

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2136

To amend title 18, United States Code, to clarify and expand Federal criminal jurisdiction over Federal contractors and employees outside the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2011

Mr. PRICE of North Carolina introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to clarify and expand Federal criminal jurisdiction over Federal contractors and employees outside the United States, 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 “Civilian  
5 Extraterritorial Jurisdiction Act (CEJA) of 2011”.

1 **SEC. 2. CLARIFICATION AND EXPANSION OF FEDERAL JU-**  
2 **RISDICTION OVER FEDERAL CONTRACTORS**  
3 **AND EMPLOYEES.**

4 (a) **EXTRATERRITORIAL JURISDICTION OVER FED-**  
5 **ERAL CONTRACTORS AND EMPLOYEES.**—Chapter 212A of  
6 title 18, United States Code, is amended—

7 (1) by transferring the text of section 3272 to  
8 the end of section 3271, redesignating such text as  
9 subsection (c) of section 3271, and, in such text, as  
10 so redesignated, by striking “this chapter” and in-  
11 sserting “this section”;

12 (2) by striking the heading of section 3272; and

13 (3) by adding after section 3271, as amended  
14 by this subsection, the following new sections:

15 **“§ 3272. Offenses committed by Federal contractors**  
16 **and employees outside the United States**

17 “(a) Whoever, while employed by or accompanying  
18 any department or agency of the United States other than  
19 the Department of Defense, knowingly engages in conduct  
20 (or conspires or attempts to engage in conduct) outside  
21 the United States that would constitute an offense enu-  
22 merated in subsection (c) had the conduct been engaged  
23 in within the United States or within the special maritime  
24 and territorial jurisdiction of the United States shall be  
25 punished as provided for that offense.

1       “(b) No prosecution for an offense may be com-  
2 menced against a person under this section if a foreign  
3 government, in accordance with jurisdiction recognized by  
4 the United States, has prosecuted or is prosecuting such  
5 person for the conduct constituting the offense, except  
6 upon the approval of the Attorney General or the Deputy  
7 Attorney General (or a person acting in either such capac-  
8 ity), which function of approval may not be delegated.

9       “(c) The offenses covered by subsection (a) are the  
10 following:

11           “(1) Any offense under chapter 5 (arson) of  
12 this title.

13           “(2) Any offense under section 111 (assaulting,  
14 resisting, or impeding certain officers or employees),  
15 113 (assault within maritime and territorial jurisdic-  
16 tion), or 114 (maiming within maritime and terri-  
17 torial jurisdiction) of this title, but only if the of-  
18 fense is subject to a maximum sentence of imprison-  
19 ment of one year or more.

20           “(3) Any offense under section 201 (bribery of  
21 public officials and witnesses) of this title.

22           “(4) Any offense under section 499 (military,  
23 naval, or official passes) of this title.

24           “(5) Any offense under section 701 (official  
25 badges, identification cards, and other insignia), 702

1 (uniform of armed forces and Public Health Serv-  
2 ice), 703 (uniform of friendly nation), or 704 (mili-  
3 tary medals or decorations) of this title.

4 “(6) Any offense under chapter 41 (extortion  
5 and threats) of this title, but only if the offense is  
6 subject to a maximum sentence of imprisonment of  
7 three years or more.

8 “(7) Any offense under chapter 42 (extortionate  
9 credit transactions) of this title.

10 “(8) Any offense under section 924(c) (use of  
11 firearm in violent or drug trafficking crime) or  
12 924(o) (conspiracy to violate section 924(c)) of this  
13 title.

14 “(9) Any offense under chapter 50A (genocide)  
15 of this title.

16 “(10) Any offense under section 1111 (murder),  
17 1112 (manslaughter), 1113 (attempt to commit  
18 murder or manslaughter), 1114 (protection of offi-  
19 cers and employees of the United States), 1116  
20 (murder or manslaughter of foreign officials, official  
21 guests, or internationally protected persons), 1117  
22 (conspiracy to commit murder), or 1119 (foreign  
23 murder of United States nationals) of this title.

