

to Officer George G. Howard, Port Authority of New York and New Jersey, who was killed in the World Trade Center collapse on September 11, 2001, and his mother, Arlene; and Officer Peter Johnson, Port Authority of New York and New Jersey. H.R. 3525, approved May 14, was assigned Public Law No. 107-173.

Statement on Signing the Enhanced Border Security and Visa Entry Reform Act of 2002

May 14, 2002

I have today signed into law H.R. 3525, the “Enhanced Border Security and Visa Entry Reform Act of 2002.” The legislation strengthens the ability of the U.S. Government to control the country’s borders, a top priority of my Administration. The Act will improve our ability to screen aliens seeking to enter our country, facilitate the sharing of border-related information among U.S. agencies, and improve efforts to keep track of foreign students and foreign exchange visitors in the United States.

Section 2(4)(G) of the Act defines as a Federal law enforcement agency the “Coastal Security Service.” Because no such agency exists, and the principal agency with coastal security functions is the U.S. Coast Guard, the executive branch shall construe this provision as referring to the Coast Guard.

Several sections of the Act raise constitutional concerns.

Sections 2(6), 201(c)(2), and 202(a)(3) purport to require the President to act through a specified assistant to the President or in coordination or consultation with specified officers of the United States, agencies, or congressional committees. The President’s constitutional authority to supervise the unitary executive branch and take care that the laws be faithfully executed cannot be made by law subject to requirements to exercise those constitutional authorities through a particular member of the President’s staff or in coordination or consultation with specified officers or elements of the Government. Accordingly, the executive branch shall treat the purported requirements as precatory.

Section 203 requires the President, in appointing the nine members of the Commission on Interoperable Data Sharing, to ap-

point eight of them from a list of nominees provided by the congressional leadership acting jointly. Laws that provide for appointment in the Government of individuals to exercise significant governmental authority must provide for such appointment by one of the means specified in the Appointments Clause of the Constitution, which includes appointment by the President with Senate consent or by the President alone, but does not include appointment by the President from a pool of persons selected by the congressional leadership. Accordingly, to give effect to section 203 insofar as is constitutionally permissible, the executive branch shall construe the Commission’s functions as advisory only. Also, the executive branch shall construe the Commission’s responsibility to make recommendations to the Congress in a manner consistent with the President’s constitutional authority to submit for congressional consideration such measures as the President shall judge necessary and expedient.

The executive branch shall construe section 404(a), relating to U.S.-Canadian joint border inspection operations under an international agreement, in a manner consistent with the President’s constitutional authority to conduct the foreign affairs of the Nation and to supervise the unitary executive branch.

George W. Bush

The White House,
May 14, 2002.

NOTE: H.R. 3525, approved May 14, was assigned Public Law No. 107-173.

Remarks Prior to Discussions With Prime Minister Mahathir bin Mohamad of Malaysia and an Exchange With Reporters

May 14, 2002

President Bush. Thank you all for coming. Mr. Prime Minister, welcome to the Oval Office. It’s great to see you.

I’ve been looking forward to this visit to publicly thank the Prime Minister for his strong support in the war against terror. He, right after the September the 11th attacks,