

116TH CONGRESS
2D SESSION

S. 4266

To provide civil liability for injuries in law enforcement free zones, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2020

Mr. CRUZ introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide civil liability for injuries in law enforcement free zones, 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 “Restitution for Eco-
5 nomic losses Caused by Leaders who Allow Insurrection
6 and Mayhem Act” or the “RECLAIM Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

9 (1) Law enforcement officers are vital to the
10 protection and safety of communities.

1 (2) Elected officials and other senior officials
2 abuse the public’s trust and endanger their citizens
3 when they refuse to provide law enforcement services
4 to protect life and property.

5 (3) The right to life, liberty, and property are
6 ensured by the Constitution of the United States,
7 and the protection of these rights is the duty of the
8 Federal, State, and local governments.

9 (4) Many local governments have refused to
10 protect the fundamental rights described in para-
11 graph (3) by voluntarily standing down law enforce-
12 ment officers and allowing roving mobs to destroy
13 property and individual livelihoods, including in—

14 (A) Minneapolis, Minnesota, where unrest
15 and violence destroyed hundreds of buildings
16 and further eroded trust in local law enforce-
17 ment officers to devastating effect; and

18 (B) Portland, Oregon, where a mob set fire
19 to the Multnomah County Justice Center,
20 looted numerous businesses in the downtown
21 area, injured two police officers, and physically
22 assaulted multiple peaceful protestors and other
23 individuals.

24 (5) Other local governments have gone further
25 still by recognizing autonomous zones in which law

1 enforcement officers are not allowed to operate, in-
 2 cluding in Seattle, Washington, where the decision of
 3 the Mayor of Seattle to withdraw law enforcement
 4 officers from multiple blocks of the City of Seattle
 5 to create a police free “autonomous zone” led to sig-
 6 nificant destruction of property, 4 shootings, and the
 7 murder of 2 young Americans in the zone.

8 (6) Elected officials or other senior officials in
 9 the State and local governments who refuse to pro-
 10 tect life and property from the ravages of a riot or
 11 mob behavior make their communities less safe by
 12 inviting more crime and violence, and act with willful
 13 disregard for the safety, comfort, and livelihoods of
 14 the individuals who they refuse to protect.

15 (7) State and local governments that publicly
 16 announce the withdrawal of law enforcement protec-
 17 tion from individuals or geographical areas so as to
 18 encourage and endorse the political and social view-
 19 points of protestors or rioters erode the public’s
 20 trust and fail to provide equal protection of the law.

21 **SEC. 3. CIVIL ACTIONS FOR INJURIES IN LAW ENFORCE-**
 22 **MENT FREE ZONES.**

23 Section 1979 of the Revised Statutes (42 U.S.C.
 24 1983) is amended—

1 (1) by inserting “(a)” before “Every person”;

2 and

3 (2) by adding at the end the following:

4 “(b)(1) In this subsection—

5 “(A) the term ‘law enforcement free zone’—

6 “(i) means a geographical area or struc-
7 ture that law enforcement officers are lawfully
8 entitled to access but are instructed, demanded,
9 or forced—

10 “(I) not to access; or

11 “(II) to access only in exceptional cir-
12 cumstances; and

13 “(ii) does not include a geographical area
14 or structure from which law enforcement offi-
15 cers are briefly withheld as a tactical decision
16 intended to resolve safely and expeditiously a
17 specific and ongoing unlawful incident posing
18 an imminent threat to the safety of individuals
19 or law enforcement officers; and

20 “(B) the term ‘riot’ has the meaning given the
21 term in section 2102 of title 18, United States Code.

22 “(2) A person with the lawful authority to direct a
23 law enforcement agency shall be subject to treble damages
24 for a violation of subsection (a) if the violation relates to
25 the person’s use of such authority to—

1 “(A) establish or recognize, whether formally or
2 informally, a law enforcement free zone; or

3 “(B) prohibit law enforcement officers from
4 taking law enforcement action related to a riot for
5 any reason other than to prevent imminent harm to
6 the safety of law enforcement officers.”.