24 “(11) Any offense under chapter 55 (kidnap-  
25 ping) of this title.

1           “(12) Any offense under section 1503 (influ-  
2           encing or injuring officer or juror generally), 1505  
3           (obstruction of proceedings before departments,  
4           agencies, and committees), 1510 (obstruction of  
5           criminal investigations), 1512 (tampering with a wit-  
6           ness, victim, or informant), or 1513 (retaliating  
7           against a witness, victim, or an informant) of this  
8           title.

9           “(13) Any offense under section 1951 (inter-  
10          ference with commerce by threats or violence), 1952  
11          (interstate and foreign travel or transportation in  
12          aid of racketeering enterprises), 1956 (laundering of  
13          monetary instruments), 1957 (engaging in monetary  
14          transactions in property derived from specified un-  
15          lawful activity), 1958 (use of interstate commerce  
16          facilities in the commission of murder for hire), or  
17          1959 (violent crimes in aid of racketeering activity)  
18          of this title.

19          “(14) Any offense under section 2111 (robbery  
20          or burglary within special maritime and territorial  
21          jurisdiction) of this title.

22          “(15) Any offense under chapter 109A (sexual  
23          abuse) of this title.

24          “(16) Any offense under chapter 113B (ter-  
25          rorism) of this title.

1           “(17) Any offense under chapter 113C (torture)  
2 of this title.

3           “(18) Any offense under chapter 115 (treason,  
4 sedition, and subversive activities) of this title.

5           “(19) Any offense under section 2442 (child  
6 soldiers) of this title.

7           “(20) Any offense under section 401 (manufac-  
8 ture, distribution, or possession with intent to dis-  
9 tribute a controlled substance) or 408 (continuing  
10 criminal enterprise) of the Controlled Substances  
11 Act (21 U.S.C. 841, 848), or under section 1002  
12 (importation of controlled substances), 1003 (expor-  
13 tation of controlled substances), or 1010 (import or  
14 export of a controlled substance) of the Controlled  
15 Substances Import and Export Act (21 U.S.C. 952,  
16 953, 960), but only if the offense is subject to a  
17 maximum sentence of imprisonment of 20 years or  
18 more.

19           “(d)(1) This section does not apply with respect to  
20 an authorized intelligence activity that is—

21           “(A) carried out by or on behalf of the intel-  
22 ligence community; and

23           “(B) conducted in accordance with the United  
24 States laws, authorities, and regulations applicable  
25 to that activity.

1       “(2) This subsection shall not be construed to provide  
2 immunity or a defense to an individual solely because that  
3 individual is working for or on behalf of the intelligence  
4 community.

5       “(3) In this subsection the term ‘intelligence commu-  
6 nity’ has the meaning given that term in section 3 of the  
7 National Security Act of 1947 (50 U.S.C. 401a).

8       “(e) In this section:

9           “(1) The term ‘employed by any department or  
10 agency of the United States other than the Depart-  
11 ment of Defense’ means—

12                   “(A) employed as a civilian employee, a  
13 contractor (including a subcontractor at any  
14 tier), an employee of a contractor (or a subcon-  
15 tractor at any tier), a grantee (including a con-  
16 tractor of a grantee or a subgrantee or subcon-  
17 tractor at any tier), or an employee of a grantee  
18 (or a contractor of a grantee or a subgrantee or  
19 subcontractor at any tier) of any department or  
20 agency of the United States other than the De-  
21 partment of Defense;

22                   “(B) present or residing outside the  
23 United States in connection with such employ-  
24 ment;

1           “(C) in the case of such a contractor, con-  
2           tractor employee, grantee, or grantee employee,  
3           such employment supports a program, project,  
4           or activity for a department or agency of the  
5           United States; and

6           “(D) not a national of or ordinarily resi-  
7           dent in the host nation.

