

116TH CONGRESS
2D SESSION

H. R. 7540

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

JULY 9, 2020

Mr. LAMALFA (for himself, Mr. HUFFMAN, Mr. LAMBORN, Mr. ROGERS of Kentucky, Mr. CARBAJAL, and Mr. COX of California) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Energy and Commerce, Natural Resources, 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 2020” or the
4 “PLANT Act of 2020”.

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

7 (a) ENVIRONMENTAL HARMS AND OTHER HAZ-
8 ARDS.—Pursuant to its authority under section 994 of
9 title 28, United States Code, the United States Sentencing
10 Commission shall amend and review the Federal Sen-
11 tencing Guidelines and policy statements to ensure that
12 the guidelines provide for a penalty enhancement of not
13 less than 3 offense levels for a violation of section 401(a)
14 of the Controlled Substances Act (21 U.S.C. 841(a)) while
15 on Federal property or while intentionally trespassing on
16 the property of another if the offense—

17 (1) poses or creates a hazard to humans, live-
18 stock, fish, wildlife, the environment, or domestic
19 animals;

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

22 (3) diverts, redirects, obstructs, or drains an
23 aquifer, spring, stream, river, or body of water or
24 clear cuts, removes, or substantially alters timber or
25 vegetation;

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

4 (5) constitutes a violation of the Federal Water
5 Pollution Control Act (33 U.S.C. 1251 et seq.), the
6 Solid Waste Disposal Act (42 U.S.C. 6901 et seq.),
7 the Federal Insecticide, Fungicide, and Rodenticide
8 Act (7 U.S.C. 136 et seq.), or the Endangered Spe-
9 cies Act of 1973 (16 U.S.C. 1531 et seq.).

10 (b) AGGRAVATING ROLE.—Pursuant to its authority
11 under section 994 of title 28, United States Code, the
12 United States Sentencing Commission shall amend and re-
13 view the Federal Sentencing Guidelines and policy state-
14 ments to ensure that the guidelines provide for a penalty
15 enhancement of not less than 3 offense levels for a viola-
16 tion of section 401(a) of the Controlled Substances Act
17 (21 U.S.C. 841(a)) while on Federal property or while in-
18 tentionally trespassing on the property of another if the
19 offender also received an adjustment under §3B1.1 (Ag-
20 gravating Role).

21 (c) STREAM DIVERSION OR CLEAR CUTTING ON
22 FEDERAL PROPERTY OR WHILE INTENTIONALLY TRES-
23 PASSING ON THE PROPERTY OF ANOTHER.—

24 (1) PROHIBITION ON STREAM DIVERSION OR
25 CLEAR CUTTING ON FEDERAL PROPERTY OR WHILE

1 INTENTIONALLY TRESPASSING ON THE PROPERTY
2 OF ANOTHER.—Section 401(b) of the Controlled
3 Substances Act (21 U.S.C. 841(b)), as amended by
4 subsection (a), is amended by adding at the end the
5 following:

6 “(8) DESTRUCTION OF BODIES OF WATER OR
7 TIMBER.—

8 “(A) IN GENERAL.—Any person who vio-
9 lates subsection (a) in a manner that diverts,
10 redirects, obstructs, or drains an aquifer,
11 spring, stream, river, or body of water or clear
12 cuts or removes or substantially alters timber or
13 vegetation while cultivating or manufacturing a
14 controlled substance on Federal property or
15 while cultivating or manufacturing a controlled
16 substance while intentionally trespassing on the
17 property of another shall be fined an amount
18 not to exceed—

19 “(i) the amount authorized in accord-
20 ance with this section;

21 “(ii) the amount authorized in accord-
22 ance with the provisions of title 18, United
23 States Code;

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

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

3 “(B) USE OF AMOUNTS FROM FINES.—

4 “(i) IN GENERAL.—The Secretary of
5 the Treasury shall transfer to the Sec-
6 retary of the Interior and the Secretary of
7 Agriculture, for use in accordance with
8 clause (ii), the amounts received as fines
9 for a violation described in subparagraph
10 (A).

