

115TH CONGRESS
2D SESSION

H. R. 7018

To impose enhanced penalties for conduct relating to unlawful production of a controlled substance on Federal property or while intentionally trespassing on the property of another that causes environmental damage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2018

Mr. LAMALFA introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Judiciary, Energy and Commerce, and Agriculture, 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

A BILL

To impose enhanced penalties for conduct relating to unlawful production of a controlled substance on Federal property or while intentionally trespassing on the property of another that causes environmental damage, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Lands
3 Against Narcotics Trafficking Act of 2018” or the
4 “PLANT Act of 2018”.

5 **SEC. 2. CONTROLLED SUBSTANCES ACT PENALTY AMEND-**
6 **MENTS.**

7 (a) **CULTIVATING OR MANUFACTURING CONTROLLED**
8 **SUBSTANCES ON FEDERAL PROPERTY.—**

9 (1) **IN GENERAL.—**Section 401(b)(5) of the
10 Controlled Substances Act (21 U.S.C. 841(b)(5)) is
11 amended, in the matter preceding subparagraph (A),
12 by striking “as provided in this subsection” and in-
13 serting “, except as provided in paragraph (8), for
14 not more than 10 years, in addition to any other
15 term of imprisonment imposed under this sub-
16 section”.

17 (2) **PENALTY ENHANCEMENT FOR CULTIVATING**
18 **MARIHUANA ON FEDERAL PROPERTY.—**Section
19 401(b) of the Controlled Substances Act (21 U.S.C.
20 841(b)) is amended by adding at the end the fol-
21 lowing:

22 “(8) **CULTIVATING MARIHUANA ON FEDERAL**
23 **PROPERTY.—**Any person who violates subsection (a)
24 by cultivating marihuana on Federal property shall,
25 in addition to any other term of imprisonment im-
26 posed under this subsection, be imprisoned—

1 “(A) in the case of 1 or more marihuana
2 plants, not less than 2 years and not more than
3 5 years;

4 “(B) in the case of 50 or more marihuana
5 plants, not less than 5 years and not more than
6 10 years;

7 “(C) in the case of 100 or more marihuana
8 plants, not less than 10 years and not more
9 than 40 years; or

10 “(D) in the case of 1000 or more mari-
11 huana plants, not less than 20 years and not
12 more than life imprisonment.”.

13 (b) ENVIRONMENTAL HARMS AND OTHER HAZ-
14 ARDS.—Pursuant to its authority under section 994 of
15 title 28, United States Code, the United States Sentencing
16 Commission shall amend and review the Federal Sen-
17 tencing Guidelines and policy statements to ensure that
18 the guidelines provide for a penalty enhancement of not
19 less than 1 offense level for a violation of section 401(a)
20 of the Controlled Substances Act (21 U.S.C. 841(a)) while
21 on Federal property or while intentionally trespassing on
22 the property of another if the offense—

23 (1) poses or creates a hazard to humans, wild-
24 life, the environment, or domestic animals;

1 (2) degrades or harms the environment or nat-
2 ural resources;

3 (3) pollutes or contaminates an aquifer, spring,
4 stream, river, body of water, soil, or native vegeta-
5 tion; or

6 (4) constitutes a violation of the Federal Water
7 Pollution Control Act (33 U.S.C. 1251 et seq.) or
8 the Solid Waste Disposal Act (42 U.S.C. 6901 et
9 seq.).

10 (c) STREAM DIVERSION OR CLEAR CUTTING ON
11 FEDERAL PROPERTY OR WHILE INTENTIONALLY TRES-
12 PASSING ON THE PROPERTY OF ANOTHER.—

13 (1) PROHIBITION ON STREAM DIVERSION OR
14 CLEAR CUTTING ON FEDERAL PROPERTY OR WHILE
15 INTENTIONALLY TRESPASSING ON THE PROPERTY
16 OF ANOTHER.—Section 401(b) of the Controlled
17 Substances Act (21 U.S.C. 841(b)), as amended by
18 subsection (a), is amended by adding at the end the
19 following:

20 “(9) DESTRUCTION OF BODIES OF WATER OR
21 TIMBER.—

22 “(A) IN GENERAL.—Any person who vio-
23 lates subsection (a) in a manner that diverts,
24 redirects, obstructs, or drains an aquifer,
25 spring, stream, river, or body of water or clear

1 cuts or removes timber or vegetation while cul-
2 tivating or manufacturing a controlled sub-
3 stance on Federal property or while cultivating
4 or manufacturing a controlled substance while
5 intentionally trespassing on the property of an-
6 other shall be fined an amount not to exceed—

7 “(i) the amount authorized in accord-
8 ance with this section;

9 “(ii) the amount authorized in accord-
10 ance with the provisions of title 18, United
11 States Code;

12 “(iii) \$500,000 if the defendant is an
13 individual; or

14 “(iv) \$1,000,000 if the defendant is
15 other than an individual.

