8

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 2830 OFFERED BY MR. LATOURETTE OF OHIO

At the end, add the following new title:

1 **TITLE ____—ALIEN SMUGGLING**

2 **SEC. _01. SHORT TITLE.**

3 This title may be cited as the "Maritime Law En-
4 forcement Improvement Act of 2008".

5 **SEC. _02. MARITIME LAW ENFORCEMENT.**

6 (a) IN GENERAL.—Subtitle VII of title 46, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 **"CHAPTER 707—MARITIME LAW**
10 **ENFORCEMENT**

"Sec.
"70701. Offense.
"70702. Attempt or conspiracy.
"70703. Affirmative defenses.
"70704. Penalties.
"70705. Criminal forfeiture.
"70706. Civil forfeiture.
"70707. Extension beyond territorial jurisdiction.
"70708. Claim of failure to comply with international law; jurisdiction of court.
"70709. Federal activities.
"70710. Definitions.

11 **"§ 70701. Offense**

12 "It shall be unlawful for any person on board a cov-
13 ered vessel to transport or facilitate the transportation,

1 harboring, or concealment of an alien on board such vessel
2 knowing or having reason to believe that the alien is at-
3 tempting to unlawfully enter the United States.

4 **"§ 70702. Attempt or conspiracy**

5 "Any person on board a covered vessel who attempts
6 or conspires to commit a violation of section 70701 shall
7 be subject to the same penalties as those prescribed for
8 the violation, the commission of which was the object of
9 the attempt or conspiracy.

10 **"§ 70703. Affirmative defenses**

11 "It is an affirmative defense to a prosecution under
12 this section, which the defendant must prove by a prepon-
13 derance of the evidence, that—

14 "(1)(A) the alien was on board pursuant to a
15 rescue at sea, or was a stowaway; or

16 "(B) the entry into the United States was a
17 necessary response to an imminent threat of death
18 or serious bodily injury to the alien;

19 "(2) the defendant, as soon as reasonably prac-
20 ticable, informed the Coast Guard of the presence of
21 the alien on the vessel and the circumstances of the
22 rescue; and

23 "(3) the defendant complied with all orders
24 given by law enforcement officials of the United
25 States.

1 **"§ 70704. Penalties**

2 "Any person who commits a violation of this chapter
3 shall be imprisoned for not less than 3 nor more than 20
4 years or fined not more than $100,000, or both; except
5 that—

6 "(1) in any case in which the violation causes
7 serious bodily injury to any person, regardless of
8 where the injury occurs, the person shall be impris-
9 oned for not less than 7 nor more than 30 years or
10 fined not more than $500,000, or both; and

11 "(2) in any case in which the violation causes
12 or results in the death of any person regardless of
13 where the death occurs, the person shall be impris-
14 oned for not less than 10 years nor more than life
15 or fined not more than $1,000,000, or both.

16 **"§ 70705. Criminal forfeiture**

17 "The court, at the time of sentencing a person con-
18 victed of an offense under this chapter, shall order for-
19 feited to the United States any vessel used in the offense
20 in the same manner and to the same extent as if it were
21 a vessel used in an offense under section 274 of the Immi-
22 gration and Nationality Act (8 U.S.C. 1324).

23 **"§ 70706. Civil forfeiture**

24 "A vessel that has been used in the commission of
25 a violation of this chapter shall be seized and subject to
26 forfeiture in the same manner and to the same extent as

1 if it were used in the commission of a violation of section
2 274(a) of the Immigration and Nationality Act (8 U.S.C.
3 1324(a)).

4 **"§ 70707. Extension beyond territorial jurisdiction**

5 "Sections 70701 and 70702 apply even though the
6 act is committed outside the territorial jurisdiction of the
7 United States.

8 **"§ 70708. Claim of failure to comply with inter-**
9 **national law; jurisdiction of court**

10 "A claim of failure to comply with international law
11 in the enforcement of this chapter may be invoked as a
12 basis for a defense solely by a foreign nation. A failure
13 to comply with international law shall not divest a court
14 of jurisdiction or otherwise constitute a defense to any
15 proceeding under this chapter.

16 **"§ 70709. Federal activities**

17 "Nothing in this chapter applies to otherwise lawful
18 activities carried out by or at the direction of the United
19 States Government.

20 **"§ 70710. Definitions**

21 "In this chapter, the following definitions apply:

22 "(1) ALIEN.—The term 'alien' has the meaning
23 given that term in section 70105(f).

24 "(2) COVERED VESSEL.—The term 'covered
25 vessel' means a vessel of the United States, or a ves-

1 sel subject to the jurisdiction of the United States,
2 that is less than 300 gross tons (or an alternate ton-
3 nage prescribed by the Secretary under section
4 14104 of this title) as measured under section
5 14502 of this title.

6 "(3) SERIOUS BODILY INJURY.—The term 'seri-
7 ous bodily injury' has the meaning given that term
8 in section 1365 of title 18, United States Code.

9 "(4) UNITED STATES.—The term 'United
10 States' has the meaning given that term is section
11 114.

12 "(5) VESSEL OF THE UNITED STATES.—The
13 term 'vessel of the United States' has the meaning
14 given that term in section 70502.

15 "(6) VESSEL SUBJECT TO THE JURISDICTION
16 OF THE UNITED STATES.—The term 'vessel subject
17 to the jurisdiction of the United States' has the
18 meaning given that term in section 70502.".

19 (b) CLERICAL AMENDMENT.—The analysis for such
20 subtitle is amended by inserting after the item relating
21 to chapter 705 the following:

"707. Maritime Law Enforcement .....70701.".