

AMENDMENT NO. _____ Calendar No. _____

Purpose: To clarify the use of immigration enforcement authorities of the Department of Homeland Security at sensitive locations.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BLUMENTHAL

Viz:

1 At the end of subtitle G of title III, add the following:

2 **SEC. 3720. POWERS OF IMMIGRATION OFFICERS AND EM-**
3 **PLOYEES AT SENSITIVE LOCATIONS.**

4 Section 287 (8 U.S.C. 1357) is amended by adding
5 at the end the following:

6 “(i)(1) In order to ensure access to sensitive loca-
7 tions, this subsection applies to enforcement actions by of-
8 ficers and agents of U.S. Immigration and Customs En-
9 forcement and officers and agents of U.S. Customs and
10 Border Protection.

1 “(2)(A) An enforcement action may not take place
2 at, or be focused on, a sensitive location except as follows:

3 “(i) Under exigent circumstances.

4 “(ii) If prior approval is obtained.

5 “(B) If an enforcement action is taking place pursu-
6 ant to subparagraph (A) and the condition permitting the
7 enforcement action ceases, the enforcement action shall
8 cease.

9 “(3)(A) When proceeding with an enforcement action
10 at or near a sensitive location, officers and agents referred
11 to in paragraph (1) shall conduct themselves as discreetly
12 as possible, consistent with officer and public safety, and
13 make every effort to limit the time at or focused on the
14 sensitive location.

15 “(B) If, in the course of an enforcement action that
16 is not initiated at or focused on a sensitive location, offi-
17 cers or agents are led to or near a sensitive location, and
18 no exigent circumstance **【**or prior approval with respect
19 to the sensitive location**】** exists, such officers or agents
20 shall conduct themselves in a discreet manner, maintain
21 surveillance, and immediately consult their supervisor be-
22 fore taking any further enforcement action, in order to
23 determine whether such action should be discontinued.

24 “(C) **【**This policy does**】**/**【**Subparagraphs (A) and (B)
25 do**】** not apply to the transportation of an individual appre-

1 hended at or near a land or sea border to a hospital or
2 healthcare provider for the purpose of providing such indi-
3 vidual medical care.

4 “(4)(A) Each official specified in subparagraph (B)
5 shall ensure that the employees under the supervision of
6 such official receive annual training on compliance with
7 the requirements of this subsection in enforcement actions
8 at or focused on sensitive locations and enforcement ac-
9 tions that lead officers or agents to or near a sensitive
10 location.

11 “(B) The officials specified in ths subparagraph are
12 the following:

13 “(i) The Chief Counsel of U.S. Immigration
14 and Customs Enforcement.

15 “(ii) The Field Office Directors of U.S. Immi-
16 gration and Customs Enforcement.

17 “(iii) Each Special Agent in Charge of U.S. Im-
18 migration and Customs Enforcement.

19 “(iv) Each Chief Patrol Agent of U.S. Customs
20 and Border Protection.

21 “(v) The Director of Field Operations of U.S.
22 Customs and Border Protection.

23 “(vi) The Director of Air and Marine Oper-
24 ations of U.S. Customs and Border Protection.

1 “(vii) The Internal Affairs Special Agent in
2 Charge of U.S. Customs and Border Protection.

3 “(5)(A) The Director of U.S. Immigration and Cus-
4 toms Enforcement and the Commissioner of U.S. Customs
5 and Border Protection shall each submit to the appro-
6 priate committees of Congress each year a report on the
7 enforcement actions undertaken by U.S. Immigration and
8 Customs Enforcement and U.S. Customs and Border Pro-
9 tection, respectively, during the preceding year that were
10 covered by this subsection.

11 “(B) Each report on an agency for a year under this
12 paragraph shall set forth the following:

13 “(i) The number of enforcement actions at or
14 focused on a sensitive location.

15 “(ii) The number of enforcement actions where
16 officers or agents were subsequently led to or near
17 a sensitive location.

18 “(iii) The date, site, and State, city, and county
19 in which each enforcement action covered by clause
20 (i) and (ii) occurred.

21 “(iv) The component of the agency responsible
22 for each such enforcement action.

23 “(v) A description of the intended target of
24 each such enforcement action.

1 “(vi) The number of individuals, if any, ar-
2 rested or taken into custody through each such en-
3 forcement action.

4 “(vii) The number of collateral arrests, if any,
5 from each such enforcement action and the reasons
6 for each such arrest.

7 “(viii) A certification whether the location ad-
8 ministrator was contacted prior to, during, or after
9 each such enforcement action.

10 “(C) Each report under this paragraph shall be made
11 available to the public without the need to submit a re-
12 quest under section 552 of title 5, United States Code
13 (commonly referred to as the ‘Freedom of Information
14 Act’).

15 “(6) In this subsection:

16 “(A) The term ‘appropriate committees of Con-
17 gress’ means—

18 “(i) the Committee on Homeland Security
19 and Governmental Affairs and the Committee
20 on the Judiciary of the Senate; and

21 “(ii) the Committee on Homeland Security
22 and the Committee on the Judiciary of the
23 House of Representatives.

24 “(B) The term ‘enforcement action’ means an
25 arrest, interview, search, or surveillance for the pur-

1 poses of immigration enforcement, and includes an
2 enforcement action at or focused on a sensitive loca-
3 tion that are part of a joint case led by another law
4 enforcement agency.

5 “(C) The term ‘exigent circumstances’ means
6 the following a situation involving the following:

7 “(i) The imminent risk of death, violence,
8 or physical harm to any person, including a sit-
9 uation implicating terrorism or the national se-
10 curity of the United States in some other man-
11 ner.

12 “(ii) The immediate arrest or pursuit of a
13 dangerous felon, terrorist suspect, or other indi-
14 vidual presenting an imminent danger or public
15 safety risk.

16 “(iii) The imminent risk of destruction of
17 evidence that is material to an ongoing criminal
18 case.

19 “(D) The term ‘prior approval’ means the fol-
20 lowing:

21 “(i) In the case of officers and agents of
22 U.S. Immigration and Customs Enforcement,
23 prior written approval for a specific, targeted
24 operation from one of the following officials:

1 “(I) The Assistant Director of Oper-
2 ations, Homeland Security Investigations.

3 “(II) The Executive Associate Direc-
4 tor of Homeland Security Investigations.

5 “(III) The Assistant Director for
6 Field Operations, Enforcement and Re-
7 moval Operations.

8 “(IV) The Executive Associate Direc-
9 tor for Field Operations, Enforcement and
10 Removal Operations.

11 “(ii) In the case of officers and agents of
12 U.S. Customs and Border Protection, prior
13 written approval for a specific, targeted oper-
14 ation from one of the following officials:

15 “(I) A Chief Patrol Agent.

16 “(II) The Director of Field Oper-
17 ations.

18 “(III) The Director of Air and Marine
19 Operations

20 “(IV) The Internal Affairs Special
21 Agent in Charge.

22 “(E) The term ‘sensitive location’ includes the
23 following:

24 “(i) Hospitals and health clinics.

1 “(ii) Public and private schools (including
2 pre-schools, primary schools, secondary schools,
3 postsecondary schools (including colleges and
4 universities), and other institutions of learning
5 such as vocational or trade schools).

6 “(iii) Organizations assisting victims of
7 crime or abuse.

8 “(iv) Churches, synagogues, mosques, and
9 other places of worship, such as buildings
10 rented for the purpose of religious services.

11 “(v) Such other locations as the Secretary
12 of Homeland Security shall specify for purposes
13 of this subsection.”.