7 **SEC. 4. LIABILITY FOR LAW-ENFORCEMENT FREE ZONES**
8 **AND STANDING DOWN DURING RIOTING.**

9 (a) DEFINITIONS.—In this section:

10 (1) LAW ENFORCEMENT FREE ZONE.—The
11 term “law enforcement free zone” has the meaning
12 given the term in subsection (b) of section 1979 of
13 the Revised Statutes (42 U.S.C. 1983), as added by
14 section 3 of this Act.

15 (2) RIOT.—The term “riot” has the meaning
16 given the term in section 2102 of title 18, United
17 States Code.

18 (b) LIABILITY FOR LAW ENFORCEMENT FREE
19 ZONES.—

20 (1) IN GENERAL.—A person with the lawful au-
21 thority to direct a law enforcement agency shall be
22 liable to any person who suffers severe physical in-
23 jury or death as the result of a third-party’s crimi-
24 nal conduct or whose property is substantially dam-

1 aged or destroyed as the result of a third-party's
2 criminal conduct if—

3 (A) the person directed the law enforce-
4 ment agency to establish or recognize, whether
5 formally or informally, a law enforcement free
6 zone;

7 (B) the criminal conduct and associated
8 harm was foreseeable and occurred in the law
9 enforcement free zone;

10 (C) the law enforcement free zone created
11 an opportunity that otherwise would not have
12 existed for the third-party's crime to occur; and

13 (D) the criminal conduct affected inter-
14 state commerce as described in paragraph (2).

15 (2) AFFECTING INTERSTATE COMMERCE.—For
16 purposes of paragraph (1), criminal conduct shall be
17 considered to have affected interstate commerce if—

18 (A) the person injured by the criminal con-
19 duct traveled in interstate or foreign commerce
20 with the intent to enter the law enforcement
21 free zone;

22 (B) the criminal conduct is a violation of
23 a Federal criminal law;

24 (C) the person who committed the criminal
25 conduct traveled in interstate or foreign com-

1 merce, or used any facility of interstate or for-
2 foreign commerce, with intent to commit the
3 crime; or

4 (D) the property damaged or destroyed by
5 the criminal conduct is used in or affecting
6 interstate or foreign commerce.

7 (c) LIABILITY FOR STANDING DOWN DURING
8 RIOTS.—A person with the lawful authority to direct a
9 law enforcement agency who uses that authority to pro-
10 hibit law enforcement officers from taking law enforce-
11 ment action that would prevent or materially mitigate sig-
12 nificant physical injury or death or damage or destruction
13 of property caused by or related to a riot for any reason
14 other than to prevent imminent harm to the safety of law
15 enforcement officers shall be liable to any person who sub-
16 sequently suffers significant physical injury or death or
17 whose property is subsequently destroyed or damaged as
18 the result of a third-party's criminal conduct, if—

19 (1) the person injured traveled in interstate or
20 foreign commerce with the intent to enter the law
21 enforcement free zone;

22 (2) the injury was caused by an act that is a
23 violation of a Federal criminal law;

24 (3) the person who caused the injury traveled
25 in interstate or foreign commerce, or used any facil-

1 ity of interstate or foreign commerce, with intent to
2 commit the criminal conduct; or

3 (4) the property damaged or destroyed is used
4 in or affecting interstate or foreign commerce.

5 **SEC. 5. ELIGIBILITY FOR LAW ENFORCEMENT GRANTS AND**
6 **EMERGENCY AND DISASTER FUNDING.**

7 (a) BYRNE GRANT PROGRAM.—Section 501 of title
8 I of the Omnibus Crime Control and Safe Streets Act of
9 1968 (34 U.S.C. 10152) is amended by adding at the end
10 the following:

11 “(h) PROTECTION OF INDIVIDUALS AND PROP-
12 ERTY.—

13 “(1) DEFINITIONS.—In this subsection—

14 “(A) the term ‘law enforcement free zone’
15 has the meaning given the term in section
16 1979(b) of the Revised Statutes (42 U.S.C.
17 1983(b)); and

18 “(B) the term ‘riot’ has the meaning given
19 the term in section 2102 of title 18, United
20 States Code.