16 “(B) USE OF AMOUNTS FROM FINES.—

17 “(i) IN GENERAL.—The Secretary of
18 the Treasury shall transfer to the Sec-
19 retary of the Interior and the Secretary of
20 Agriculture, for use in accordance with
21 clause (ii), the amounts received as fines
22 for a violation described in subparagraph
23 (A).

24 “(ii) FUNDS.—The Secretary of the
25 Interior and the Secretary of Agriculture

1 shall use the amounts transferred under
2 clause (i) to address the environmental
3 damage caused by any offense described in
4 subparagraph (A), including by providing
5 such funds to nonprofit organizations that
6 address such damage.”.

7 (2) FEDERAL SENTENCING GUIDELINES EN-
8 HANCEMENT.—Pursuant to its authority under sec-
9 tion 994 of title 28, United States Code, the United
10 States Sentencing Commission shall review and
11 amend the Federal Sentencing Guidelines and policy
12 statements to ensure that the guidelines provide for
13 a penalty enhancement of not less than 1 offense
14 level for a violation of section 401(a) of the Con-
15 trolled Substances Act (21 U.S.C. 841(a)) if the of-
16 fense involves the diversion, redirection, obstruction,
17 or draining of an aquifer, spring, stream, river, or
18 body of water or the clear cut or removal of timber
19 or vegetation while cultivating or manufacturing a
20 controlled substance on Federal property or while
21 cultivating or manufacturing a controlled substance
22 while intentionally trespassing on the property of an-
23 other.

24 (3) TECHNICAL AND CONFORMING AMEND-
25 MENT.—Section 1402(b)(1)(A) of the Victims of

1 Crime Act of 1984 (42 U.S.C. 10601(b)(1)(A)) is
2 amended—

3 (A) in clause (i), by striking “and” at the
4 end; and

5 (B) by inserting after clause (ii) the fol-
6 lowing:

7 “(iii) section 401(b)(8) of the Con-
8 trolled Substances Act (21 U.S.C.
9 841(b)(8)); and”.

10 (d) BOOBY TRAPS ON FEDERAL PROPERTY.—Sec-
11 tion 401(d)(1) of the Controlled Substances Act (21
12 U.S.C. 841(d)(1)) is amended by inserting “cultivated,”
13 after “is being”.

14 (e) USE OR POSSESSION OF FIREARMS IN CONNec-
15 tion WITH DRUG OFFENSES ON FEDERAL PROPERTY OR
16 WHILE INTENTIONALLY TRESPASSING ON THE PROP-
17 erty OF ANOTHER.—Pursuant to its authority under sec-
18 tion 994 of title 28, United States Code, the United States
19 Sentencing Commission shall review and amend the Fed-
20 eral Sentencing Guidelines and policy statements to en-
21 sure that the guidelines provide for a penalty enhancement
22 of not less than 1 offense level for a violation of section
23 401(a) of the Controlled Substances Act (21 U.S.C.
24 841(a)) if the offense involves the possession of a firearm
25 while cultivating or manufacturing a controlled substance

1 on Federal property or while cultivating or manufacturing
2 a controlled substance while intentionally trespassing on
3 the property of another.

4 **SEC. 3. CALIFORNIA PUBLIC LANDS ERADICATION, REME-**
5 **DIATION, AND ENFORCEMENT PARTNERSHIP.**

6 (a) DEFINITIONS.—In this section:

7 (1) ERADICATION.—The term “eradication”
8 means the removal and destruction of illegally cul-
9 tivated substances on Federal land.

10 (2) ENFORCEMENT.—The term “enforcement”
11 means an action undertaken by law enforcement to
12 prevent the cultivation of illegal substances on Fed-
13 eral land.

14 (3) PARTNERSHIP.—The term “partnership”
15 means the California Public Lands Eradication and
16 Remediation Partnership, established by subsection
17 (b).

18 (4) PRIORITY LANDS.—The term “priority
19 lands” means Federal land that is determined by the
20 partnership to be a high priority for either eradi-
21 cation, remediation, enforcement, or a combination
22 thereof.

