

**Floor Amendment No. 4349 to S 2943**

**GILLIBRAND AMENDMENT SA 4349**

**TEXT OF AMENDMENT**

**SA 4349.** Mrs. GILLIBRAND submitted an amendment intended to be proposed by her to the bill S. 2943, to authorize appropriations for fiscal year 2017 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle I of title X, add the following:

**SEC. 1097. BORDER SECURITY ENFORCEMENT TRANSPARENCY.**

(a) Definitions.—In this section

(1) **BORDER SECURITY.**—The term “border security” means the prevention of unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.

(2) **CHECKPOINT.**—The term “checkpoint” means a location—

(A) where vehicles or individuals traveling through the location are stopped or boarded by an officer of U.S. Customs and Border Protection for the purposes of enforcement of United States laws and regulations; and

(B) that is not located at a port of entry along an international border of the United States.

(3) **LAW ENFORCEMENT OFFICIAL.**—The term “law enforcement official” means—

(A) an officer or agent of U.S. Customs and Border Protection;

(B) an officer or agent of U.S. Immigration and Customs Enforcement; or

(C) an officer or employee of a State or a political subdivision of a State who is carrying out the functions of an immigration officer pursuant to an agreement entered into under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)), pursuant to authorization under title IV of the Tariff Act of 1930 (19 U.S.C. 1401 et seq.), or pursuant to any other agreement with the Department of Homeland Security.

(4) **PATROL STOP.**—The term “patrol stop” means seizure or interrogation of a motorist, passenger, or pedestrian initiated anywhere except as part of an inspection at a port of entry or checkpoint.

(5) **PRIMARY INSPECTION.**—The term “primary inspection” means an initial inspection of a vehicle or individual at a checkpoint.

(6) **SECONDARY INSPECTION.**—The term “secondary inspection” means a further inspection of a vehicle or individual that is conducted following a primary inspection.

(b) **Requirement for Data Collection Regarding Stops and Searches Intended to Enforce Border Security.**—A law enforcement official who initiates a patrol stop or who detains any individual beyond a brief and limited inquiry

during a primary inspection, including by referral to a secondary inspection or by conducting a search of the vehicle or its occupants, shall collect the following data:

- (1) The date, time, and location of the contact.
- (2) The surname and date of birth of the individual subject to the contact.
- (3) The law enforcement official's basis for, or circumstances surrounding, the action, including if such individual's perceived race or ethnicity contributed to such basis.
- (4) The identifying characteristics of such individual, including the individual's perceived race, gender, ethnicity, and approximate age.
- (5) The duration of the stop, detention, or search, whether consent was requested and obtained for detention and any search, and the name of the person who provided such consent.
- (6) A description of any articulable facts and behavior by the individual that justify initiating a stop or probable cause to justify any search pursuant to such contact.
- (7) A description of any items seized during such search, including contraband or money, and a specification of the type of search conducted.
- (8) Whether any warning or citation was issued as a result of such contact and the basis for such warning or citation.
- (9) Whether an arrest or detention was made as a result of such contact, the justification for such arrest or detention, and the ultimate disposition of such arrest.
- (10) Whether the affected individual is undergoing immigration proceedings as of the date of the annual report.
- (11) The immigration status of the individual and whether removal proceedings were subsequently initiated against the individual.
- (12) Whether force was used by the law enforcement official and if so, the type of force and justification for using force
- (13) Whether any complaint was made by the individual, and if so whether there was any follow-up made regarding the complaint.
- (14) The badge number of the law enforcement official involved in the complaint.
- (15) If the action was initiated by a State or local law enforcement agency, the reason for involvement of a Federal law enforcement official, the duration of the stop prior to contact with any Federal law enforcement official, the method by which a Federal law enforcement official was informed of the stop, and whether the individual was being held by State or local officials on State criminal charges at the time of such contact.

(c) Requirement for U.S. Customs and Border Protection Data Collection Regarding Checkpoints.—The Commissioner of U.S. Customs and Border Protection shall collect data on the number of permanent and temporary checkpoints utilized by officers of U.S. Customs and Border Protection, the location of each such checkpoint, and a description of each such checkpoint, including the presence of any other law enforcement agencies and the use of law enforcement resources such as canines.

(d) Compilation of Data.—

(1) DEPARTMENT OF HOMELAND SECURITY LAW ENFORCEMENT OFFICIALS.—The Secretary of Homeland Security shall compile the data—

(A) collected under subsection (b) by officers of U.S. Immigration and Customs Enforcement and by officers of U.S. Customs and Border Protection; and

(B) collected under subsection (c) by the Commissioner of U.S. Customs and Border Protection.

(2) OTHER LAW ENFORCEMENT OFFICIALS.—The head of each agency, department, or other entity that employs law enforcement officials other than officers referred to in paragraph (1) shall—

(A) compile the data collected by such law enforcement officials pursuant to subsection (b); and

(B) submit the compiled data to the Secretary of Homeland Security.

(e) Use of Data.—The Secretary of Homeland Security shall consider the data compiled under subsection (d) in making policy and program decisions related to enforcement of border security.

(f) Annual Report.—

(1) REQUIREMENT.—Not later than one year after the effective date of this Act, and annually thereafter, the Secretary of Homeland Security shall submit to Congress a report on the data compiled under subsection (d) that includes all such data for the previous year.

(2) AVAILABILITY.—Each report submitted under paragraph (1) shall be made available to the public, except for particular data if the Secretary explicitly invokes an exemption contained in paragraphs (1) through (9) of section 552(b) of title 5, United States Code, and provides a written explanation for the exemption's applicability.

(g) Effective Date.—This section shall take effect 60 days after the date of the enactment of this Act.