

# Union Calendar No. 474

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

# H. R. 2155

[Report No. 107-754]

To amend title 18, United States Code, to make it illegal to operate a motor vehicle with a drug or alcohol in the body of the driver at a land border port of entry, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2001

Mr. FLAKE (for himself, Mr. SMITH of Texas, and Mr. STUPAK) introduced the following bill; which was referred to the Committee on the Judiciary

OCTOBER 15, 2002

Additional sponsors: Mr. MCNULTY, Mr. MCHUGH, Ms. HART, Mr. SCHAFER, Mr. HAYWORTH, Ms. JACKSON-LEE of Texas, Mr. GOODE, Mr. GALLEGLY, Mr. MCDERMOTT, and Mr. FORBES

OCTOBER 15, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 13, 2001]

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## A BILL

To amend title 18, United States Code, to make it illegal to operate a motor vehicle with a drug or alcohol in the body of the driver at a land border port of entry, 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. MAKING IT ILLEGAL TO OPERATE A MOTOR VE-**  
4 **HICLE WITH A DRUG OR ALCOHOL IN THE**  
5 **BODY OF THE DRIVER AT LAND BORDER**  
6 **PORTS OF ENTRY.**

7 *Section 13(a) of title 18, United States Code, is*  
8 *amended—*

9 *(1) by inserting “(1)” after “(a)”;* and

10 *(2) by adding at the end the following:*

11 *“(2) Whoever with a drug or alcohol in his or her body*  
12 *operates a motor vehicle at a land border port of entry in*  
13 *a manner that is punishable, because of the presence of the*  
14 *drug or alcohol, if committed within the jurisdiction of the*  
15 *State in which that land border port of entry is located*  
16 *(under the laws of that State in force at the time of the*  
17 *act) shall be guilty of a like offense and subject to a like*  
18 *punishment.*

19 *“(3) Any individual who operates a motor vehicle at*  
20 *a land border port of entry is deemed to have given consent*  
21 *to submit to a chemical or other test of the blood, breath,*  
22 *or urine of the driver by an officer or employee of the Immi-*  
23 *gration and Naturalization Service authorized under sec-*  
24 *tion 287(h) of the Immigration and Nationality Act (8*  
25 *U.S.C. 1357(h)) for the purpose of determining the presence*

1 *or concentration of a drug or alcohol in such blood, breath,*  
2 *or urine.*

3       “(4) *If an individual refuses to submit to such a test*  
4 *after being advised by the officer or employee that the re-*  
5 *fusals will result in notification under this paragraph, the*  
6 *Attorney General shall give notice of the refusal to—*

7               “(A) *the State or foreign state that issued the li-*  
8 *cence permitting the individual to operate a motor ve-*  
9 *hicle; or*

10              “(B) *if the individual has no such license, the*  
11 *State or foreign state in which the individual is a*  
12 *resident.*

13       “(5) *The Attorney General shall give notice of a convic-*  
14 *tion of an individual under this section for operation of*  
15 *a motor vehicle at a land border port of entry with a drug*  
16 *or alcohol in the body of the individual, to—*

17              “(A) *the State or foreign state that issued the li-*  
18 *cence permitting the individual to operate a motor ve-*  
19 *hicle; or*

20              “(B) *if the individual has no such license, the*  
21 *State or foreign state in which the individual is a*  
22 *resident.*

23       “(6) *For purposes of this subsection, the term ‘land*  
24 *border port of entry’ means any land border port of entry*  
25 *(as defined in section 287(h)(3) of the Immigration and Na-*

1 *tionality Act (8 U.S.C. 1357(h)(3)) that was not reserved*  
2 *or acquired as provided in section 7 of this title.”.*

3 **SEC. 2. AUTHORIZING OFFICERS AND EMPLOYEES OF THE**  
4 **IMMIGRATION AND NATURALIZATION SERV-**  
5 **ICE TO CONDUCT TESTS FOR A DRUG OR AL-**  
6 **COHOL.**