21 “(2) REQUIRED PROTECTION OF INDIVIDUALS
22 AND PROPERTY.—Beginning in the first fiscal year
23 after the date of enactment of the RECLAIM Act,
24 a State or unit of local government that receives a
25 grant under this part shall take all reasonable steps

1 to protect individuals from physical injury and prop-
2 erty from depredation caused by unlawful acts with-
3 in the jurisdiction of the State or unit of local gov-
4 ernment, as the case may be.

5 “(3) FAILURE TO PROTECT DESCRIBED.—For
6 purposes of paragraph (2), a State or unit of local
7 government shall be considered to have failed to take
8 all reasonable steps to protect individuals from phys-
9 ical injury and property from depredation only if—

10 “(A) a senior official, governing body, or
11 policy from the State or unit of local govern-
12 ment prohibits, or prohibited during the rel-
13 evant fiscal year, law enforcement officers from
14 taking law enforcement action that would pre-
15 vent or materially mitigate physical injury or
16 property depredation caused by or related to a
17 riot for any reason other than to prevent immi-
18 nent harm to the safety of law enforcement offi-
19 cers;

20 “(B) a senior official, governing body, or
21 policy from the State or unit of local govern-
22 ment established or recognized during the rel-
23 evant fiscal year, whether formally or infor-
24 mally, a law enforcement free zone for any rea-

1 son other than to prevent imminent harm to the
2 safety of law enforcement officers;

3 “(C) the State or unit of local government
4 has a custom or policy not to prosecute an indi-
5 vidual who engages in unlawful activity as part
6 of a riot; or

7 “(D) the State or unit of local government
8 declines to prosecute an individual who engages
9 in unlawful activity as part of a riot because
10 the unlawful activity is related to or associated
11 with expression of speech protected by the First
12 Amendment to the Constitution of the United
13 States.

14 “(4) PENALTY FOR NONCOMPLIANCE.—If the
15 Attorney General determines that a State or unit of
16 local government has failed to comply with this sub-
17 section, the Attorney General may reduce the
18 amount of the award for the State or unit of local
19 government under this part for the fiscal year fol-
20 lowing the determination by, the greater of—

21 “(A) 25 percent; or

22 “(B) an amount equal to twice the mone-
23 tary value of the property damaged and the
24 personal injury caused by the failure of the
25 State or unit of local government to take rea-

1 sonable steps to protect against the damage and
2 injury.”.

3 (b) COPS GRANT PROGRAM.—Section 1701 of title
4 I of the Omnibus Crime Control and Safe Streets Act of
5 1968 (34 U.S.C. 10381) is amended by adding at the end
6 the following:

7 “(n) PROTECTION OF INDIVIDUALS AND PROP-
8 ERTY.—

9 “(1) DEFINITIONS.—In this subsection—

10 “(A) the term ‘law enforcement free zone’
11 has the meaning given the term in section
12 1979(b) of the Revised Statutes (42 U.S.C.
13 1983(b)); and

14 “(B) the term ‘riot’ has the meaning given
15 the term in section 2102 of title 18, United
16 States Code.

17 “(2) REQUIRED PROTECTION OF INDIVIDUALS
18 AND PROPERTY.—Beginning in the first fiscal year
19 after the date of enactment of the RECLAIM Act,
20 a State or unit of local government that receives a
21 grant under this section shall take all reasonable
22 steps to protect individuals from physical injury and
23 property from depredation caused by unlawful acts
24 within the jurisdiction of the State or unit of local
25 government, as the case may be.