11 “(ii) FUNDS.—The Secretary of the
12 Interior and the Secretary of Agriculture
13 shall use the amounts transferred under
14 clause (i) to address the environmental
15 damage caused by any offense described in
16 subparagraph (A), including by providing
17 such funds to nonprofit organizations that
18 address such damage.”.

19 (2) FEDERAL SENTENCING GUIDELINES EN-
20 HANCEMENT.—Pursuant to its authority under sec-
21 tion 994 of title 28, United States Code, the United
22 States Sentencing Commission shall review and
23 amend the Federal Sentencing Guidelines and policy
24 statements to ensure that the guidelines provide for
25 a penalty enhancement of not less than 1 offense

1 level for a violation of section 401(a) of the Con-
2 trolled Substances Act (21 U.S.C. 841(a)) if the of-
3 fense involves the diversion, redirection, obstruction,
4 or draining of an aquifer, spring, stream, river, or
5 body of water or the clear cut or removal of timber
6 or vegetation while cultivating or manufacturing a
7 controlled substance on Federal property or while
8 cultivating or manufacturing a controlled substance
9 while intentionally trespassing on the property of an-
10 other.

11 (3) TECHNICAL AND CONFORMING AMEND-
12 MENT.—Section 1402(b)(1)(A) of the Victims of
13 Crime Act of 1984 (42 U.S.C. 10601(b)(1)(A)) is
14 amended—

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

17 (B) by inserting after clause (ii) the fol-
18 lowing:

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

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

1 (e) USE OR POSSESSION OF FIREARMS IN CONNec-
2 TION WITH DRUG OFFENSES ON FEDERAL PROPERTY OR
3 WHILE INTENTIONALLY TRESPASSING ON THE PROP-
4 erty OF ANOTHER.—Pursuant to its authority under sec-
5 tion 994 of title 28, United States Code, the United States
6 Sentencing Commission shall review and amend the Fed-
7 eral Sentencing Guidelines and policy statements to en-
8 sure that the guidelines provide for a penalty enhancement
9 of not less than 2 offense levels for a violation of section
10 401(a) of the Controlled Substances Act (21 U.S.C.
11 841(a)) if the offense involves the possession of a firearm
12 while cultivating or manufacturing a controlled substance
13 on Federal property or while cultivating or manufacturing
14 a controlled substance while intentionally trespassing on
15 the property of another.

16 **SEC. 3. PUBLIC LANDS ERADICATION, REMEDIATION, AND**
17 **ENFORCEMENT PARTNERSHIP.**

18 (a) DEFINITIONS.—In this section:

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

22 (2) ENFORCEMENT.—The term “enforcement”
23 means an action undertaken by law enforcement to
24 prevent the cultivation of illegal substances on Fed-
25 eral land.

1 (3) PARTNERSHIP.—The term “partnership”
2 means the Public Lands Eradication and Remedi-
3 ation Partnership, established by subsection (b).

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

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

10 (A) means to facilitate the recovery of
11 lands and waters that have been degraded,
12 damaged, or destroyed by illegal marijuana cul-
13 tivation or another illegal activity; and

14 (B) includes—

15 (i) removal of trash, debris, and other
16 deleterious material and the materials and
17 surfaces contaminated by such trash, de-
18 bris, and deleterious material; and

19 (ii) establishing the composition,
20 structure, pattern, and ecological processes
21 necessary to facilitate terrestrial and
22 aquatic ecosystem sustainability, resilience,
23 and health under current and future condi-
24 tions.

1 (b) ESTABLISHMENT.—There is hereby established a
2 Public Lands Eradication and Remediation Partnership.

3 (c) PURPOSES.—The purposes of the partnership are
4 to—

5 (1) coordinate the activities of Federal, State,
6 Tribal, and local authorities, and the private sector,
7 in the eradication and remediation of priority lands
8 affected by illegal marijuana cultivation or associ-
9 ated illegal activities;

10 (2) use the resources and expertise of each
11 agency, authority, or entity in implementing eradi-
12 cation and remediation activities on priority lands in
13 States, including sharing best practices on eradi-
14 cation and remediation of illegal substances on Fed-
15 eral lands; and

16 (3) support existing ad hoc or permanent nar-
17 cotics trafficking partnerships focused on marijuana
18 eradication, remediation, and enforcement activities.