7 *Section 287 of the Immigration and Nationality Act*  
8 *(8 U.S.C. 1357) is amended by adding at the end the fol-*  
9 *lowing:*

10 *“(h)(1) If an officer or employee of the Service author-*  
11 *ized under regulations prescribed by the Attorney General*  
12 *is inspecting a driver at a land border port of entry and*  
13 *has reasonable grounds to believe that, because of alcohol*  
14 *in the body of the driver, operation of a motor vehicle by*  
15 *the driver is an offense under section 13 of title 18, United*  
16 *States Code, the officer or employee may require the driver*  
17 *to submit to a test of the breath of the driver to determine*  
18 *the presence or concentration of the alcohol.*

19 *“(2) If an officer or employee of the Service authorized*  
20 *under regulations prescribed by the Attorney General ar-*  
21 *rests a driver under this section for operation of a motor*  
22 *vehicle in violation of section 13 of title 18, United States*  
23 *Code, because of a drug or alcohol in the body of the driver,*  
24 *the officer or employee may require the driver to submit*  
25 *to a chemical or other test to determine the presence or con-*

1 *centration of the drug or alcohol in the blood, breath, or*  
2 *urine of the driver.*

3 *“(3) For purposes of this subsection:*

4 *“(A) The term ‘driver’ means an individual who*  
5 *is operating a motor vehicle at a land border port of*  
6 *entry.*

7 *“(B) The term ‘land border port of entry’ means*  
8 *any immigration checkpoint operated by the Immig-*  
9 *ration and Naturalization Service at a land border*  
10 *between a State (as that term is used in section 13*  
11 *of title 18, United States Code) and a foreign state.”.*

12 **SEC. 3. REQUIRING NOTICE AT LAND BORDER PORTS OF**  
13 **ENTRY REGARDING OPERATION OF A MOTOR**  
14 **VEHICLE AND DRUGS AND ALCOHOL.**

15 *(a) IN GENERAL.—The Immigration and Nationality*  
16 *Act is amended by inserting after section 294 (8 U.S.C.*  
17 *1363a) the following:*

18 *“NOTICE AT LAND BORDER PORTS OF ENTRY REGARDING*  
19 *OPERATION OF A MOTOR VEHICLE AND DRUGS AND*  
20 *ALCOHOL*

21 *“SEC. 295. At each point where motor vehicles regu-*  
22 *larly enter a land border port of entry (as defined in section*  
23 *287(h)(3)), the Attorney General shall post a notice that*  
24 *operation of a motor vehicle with a drug or alcohol in the*  
25 *body of the driver at a land border port of entry is an of-*  
26 *fense under Federal law.”.*

1           (b) *CLERICAL AMENDMENT.*—*The first section of the*  
2 *Immigration and Nationality Act is amended in the table*  
3 *of contents by inserting after the item relating to section*  
4 *294 the following:*

*“Sec. 295. Notice at land border ports of entry regarding operation of a motor  
vehicle and drugs and alcohol.”.*

5 ***SEC. 4. IMPOUNDMENT OF VEHICLE FOR REFUSAL TO SUB-***  
6 ***MIT TO TEST FOR DRUG OR ALCOHOL.***

7           *Not more than 180 days after the date of the enactment*  
8 *of this Act, the Attorney General shall issue regulations au-*  
9 *thorizing an officer or employee of the Immigration and*  
10 *Naturalization Service to impound a vehicle operated at a*  
11 *land border port of entry, if—*

12                   (1) *the individual who operates the vehicle re-*  
13 *fuses to submit to a chemical or other test under sec-*  
14 *tion 13(a)(3) of title 18, United States Code; and*

15                   (2) *the impoundment is not inconsistent with the*  
16 *laws of the State in which the port of entry is located.*

17 ***SEC. 5. EFFECTIVE DATE.***

18           *This Act shall take effect 180 days after the date of*  
19 *the enactment of this Act.*

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