8           “(2) The term ‘accompanying any department  
9           or agency of the United States other than the De-  
10          partment of Defense’ means—

11           “(A) a dependant, family member, or  
12          member of household of—

13           “(i) a civilian employee of any depart-  
14          ment or agency of the United States other  
15          than the Department of Defense; or

16           “(ii) a contractor (including a subcon-  
17          tractor at any tier), an employee of a con-  
18          tractor (or a subcontractor at any tier), a  
19          grantee (including a contractor of a grant-  
20          ee or a subgrantee or subcontractor at any  
21          tier), or an employee of a grantee (or a  
22          contractor of a grantee or a subgrantee or  
23          subcontractor at any tier) of any depart-  
24          ment or agency of the United States other  
25          than the Department of Defense, which



1 contractor, contractor employee, grantee,  
2 or grantee employee is supporting a pro-  
3 gram, project, or activity for a department  
4 or agency of the United States other than  
5 the Department of Defense;

6 “(B) residing with such civilian employee,  
7 contractor, contractor employee, grantee, or  
8 grantee employee outside the United States;  
9 and

10 “(C) not a national of or ordinarily resi-  
11 dent in the host nation.

12 “(3) The term ‘grant agreement’ means a legal  
13 instrument described in section 6304 or 6305 of title  
14 31, other than an agreement between the United  
15 States and a State, local, or foreign government or  
16 an international organization.

17 “(4) The term ‘grantee’ means a party, other  
18 than the United States, to a grant agreement.

19 “(5) The term ‘host nation’ means the country  
20 outside of the United States where the employee or  
21 contractor resides, the country where the employee  
22 or contractor commits the alleged offense at issue,  
23 or both.

1 **“§ 3273. Regulations**

2 “The Attorney General, after consultation with the  
3 Secretary of Defense, the Secretary of State, and the Di-  
4 rector of National Intelligence, shall prescribe regulations  
5 governing the investigation, apprehension, detention, de-  
6 livery, and removal of persons described in sections 3271  
7 and 3272 of this title.”.

8 (b) CONFORMING AMENDMENT.—Subparagraph (A)  
9 of section 3267(1) of such title is amended to read as fol-  
10 lows:

11 “(A) employed as a civilian employee, a  
12 contractor (including a subcontractor at any  
13 tier), or an employee of a contractor (or a sub-  
14 contractor at any tier) of the Department of  
15 Defense (including a nonappropriated fund in-  
16 strumentality of the Department);”.

17 (c) CLERICAL AMENDMENTS.—

18 (1) HEADING AMENDMENT.—The heading of  
19 chapter 212A of such title is amended to read as fol-  
20 lows:

21 **“CHAPTER 212A—EXTRATERRITORIAL JU-**  
22 **RISDICTION OVER OFFENSES OF CON-**  
23 **TRACTORS AND CIVILIAN EMPLOYEES**  
24 **OF THE FEDERAL GOVERNMENT”.**

25 (2) TABLE OF SECTIONS.—The table of sections  
26 at the beginning of chapter 212A of title 18, United

1 States Code, is amended by striking the item relat-  
 2 ing to section 3272 and inserting the following new  
 3 items:

“3272. Offenses committed by Federal contractors and employees outside the  
 United States.

“3273. Regulations.”.

4 (3) TABLE OF CHAPTERS.—The item relating  
 5 to chapter 212A in the table of chapters at the be-  
 6 ginning of part II of such title is amended to read  
 7 as follows:

**“212A. Extraterritorial Jurisdiction Over Offenses of  
 Contractors and Civilian Employees of the  
 Federal Government ..... 3271”.**

8 **SEC. 3. INVESTIGATION AND OVERSIGHT OF CONTRACTORS**  
 9 **AND EMPLOYEES.**

10 (a) GENERALLY.—

11 (1) IN GENERAL.—The Attorney General, in  
 12 consultation with the Secretary of Defense, the Sec-  
 13 retary of State, the Secretary of Homeland Security,  
 14 and the heads of any other departments or agencies  
 15 of the Federal Government responsible for employing  
 16 contractors or persons overseas—