19 (d) MEMBERSHIP.—The members of the partnership
20 shall include the following:

21 (1) The Secretary of Agriculture, or a designee
22 of the Secretary of Agriculture to represent the For-
23 est Service.

24 (2) The Secretary of the Interior, or a designee
25 of the Secretary of the Interior, to represent the

1 United States Fish and Wildlife Service, Bureau of
2 Land Management, the Bureau of Indian Affairs,
3 and National Park Service.

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

6 (4) A designee of the Governor of each State
7 that opts to join the partnership to represent the in-
8 terests of that State regarding the water and other
9 natural resources of that State.

10 (5) A designee of the Governor of each State
11 that opts to join the partnership to represent the law
12 enforcement interests of that State.

13 (6) The Secretary of Homeland Security, or a
14 designee of the Secretary of Homeland Security.

15 (7) The Administrator of the Drug Enforce-
16 ment Administration, or a designee of the Adminis-
17 trator of the Drug Enforcement Administration.

18 (8) A designee of the National Guard.

19 (9) One member to represent Indian Tribes, to
20 be appointed by the Secretary of Agriculture.

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

1 (11) One member to represent local govern-
2 mental interests, to be appointed by the Secretary of
3 Agriculture.

4 (e) DUTIES.—To further the purposes of this section,
5 the partnership shall have the following duties:

6 (1) Identify priorities for eradication and reme-
7 diation on Federal lands.

8 (2) Secure resources from Federal and non-
9 Federal sources to apply to eradication and remedi-
10 ation of Federal lands.

11 (3) Carry out eradication and remediation on
12 Federal lands.

13 (4) Support efforts by Federal, State, Tribal,
14 and local agencies, and nongovernmental organiza-
15 tions in carrying out eradication and remediation of
16 priority lands.

17 (5) Support research and education on the im-
18 pacts of, and solutions to, illegal marijuana cultiva-
19 tion and other illegal activities on priority lands.

20 (6) Document all actions taken by or known to
21 the partnership to eradicate or remediate illegal sub-
22 stances on public lands, including tracking facilities
23 used to test the following in cannabis or cannabis
24 products:

1 (A) Levels of tetrahydrocannabinol (THC)
2 or cannabidiol (CBD).

3 (B) Adulterants.

4 (C) Pesticides.

5 (D) Vitamins.

6 (E) Heavy metals.

7 (F) Other matter the presence of which
8 may assist in tracing contamination to risks to
9 human health.

10 (7) Not later than 5 years after funds are first
11 made available to carry out this Act, in consultation
12 with the Deputy Assistant Secretary of Labor for
13 Occupational Safety and Health, recommend the es-
14 tablishment of Federal guidelines, procedures, and
15 best practices for handling pesticides found on Fed-
16 eral land that are not registered under the Federal
17 Insecticide, Fungicide, and Rodenticide Act (7
18 U.S.C. 136 et seq.).

19 (8) Not later than 5 years after funds are first
20 made available for this Act, submit a report to Con-
21 gress on the actions and results of the partnership,
22 including recommendations and changes for future
23 action to prevent the spread of trespass grows on
24 Federal lands, and public safety and environmental

1 effects associated with the eradication, remediation,
2 and prevention of trespass grows.

3 (9) Involve other Federal, State, Tribal, and
4 local agencies, nongovernmental organizations, and
5 the public in eradication and remediation efforts, to
6 the extent practicable.

7 (10) Coordinate activities among States, polit-
8 ical subdivisions of States, and Federal agencies,
9 contracting to use commercially available aerial im-
10 agery, remote sensing, and geospatial data acquisi-
11 tion services using manned aircraft operations, un-
12 manned aircraft systems, satellites, and other tech-
13 nologies to observe, monitor, and identify illegal
14 marijuana cultivation and other illegal activities in
15 support of eradication and remediation efforts au-
16 thorized by this Act in a manner consistent with
17 Federal law, in a manner consistent with *California*
18 *v. Ciraolo* (476 U.S. 207) and *Dow Chemical Co. v.*
19 *United States* (476 U.S. 227).

