and Depart-  
3 ment of Commerce of any indictments, convictions, or dis-  
4 positions of any criminal investigation or prosecution in-  
5 volving violations of the Arms Export Control Act or the  
6 Export Administration Act.

7 **SEC. 11. COMPREHENSIVE IMPORT AND EXPORT CONTROL**  
8 **DATABASE.**

9 Not later than one year after the date of the enact-  
10 ment of this Act, the Attorney General, in consultation  
11 with the Secretary of the Department of Homeland Secu-  
12 rity, the Secretary of the State Department, and the Sec-  
13 retary of the Department of Commerce, shall develop a  
14 database, which shall be publicly accessible on the Inter-  
15 net, and include an accurate and up to date import and  
16 export control database for export control activities, in-  
17 cluding lists of products that require licensing and that  
18 are otherwise prohibited under the Arms Export Control  
19 Act or the Export Administration Act.

20 **SEC. 12. TECHNICAL ASSISTANCE TO IMPROVE ENFORCE-**  
21 **MENT OF EXPORT CONTROLS.**

22 The Attorney General, in consultation with the Sec-  
23 retary of the Department of Homeland Security, the Sec-  
24 retary of the State Department, and the Secretary of the  
25 Department of Commerce, shall provide technical assist-

- 1 ance to train investigators and prosecutors to improve and
- 2 increase enforcement and prosecution of export control
- 3 laws.