17 (A) shall assign adequate personnel and re-  
 18 sources, including through the creation of task  
 19 forces, to investigate allegations of criminal of-  
 20 fenses under chapter 212A of title 18, United  
 21 States Code (as amended by section 2(a) of this  
 22 Act), and may authorize the overseas deploy-

1           ment of law enforcement agents and other gov-  
2           ernment personnel for that purpose; and

3           (B) shall include in the regulations pre-  
4           scribed under section 3273 of title 18, United  
5           States Code (as added by section 2(a) of this  
6           Act), provisions setting forth responsibility for  
7           the investigation of any incident in which—

8           (i) a weapon is allegedly discharged  
9           unlawfully by a person, while employed by  
10          or accompanying any department or agen-  
11          cy of the United States other than the  
12          Armed Forces; or

13          (ii) a person or persons are killed or  
14          seriously injured, or property valued great-  
15          er than \$10,000 is destroyed, as a result  
16          of conduct by a person, while employed by  
17          or accompanying any department or agen-  
18          cy of the United States other than the  
19          Armed Forces.

20          (2) RULE OF CONSTRUCTION.—Nothing in this  
21          subsection shall be construed to limit any authority  
22          of the Attorney General or any Federal law enforce-  
23          ment agency to investigate violations of Federal law  
24          or deploy personnel overseas.

25          (b) RESPONSIBILITIES OF ATTORNEY GENERAL.—

1           (1) INVESTIGATION.—The Attorney General  
2 shall have principal authority for the enforcement of  
3 chapter 212A of title 18, United States Code (as so  
4 amended), and shall have the authority to initiate,  
5 conduct, and supervise investigations of any alleged  
6 offenses under such chapter.

7           (2) LAW ENFORCEMENT AUTHORITY.—With re-  
8 spect to violations of sections 3271 and 3272 of title  
9 18, United States Code (as so amended), the Attor-  
10 ney General may authorize any person serving in a  
11 law enforcement position in any other department or  
12 agency of the Federal Government, including a  
13 member of the Diplomatic Security Service of the  
14 Department of State or a military police officer of  
15 the Armed Forces, to exercise investigative and law  
16 enforcement authority, including those powers that  
17 may be exercised under section 3052 of title 18,  
18 United States Code, subject to such guidelines or  
19 policies as the Attorney General considers appro-  
20 priate for the exercise of such powers.

21           (3) PROSECUTION.—The Attorney General may  
22 establish such procedures the Attorney General con-  
23 siders appropriate to ensure that Federal law en-  
24 forcement agencies refer offenses under section 3271  
25 or 3272 of title 18, United States Code (as so

1 amended), to the Attorney General for prosecution  
2 in a uniform and timely manner.

3 (4) ASSISTANCE ON REQUEST OF ATTORNEY  
4 GENERAL.—Notwithstanding any statute, rule, or  
5 regulation to the contrary, the Attorney General  
6 may request assistance from the Secretary of De-  
7 fense, the Secretary of State, or the head of any  
8 other Executive agency to enforce section 3271 or  
9 3272 of title 18, United States Code (as so amend-  
10 ed). The assistance requested may include the fol-  
11 lowing:

12 (A) The assignment of additional personnel  
13 and resources to carry out subsection (a).

14 (B) An investigation into alleged mis-  
15 conduct or arrest of an individual suspected of  
16 alleged misconduct by agents of the Diplomatic  
17 Security Service of the Department of State  
18 present in the nation in which the alleged mis-  
19 conduct occurs.