20 (11) When appropriate, designate a lead agency
21 when activities undertaken under this Act involve
22 more than one jurisdiction or one or more Federal
23 agencies.

1 (12) Before taking any action that may impact
2 Tribal lands, consult with the Indian Tribe whose
3 land may be impacted by that action.

4 (13) Take any other actions consistent with the
5 authorities granted herein to address eradication
6 and remediation of Federal lands.

7 (f) AUTHORITIES.—To implement this section, the
8 partnership may, subject to the prior approval of the Sec-
9 retary of Agriculture—

10 (1) make grants to States, political subdivisions
11 of States, nonprofit organizations, and other per-
12 sons;

13 (2) enter into cooperative agreements with, or
14 provide grants or technical assistance to, States, po-
15 litical subdivisions of States, nonprofit organizations,
16 Federal agencies, and other interested parties;

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

19 (4) obtain funds or services from any source,
20 including Federal and non-Federal funds, and funds
21 and services provided under any other Federal law
22 or program;

23 (5) contract for commercially available goods or
24 services; and

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

3 (g) PROCEDURES.—The partnership shall establish
4 such rules and procedures as it deems necessary or desir-
5 able.

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

8 (i) DUTIES AND AUTHORITIES OF THE SECRETARY
9 OF AGRICULTURE.—

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

13 (2) TECHNICAL AND FINANCIAL ASSISTANCE.—
14 The Secretary of Agriculture and Secretary of the
15 Interior may provide technical and financial assist-
16 ance, on a reimbursable or nonreimbursable basis, as
17 determined by the appropriate Secretary, to the
18 partnership or any members of the partnership to
19 carry out this section.

20 (3) COOPERATIVE AGREEMENTS.—The Sec-
21 retary of Agriculture and Secretary of the Interior
22 may enter into cooperative agreements with the
23 partnership, any members of the partnership, or
24 other public or private entities to provide technical,

1 financial, or other assistance to carry out this sec-
2 tion.

3 (j) PUBLIC LANDS MARIJUANA ERADICATION, RE-
4 MEDIATION, AND ENFORCEMENT FUND.—

5 (1) IN GENERAL.—There is established in the
6 Treasury of the United States a fund, to be known
7 as the “Public Lands Marijuana Eradication, Reme-
8 diation, and Enforcement Fund” (referred to in this
9 section as the “Fund”).

10 (2) DEPOSITS.—For each of fiscal years 2021
11 through 2026, there shall be deposited in the Fund
12 an amount equal to 50 percent of all energy develop-
13 ment revenues due and payable to the United States
14 from oil, gas, coal, or alternative or renewable en-
15 ergy development on Federal land from the Mineral
16 Leasing Act (30 U.S.C. 181 et seq.), that would oth-
17 erwise be credited, covered, or deposited as miscella-
18 neous receipts under Federal law.

19 (3) MAXIMUM AMOUNT.—The amount deposited
20 in the Fund under paragraph (1) shall not exceed
21 \$25,000,000 for any fiscal year.

22 (4) EFFECT ON OTHER REVENUES.—Nothing
23 in this section affects the disposition under Federal
24 law, including the Gulf of Mexico Energy Security
25 Act of 2006 (43 U.S.C. 1331 note; Public Law 109–

1 432), the Mineral Leasing Act (30 U.S.C. 181 et
2 seq.), and chapter 2003 of title 54, United States
3 Code, of energy development revenues—

4 (A) to special funds, trust funds, or States;

5 or

6 (B) that have been otherwise appropriated
7 under Federal law.

8 (k) AVAILABILITY OF FUNDS.—Amounts deposited in
9 the Fund shall be available to the Secretary without fur-
10 ther appropriation or fiscal year limitation.

11 (l) USE OF FUNDS.—Amounts deposited in the Fund
12 shall be used for the duties under subsection (e), as deter-
13 mined by the Secretary.

14 (m) PROHIBITED USE OF FUNDS.—No amounts in
15 the Fund shall be used for land acquisition.

16 (n) PUBLIC DONATIONS.—

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

1 (A) advance the goals and efforts of the
2 Public Lands Eradication, Remediation, and
3 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.

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