

112TH CONGRESS
1ST 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.

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

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 (e) of section 3271, and, in such text, as
10 so redesignated, by striking “this chapter” and in-
11 serting “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 (e) 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.

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