

109TH CONGRESS  
1ST SESSION

# H. R. 4238

To provide for enhanced border security enforcement and detention facilities,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 2005

Mr. McCAUL of Texas (for himself, Mr. REYES, Mr. CUELLAR, Mr. DANIEL E. LUNGREN of California, Ms. GRANGER, and Mr. PEARCE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, 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

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## A BILL

To provide for enhanced border security enforcement and  
detention facilities, 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 Security En-  
5 forcement and Detention Act of 2005”.

1 **SEC. 2. MANDATORY DETENTION FOR ALIENS APPRE-**  
2 **HENDED AT OR BETWEEN PORTS OF ENTRY.**

3 (a) IN GENERAL.—Beginning on October 1, 2006, an  
4 unlawful alien who is apprehended at a United States port  
5 of entry or along the international land and maritime bor-  
6 der of the United States shall be detained until removed  
7 or a final decision granting admission has been deter-  
8 mined, if the alien—

9 (1) is permitted to withdraw an application for  
10 admission under section 235(a)(4) of the Immigra-  
11 tion and Nationality Act (8 U.S.C. 1225(a)(4)) and  
12 does not immediately depart from the United States  
13 pursuant to such section; or

14 (2) is ordered removed from the United States  
15 under section 235(b)(1)(A)(i) of such Act (8 U.S.C.  
16 1225(b)(1)(A)(i)) without further hearing or review.

17 (b) REQUIREMENTS DURING INTERIM PERIOD.—Be-  
18 ginning 60 days after the date of the enactment of this  
19 Act and before October 1, 2006, an alien described in sub-  
20 section (a) may be released with a notice to appear only  
21 if—

22 (1) the Secretary of Homeland Security deter-  
23 mines, after conducting all appropriate background  
24 and security checks on the alien, that the alien does  
25 not pose a national security risk; and



1 retary is conducting the comprehensive analysis required  
2 under subsection (b).

3 (d) IMPLEMENTATION.—Not later than October 1,  
4 2008, the Secretary shall implement the options to cost  
5 effectively increase available detention capacities deter-  
6 mined pursuant to the comprehensive analysis required  
7 under subsection (b).

8 **SEC. 4. DENIAL OF ADMISSION TO NATIONALS OF COUNTRY**  
9 **DENYING OR DELAYING ACCEPTING ALIEN.**

10 Section 243(d) of the Immigration and Nationality  
11 Act (8 U.S.C. 1253(d)) is amended to read as follows:

12 “(d) DENIAL OF ADMISSION TO NATIONALS OF  
13 COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—  
14 Whenever the Secretary of Homeland Security determines  
15 that the government of a foreign country has denied or  
16 unreasonably delayed accepting an alien who is a citizen,  
17 subject, national, or resident of that country after the  
18 alien has been ordered removed, the Secretary, after con-  
19 sultation with the Secretary of State, may deny admission  
20 to any citizen, subject, national, or resident of that coun-  
21 try until the country accepts the alien who was ordered  
22 removed.”.

23 **SEC. 5. BORDER PATROL AGENTS.**

24 There are authorized to be appropriated to the Sec-  
25 retary of Homeland Security such sums as may be nec-

1 essary for each of fiscal years 2007 through 2010 to carry  
2 out section 5202 of the Intelligence Reform and Terrorism  
3 Prevention Act of 2004 (requiring the Secretary to in-  
4 crease the number of positions for full-time active-duty  
5 border patrol agents) (Public Law 108–458;118 Stat.  
6 3734).

7 **SEC. 6. REPORT ON FINANCIAL BURDEN OF REPATRI-**  
8 **ATION.**

9 Not later than October 31 of each year, the Secretary  
10 of Homeland Security shall submit to the Secretary of  
11 State and Congress a report that details the cost to the  
12 Department of Homeland Security of repatriation of  
13 aliens to their countries of nationality or last habitual resi-  
14 dence, including details relating to cost per country.

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