1 “(3) FAILURE TO PROTECT DESCRIBED.—For
2 purposes of paragraph (2), a State or unit of local
3 government shall be considered to have failed to take
4 all reasonable steps to protect individuals from phys-
5 ical injury and property from depredation only if—

6 “(A) a senior official, governing body, or
7 policy from the State or unit of local govern-
8 ment prohibits, or prohibited during the rel-
9 evant fiscal year, law enforcement officers from
10 taking law enforcement action that would pre-
11 vent or materially mitigate physical injury or
12 property depredation caused by or related to a
13 riot for any reason other than to prevent immi-
14 nent harm to the safety of law enforcement offi-
15 cers;

16 “(B) a senior official, governing body, or
17 policy from the State or unit of local govern-
18 ment established or recognized during the rel-
19 evant fiscal year, whether formally or infor-
20 mally, a law enforcement free zone for any rea-
21 son other than to prevent imminent harm to the
22 safety of law enforcement officers;

23 “(C) the State or unit of local government
24 has a custom or policy not to prosecute an indi-

1 individual who engages in unlawful activity as part
2 of a riot; or

3 “(D) the State or unit of local government
4 declines to prosecute an individual who engages
5 in unlawful activity as part of a riot because
6 the unlawful activity is related to or associated
7 with expression of speech protected by the First
8 Amendment to the Constitution of the United
9 States.

10 “(4) PENALTY FOR NONCOMPLIANCE.—If the
11 Attorney General determines that a State or unit of
12 local government has failed to comply with this sub-
13 section, the Attorney General may reduce the
14 amount of the award for the State or unit of local
15 government under this section for the fiscal year fol-
16 lowing the determination by, the greater of—

17 “(A) 25 percent; or

18 “(B) an amount equal to twice the mone-
19 tary value of the property damaged and the
20 personal injury caused by the failure of the
21 State or unit of local government to take rea-
22 sonable steps to protect against the damage and
23 injury.”.

24 (c) EMERGENCY ASSISTANCE.—Title VII of the Rob-
25 ert T. Stafford Disaster Relief and Emergency Assistance

1 Act (42 U.S.C. 5201 et seq.) is amended by adding at
2 the end the following:

3 **“SEC. 707. LIMITATION ON FUNDING ELIGIBILITY.**

4 “(a) DEFINITIONS.—In this section—

5 “(1) the term ‘law enforcement free zone’ has
6 the meaning given the term in section 1979(b) of
7 the Revised Statutes (42 U.S.C. 1983(b)); and

8 “(2) the term ‘riot’ has the meaning given the
9 term in section 2102 of title 18, United States Code.

10 “(b) REQUIRED PROTECTION OF INDIVIDUALS AND
11 PROPERTY.—A State or unit of local government shall not
12 be eligible for any major disaster assistance under title
13 IV or emergency assistance under title V under a major
14 disaster or emergency declaration, respectively, relating to
15 a riot or other civil unrest within the jurisdiction unless
16 the State or unit of local government takes all reasonable
17 steps to protect individuals from physical injury and prop-
18 erty from depredation caused by unlawful acts occurring
19 as part of the riot or unrest within the jurisdiction of the
20 State or unit of local government, as the case may be.

21 “(c) FAILURE TO PROTECT DESCRIBED.—For pur-
22 poses of subsection (b), a State or unit of local government
23 shall be considered to have failed to take all reasonable
24 steps to protect individuals from physical injury and prop-
25 erty from depredation only if—

1 “(1) a senior official, governing body, or policy
2 from the State or unit of local government prohibits
3 law enforcement officers from taking law enforce-
4 ment action that would prevent or materially miti-
5 gate physical injury or property depredation caused
6 by or related to a riot for any reason other than to
7 prevent imminent harm to the safety of law enforce-
8 ment officers;

9 “(2) a senior official, governing body, or policy
10 from the State or unit of local government estab-
11 lished or recognized, whether formally or informally,
12 a law enforcement free zone for any reason other
13 than to prevent imminent harm to the safety of law
14 enforcement officers;

15 “(3) the State or unit of local government has
16 a custom or policy not to prosecute an individual
17 who engages in unlawful activity as part of a riot;
18 or

19 “(4) the State or unit of local government de-
20 clines to prosecute an individual who engages in un-
21 lawful activity as part of a riot because the unlawful
22 activity is related to or associated with expression of
23 speech protected by the First Amendment to the
24 Constitution of the United States.

1 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion shall be construed to limit the eligibility of an indi-
3 vidual or private entity to receive major disaster assistance
4 under title IV or emergency assistance under title V.”.

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