23 (5) REMEDIATION.—The term “remediation”—

24 (A) means to facilitate the recovery of
25 lands and waters that have been degraded,

1 damaged, or destroyed by illegal marijuana cul-
2 tivation or another illegal activity; and

3 (B) includes—

4 (i) removal of trash, debris, and other
5 deleterious material and the materials and
6 surfaces contaminated by such trash, de-
7 bris, and deleterious material; and

8 (ii) establishing the composition,
9 structure, pattern, and ecological processes
10 necessary to facilitate terrestrial and
11 aquatic ecosystem sustainability, resilience,
12 and health under current and future condi-
13 tions.

14 (b) ESTABLISHMENT.—There is hereby established a
15 California Public Lands Eradication and Remediation
16 Partnership.

17 (c) PURPOSES.—The purposes of the partnership are
18 to—

19 (1) coordinate the activities of Federal, State,
20 Tribal, and local authorities, and the private sector,
21 in the eradication and remediation of priority lands
22 in the State affected by illegal marijuana cultivation
23 or associated illegal activities; and

24 (2) use the resources and expertise of each
25 agency, authority, or entity in implementing eradi-

1 cation and remediation activities on priority lands in
2 the States, including sharing best practices on eradi-
3 cation and remediation of illegal substances on Fed-
4 eral lands.

5 (d) MEMBERSHIP.—The members of the partnership
6 shall include the following:

7 (1) The Secretary of Agriculture, or a designee
8 of the Secretary of Agriculture to represent the For-
9 est Service.

10 (2) The Secretary of the Interior, or a designee
11 of the Secretary of the Interior, to represent the
12 United States Fish and Wildlife Service, Bureau of
13 Land Management, the Bureau of Indian Affairs,
14 and National Park Service.

15 (3) The Director of the Office of National Drug
16 Control Policy, or a designee of the Director.

17 (4) The Secretary of the State Natural Re-
18 sources Agency, or a designee of the Secretary, to
19 represent the California Department of Fish and
20 Wildlife.

21 (5) The Secretary of Homeland Security, or a
22 designee of the Secretary of Homeland Security.

23 (6) The Administrator of the Drug Enforce-
24 ment Administration, or a designee of the Adminis-
25 trator of the Drug Enforcement Administration.

1 (7) A designee of the California State Water
2 Resources Control Board.

3 (8) A designee of the California State Sheriffs'
4 Association.

5 (9) A designee of the National Guard.

6 (10) One member to represent Native American
7 Tribes, to be appointed by the Secretary of Agri-
8 culture.

9 (11) One member to represent nongovernmental
10 organizations with an interest in Federal land eradi-
11 cation and remediation, to be appointed by the Sec-
12 retary of Agriculture.

13 (12) One member to represent local govern-
14 mental interests, to be appointed by the Secretary of
15 Agriculture.

16 (e) DUTIES.—To further the purposes of this section,
17 the partnership shall—

18 (1) identify priorities for eradication and reme-
19 diation on Federal lands in the State;

20 (2) secure resources from Federal and non-Fed-
21 eral sources to apply to eradication and remediation
22 of Federal lands in the State;

23 (3) carry out eradication and remediation on
24 Federal lands in the State;

1 (4) support efforts by Federal, State, Tribal,
2 and local agencies, and nongovernmental organiza-
3 tions in carrying out eradication and remediation of
4 priority lands in the State;

5 (5) support research and education on the im-
6 pacts of, and solutions to, illegal marijuana cultiva-
7 tion and other illegal activities on priority lands in
8 the State;

9 (6) document all actions taken by or known to
10 the partnership to eradicate or remediate illegal sub-
11 stances on public lands, including the tracking of fa-
12 cilities used to test levels of tetrahydrocannabinol
13 (THC) or cannabidiol (CBD) in cannabis or can-
14 nabis products;

15 (7) not later than 5 years after funds are first
16 made available for this Act, submit a report to Con-
17 gress on the actions and results of the partnership,
18 including recommendations and changes for future
19 action to prevent the spread of trespass grows on
20 Federal lands;

21 (8) involve other Federal, State, Tribal, and
22 local agencies, nongovernmental organizations, and
23 the public in eradication and remediation efforts, to
24 the extent practicable;

1 (9) coordinate activities among the State, polit-
2 ical subdivisions of the State, and Federal agencies,
3 contracting to use commercially available aerial im-
4 agery, remote sensing, and geospatial data acquisi-
5 tion services using manned aircraft operations, un-
6 manned aircraft systems, satellites, and other tech-
7 nologies to observe, monitor, and identify illegal
8 marijuana cultivation and other illegal activities in
9 support of eradication and remediation efforts au-
10 thorized by this Act, in a manner consistent with
11 California v. Ciraolo (476 U.S. 207) and Dow
12 Chemical Co. v. United States (476 U.S. 227); and

13 (10) take any other actions necessary to ad-
14 dress eradication and remediation of Federal lands
15 in the State.