20 (5) ANNUAL REPORT.—Not later than one year  
21 after the date of the enactment of this Act, and an-  
22 nually thereafter for five years, the Attorney General  
23 shall, in consultation with the Secretary of Defense  
24 and the Secretary of State, submit to Congress a re-  
25 port containing the following:

1           (A) The number of prosecutions under  
2 chapter 212A of title 18, United States Code  
3 (as so amended), including the nature of the of-  
4 fenses and any dispositions reached, during the  
5 previous year.

6           (B) The actions taken to implement sub-  
7 section (a)(1)(A), including the organization  
8 and training of personnel and the use of task  
9 forces, during the previous year.

10           (C) Such recommendations for legislative  
11 or administrative action as the President con-  
12 siders appropriate to enforce chapter 212A of  
13 title 18, United States Code (as so amended),  
14 and the provisions of this section.

15           (c) EXECUTIVE AGENCY.—In this section, the term  
16 “Executive agency” has the meaning given that term in  
17 section 105 of title 5, United States Code.

18 **SEC. 4. OPTIONAL VENUE FOR OFFENSES INVOLVING FED-**  
19 **ERAL EMPLOYEES AND CONTRACTORS OVER-**  
20 **SEAS.**

21           (a) IN GENERAL.—Chapter 211 of title 18, United  
22 States Code, is amended by adding at the end the fol-  
23 lowing:

1 **“§ 3245. Optional venue for offenses involving Fed-**  
2 **eral employees and contractors overseas**

3 “In addition to any venue otherwise provided by law,  
4 the trial of any offense involving a violation of section  
5 3271 or 3272 may be brought—

6 “(1) in the district in which is headquartered  
7 the department or agency of the United States that  
8 employs the offender, or any one of two or more  
9 joint offenders, or

10 “(2) in the district in which is headquartered  
11 the department or agency of the United States that  
12 the offender is accompanying, or that any one of two  
13 or more joint offenders is accompanying.”.

14 (b) CLERICAL AMENDMENT.—The table of sections  
15 at the beginning of chapter 211 of title 18, United States  
16 Code, is amended by adding at the end the following new  
17 item:

“3245. Optional venue for offenses involving Federal employees and contractors  
overseas.”.

18 **SEC. 5. RUNNING OF STATUTE OF LIMITATIONS.**

19 (a) IN GENERAL.—Chapter 213 of title 18, United  
20 States Code, is amended by adding at the end the fol-  
21 lowing:



1 **“§ 3302. Special rule for violations of sections 3271**  
2 **and 3272**

3 “The statute of limitations for an offense involving  
4 a violation of section 3271 or 3272 shall be computed  
5 without regard to any time the alleged offender is outside  
6 the United States.”.

7 (b) CLERICAL AMENDMENT.—The table of sections  
8 at the beginning of chapter 213 of title 18, United States  
9 Code, is amended by adding at the end the following new  
10 item:

“3302. Special rule for violations of sections 3271 and 3272.”.

11 **SEC. 6. EFFECTIVE DATE.**

12 (a) IMMEDIATE EFFECTIVENESS.—This Act and the  
13 amendments made by this Act shall take effect on the date  
14 of the enactment of this Act.

15 (b) IMPLEMENTATION.—The Attorney General and  
16 the head of any other department or agency of the Federal  
17 Government to which this Act applies shall have 90 days  
18 after the date of the enactment of this Act to ensure com-  
19 pliance with the provisions of this Act.

20 **SEC. 7. RULES OF CONSTRUCTION.**

21 Nothing in this Act or any amendment made by this  
22 Act shall be construed—

23 (1) to limit or affect the application of  
24 extraterritorial jurisdiction related to any other Fed-  
25 eral law; or

1           (2) to limit or affect any authority or responsi-  
2           bility of a Chief of Mission as provided in section  
3           207 of the Foreign Service Act of 1980 (22 U.S.C.  
4           3927).

5 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

6           For each of the fiscal years 2012 through 2017, there  
7           are authorized to be appropriated to the Attorney General  
8           such sums as are necessary to carry out this Act.

○