

H.R. 4760 – “Securing America’s Future Act of 2018”

SEC. 1118. PROHIBITIONS ON ACTIONS THAT IMPEDE BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) PROHIBITION ON INTERFERENCE WITH U.S. CUSTOMS AND BORDER PROTECTION.—

(1) IN GENERAL.—The Secretary concerned may not impede, prohibit, or restrict activities of U.S. Customs and Border Protection on covered Federal land to carry out the activities described in subsection (b).

(2) APPLICABILITY.—The authority of U.S. Customs and Border Protection to conduct activities described in subsection (b) on covered Federal land applies without regard to whether a state of emergency exists.

(b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND BORDER PROTECTION.—

(1) IN GENERAL.—U.S. Customs and Border Protection shall have immediate access to covered Federal land to conduct the activities described in paragraph (2) on such land to prevent all unlawful entries into the United States, including entries by terrorists, unlawful aliens, instruments of terrorism, narcotics, and other contraband through the southern border or the northern border.

(2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are—

(A) the execution of search and rescue operations;

(B) the use of motorized vehicles, foot patrols, and horseback to patrol the border area, apprehend illegal entrants, and rescue individuals; and

(C) the design, testing, construction, installation, deployment, and operation of physical barriers, tactical infrastructure, and technology pursuant to section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by section 1111 of this division).

(c) CLARIFICATION RELATING TO WAIVER AUTHORITY.—

(1) IN GENERAL.—The activities of U.S. Customs and Border Protection described in subsection (b)(2) may be carried out without regard to the provisions of law specified in paragraph (2).

(2) PROVISIONS OF LAW SPECIFIED.—The provisions of law specified in this section are all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or related to the subject of, the following laws:

(A) The National Environmental Policy Act of 1969 ([42 U.S.C. 4321](#) et seq.).

- (B) The Endangered Species Act of 1973 ([16 U.S.C. 1531](#) et seq.).
- (C) The Federal Water Pollution Control Act ([33 U.S.C. 1251](#) et seq.) (commonly referred to as the “Clean Water Act”).
- (D) Division A of subtitle III of title 54, United States Code ([54 U.S.C. 300301](#) et seq.) (formerly known as the “National Historic Preservation Act”).
- (E) The Migratory Bird Treaty Act ([16 U.S.C. 703](#) et seq.).
- (F) The Clean Air Act ([42 U.S.C. 7401](#) et seq.).
- (G) The Archaeological Resources Protection Act of 1979 ([16 U.S.C. 470aa](#) et seq.).
- (H) The Safe Drinking Water Act ([42 U.S.C. 300f](#) et seq.).
- (I) The Noise Control Act of 1972 ([42 U.S.C. 4901](#) et seq.).
- (J) The Solid Waste Disposal Act ([42 U.S.C. 6901](#) et seq.).
- (K) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601](#) et seq.).
- (L) [Chapter 3125](#) of title 54, United States Code (formerly known as the “Archaeological and Historic Preservation Act”).
- (M) The Antiquities Act ([16 U.S.C. 431](#) et seq.).
- (N) [Chapter 3203](#) of title 54, United States Code (formerly known as the “Historic Sites, Buildings, and Antiquities Act”).
- (O) The Wild and Scenic Rivers Act ([16 U.S.C. 1271](#) et seq.).
- (P) The Farmland Protection Policy Act ([7 U.S.C. 4201](#) et seq.).
- (Q) The Coastal Zone Management Act of 1972 ([16 U.S.C. 1451](#) et seq.).
- (R) The Wilderness Act ([16 U.S.C. 1131](#) et seq.).
- (S) The Federal Land Policy and Management Act of 1976 ([43 U.S.C. 1701](#) et seq.).
- (T) The National Wildlife Refuge System Administration Act of 1966 ([16 U.S.C. 668dd](#) et seq.).
- (U) The Fish and Wildlife Act of 1956 ([16 U.S.C. 742a](#) et seq.).

(V) The Fish and Wildlife Coordination Act ([16 U.S.C. 661](#) et seq.).

(W) Subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”).

(X) The Otay Mountain Wilderness Act of 1999 ([Public Law 106–145](#)).

(Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994 (Public Law 103–433).

(Z) Division A of subtitle I of title 54, United States Code (formerly known as the “National Park Service Organic Act”).

(AA) The National Park Service General Authorities Act (Public Law 91–383, [16 U.S.C. 1a–1](#) et seq.).

(BB) Sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Public Law 95–625).

(CC) Sections 301(a) through (f) of the Arizona Desert Wilderness Act (Public Law 101–628).

(DD) The Rivers and Harbors Act of 1899 ([33 U.S.C. 403](#)).

(EE) The Eagle Protection Act ([16 U.S.C. 668](#) et seq.).

(FF) The Native American Graves Protection and Repatriation Act ([25 U.S.C. 3001](#) et seq.).

(GG) The American Indian Religious Freedom Act ([42 U.S.C. 1996](#)).

(HH) The Religious Freedom Restoration Act ([42 U.S.C. 2000bb](#)).

(II) The National Forest Management Act of 1976 ([16 U.S.C. 1600](#) et seq.).

(JJ) The Multiple Use and Sustained Yield Act of 1960 ([16 U.S.C. 528](#) et seq.).

(3) **APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.**—If a provision of law specified in paragraph (2) was repealed and incorporated into title 54, United States Code, after April 1, 2008, and before the date of the enactment of this Act, the waiver described in paragraph (1) shall apply to the provision of such title that corresponds to the provision of law specified in paragraph (2) to the same extent the waiver applied to that provision of law.

(4) **SAVINGS CLAUSE.**—The waiver authority under this subsection may not be construed as affecting, negating, or diminishing in any manner the applicability of section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”), in any relevant matter.

(d) PROTECTION OF LEGAL USES.—This section may not be construed to provide—

(1) authority to restrict legal uses, such as grazing, hunting, mining, or recreation or the use of backcountry airstrips, on land under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture; or

(2) any additional authority to restrict legal access to such land.

(e) EFFECT ON STATE AND PRIVATE LAND.—This section shall—

(1) have no force or effect on State lands or private lands; and

(2) not provide authority on or access to State lands or private lands.

(f) TRIBAL SOVEREIGNTY.—Nothing in this section may be construed to supersede, replace, negate, or diminish treaties or other agreements between the United States and Indian tribes.

(g) MEMORANDA OF UNDERSTANDING.—The requirements of this section shall not apply to the extent that such requirements are incompatible with any memorandum of understanding or similar agreement entered into between the Commissioner and a National Park Unit before the date of the enactment of this Act.

(h) DEFINITIONS.—In this section:

(1) COVERED FEDERAL LAND.—The term “covered Federal land” includes all land under the control of the Secretary concerned that is located within 100 miles of the southern border or the northern border.

(2) SECRETARY CONCERNED.—The term “Secretary concerned” means—

(A) with respect to land under the jurisdiction of the Department of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Department of the Interior, the Secretary of the Interior.