



## **H.R. 399, the Secure Our Borders First Act**

Rep. Michael McCaul (R-TX), chairman of the Committee on Homeland Security, introduced [H.R. 399](#), the Secure Our Borders First Act, on January 16, 2015.

### **Mandates on the Department of Homeland Security:**

Under the bill, secretary of the Department of Homeland Security (DHS) must gain and maintain operational control and situational awareness of high-traffic sectors along the southern border within two years and the entire border within five years. The plan to achieve this goal must be submitted within 120 days after enactment of the law, after consultation with governors of each southern border state, including southern border maritime states; representatives of the Border Patrol and U.S. Customs and Border Protection (CBP); and relevant federal, state, local, and tribal agencies.

- **Situational awareness** means knowledge and an understanding of current unlawful cross-border activity, including cross-border threats and trends concerning illicit trafficking and unlawful crossings along the international borders of the United States, the ability to forecast future shifts in such threats and trends, and the operational capability to conduct continuous and integrated surveillance of the international borders of the United States.
- **Operational Control** is [defined](#) currently by the Secure Fence Act of 2006 as “the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics and other contraband.”

To achieve these goals the bill mandates 19 different types of technological deployments that each Northern and Southern border sector must make. The deployments range from additional tower-based surveillance technology to additional coastal radar surveillance systems. The bill also mandates the building of 27 new miles of fencing, the replacement of 64 miles of fencing, the building of 415 miles of access roads and new boat ramps and access gates, all in the next 18 months. DHS also must build 12 new “forward operation bases” in the various southern border sectors.

### **Creation of Border Security Verification Commission:**

The bill would establish the Border Security Verification Commission (BSVC), which would independently verify all submissions regarding whether “operational control” has been achieved and border security metrics are valid. The BSVC shall consist of five members, three appointed by the president based on recommendations from the leadership of the House of Representatives and U.S. Senate and two appointed by the president after consulting with the majority and minority leaders of the House of Representatives and U.S. Senate.

If DHS does not meet the deadlines imposed by this bill or the BSVC disagrees with the determination by DHS, then no political appointee within the DHS will be allowed to travel

using government aircraft, attend essential trainings or conferences, or receive a salary increase or bonus pay until the objectives are achieved.

**Metrics:**

The chief of the Border Patrol and assistant commissioner of the Office of Field Operations will develop metrics to secure the border between and at ports of entry. They must take into account a variety of factors mandated by the bill. Once those metrics are developed, they must be submitted directly to the BSVC, and no one from the president's staff or appointees within DHS can edit them.

**Consequences, New Flexibility and Deployments under the Bill:**

- CBP must now impose its [Consequence Delivery System](#), a punishment determination system, on all unauthorized border crossers.
- The Border Patrol is given new flexibility to move agents and technology as needed to high-traffic areas.
- CBP is also given access to all federal lands within 100 miles of the border. All major environmental laws are waived for Border Patrol to carry out necessary actions.
- Requires CBP's Office of Air and Marine to fly a minimum of 130,000 annual flight hours and to operate Unmanned Aerial Systems at least 16 hours per day, seven days per week.
- Prioritizes border agencies to receive technology from the Department of Defense, especially aviation equipment.

**Biometric Exit:**

DHS would be required to implement biometric exit at the 15 busiest air, land and sea ports within two years and biometric exit at all ports of entry within five years. The secretary is allowed to delay the implementation of biometric exit at all land ports twice for a period of two years.

**Operation Stonegarden:**

This bill authorizes \$110 million annually for the next five years for [Operation Stonegarden](#), which is a grant program for federal law enforcement agencies to enhance border security.

**National Guard Funds:**

This bill allocates up to \$35 million annually to reimburse states for the cost of deploying the National Guard to the border.

**Authorized Funding:**

In addition to the funding already mentioned, \$10 billion is authorized to be spent over the next 10 years to carry out this act.

**Original bill co-sponsors:** Reps. Candice Miller (R-MI), subcommittee chairman of Border and Maritime Security, Will Hurd (R-TX), John Ratcliffe (R-TX), Martha McSally (R-AZ), Pete Sessions (R-TX), Ted Poe (R-TX), Roger Williams (R-TX), Bill Flores (R-TX), Pete Olson (R-TX), Rob Bishop (R-UT), John Culberson (R-TX), Blake Farenthold (R-TX), John Carter (R-TX), and Larry Bucshon (R-IN).