16 (f) AUTHORITIES.—To implement this section, the
17 partnership may, subject to the prior approval of the Sec-
18 retary of Agriculture—

19 (1) make grants to the State, political subdivi-
20 sions of the State, nonprofit organizations, and
21 other persons;

22 (2) enter into cooperative agreements with, or
23 provide grants or technical assistance to, the State,
24 political subdivisions of the State, nonprofit organi-

1 zations, Federal agencies, and other interested par-
2 ties;

3 (3) hire and compensate staff to perform inher-
4 ently governmental functions;

5 (4) obtain funds or services from any source,
6 including Federal and non-Federal funds, and funds
7 and services provided under any other Federal law
8 or program;

9 (5) contract for commercially available goods or
10 services; and

11 (6) support activities of partners and any other
12 activities that further the purposes of this section.

13 (g) PROCEDURES.—The partnership shall establish
14 such rules and procedures as it deems necessary or desir-
15 able.

16 (h) SERVICE WITHOUT COMPENSATION.—Members
17 of the partnership shall serve without pay.

18 (i) DUTIES AND AUTHORITIES OF THE SECRETARY
19 OF AGRICULTURE.—

20 (1) IN GENERAL.—The Secretary of Agriculture
21 shall convene the partnership on a regular basis to
22 carry out this section.

23 (2) TECHNICAL AND FINANCIAL ASSISTANCE.—
24 The Secretary of Agriculture and Secretary of the
25 Interior may provide technical and financial assist-

1 ance, on a reimbursable or nonreimbursable basis, as
2 determined by the appropriate Secretary, to the
3 partnership or any members of the partnership to
4 carry out this section.

5 (3) COOPERATIVE AGREEMENTS.—The Sec-
6 retary of Agriculture and Secretary of the Interior
7 may enter into cooperative agreements with the
8 partnership, any members of the partnership, or
9 other public or private entities to provide technical,
10 financial, or other assistance to carry out this sec-
11 tion.

12 (j) CALIFORNIA PUBLIC LANDS MARIJUANA ERADI-
13 CATION, REMEDIATION, AND ENFORCEMENT FUND.—

14 (1) IN GENERAL.—There is established in the
15 Treasury of the United States a fund, to be known
16 as the “California Public Lands Marijuana Eradi-
17 cation, Remediation, and Enforcement Fund” (re-
18 ferred to in this section as the “Fund”).

19 (2) DEPOSITS.—For each of fiscal years 2019
20 through 2024, there shall be deposited in the Fund
21 an amount proportional of all energy development
22 revenues due and payable to the United States from
23 oil, gas, coal, or alternative or renewable energy de-
24 velopment on Federal land and water that are not

1 otherwise credited, covered, or deposited under Fed-
2 eral law.

3 (3) EFFECT ON OTHER REVENUES.—Nothing
4 in this subsection affects the disposition of revenues
5 that—

6 (A) are due to the United States, special
7 funds, trust funds, or States from mineral and
8 energy development on Federal land and water;
9 or

10 (B) have been otherwise appropriated
11 under Federal law, including the Gulf of Mexico
12 Energy Security Act of 2006 (43 U.S.C. 1331
13 note; Public Law 109–432), the Mineral Leas-
14 ing Act (30 U.S.C. 181 et seq.), and chapter
15 2003 of title 54, United States Code.

16 (4) PROHIBITED USE OF FUNDS.—No amounts
17 in the Fund shall be used for land acquisition.

18 (k) PUBLIC DONATIONS.—

19 (1) IN GENERAL.—The Secretary of the Inte-
20 rior, the Director of the National Park Service, the
21 Director of the United States Fish and Wildlife
22 Service, the Director of the Bureau of Land Man-
23 agement, and the Assistant Secretary of Indian Af-
24 fairs may accept public cash or in-kind donations
25 that advance efforts to—

1 (A) advance the goals and efforts of the
2 California Public Lands Eradication, Remedi-
3 ation, and Enforcement Partnership; and

4 (B) encourage relevant public-private part-
5 nerships.

6 (2) CREDITS TO FUND.—Any cash donations
7 accepted under paragraph (1) shall be credited to,
8 and form a part of, the Fund.

9 (1) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to carry out this section
11 \$25,000,000 for each of fiscal years 2019 through 2024.

○