

113TH CONGRESS  
1ST SESSION

# H. R. 2438

To require an adequate process in preplanned lethal operations that deliberately target citizens of the United States or citizens of strategic treaty allies of the United States, to limit the use of cluster munitions generally, including when likely to unintentionally harm such citizens, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 19, 2013

Mr. ISSA (for himself, Mr. MEADOWS, Mr. NUNNELEE, and Mr. ENYART) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committees on the Judiciary, Select Intelligence (Permanent Select), and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To require an adequate process in preplanned lethal operations that deliberately target citizens of the United States or citizens of strategic treaty allies of the United States, to limit the use of cluster munitions generally, including when likely to unintentionally harm such citizens, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Designating Requirements On Notification of Executive-  
 4 ordered Strikes Act of 2013” or “DRONES Act”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for  
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—LIMITATIONS ON PREPLANNED LETHAL OPERATIONS  
 DELIBERATELY TARGETING UNITED STATES CITIZENS OR  
 CITIZENS OF STRATEGIC TREATY ALLIES**

Sec. 101. Definitions.

Sec. 102. Scope of title.

Sec. 103. Limitation on preplanned lethal operations targeting United States  
 citizens or citizens of strategic treaty allies.

Sec. 104. Prohibition on preplanned lethal operations inside the territory of the  
 United States.

**TITLE II—LIMITATIONS ON USE OF CLUSTER MUNITIONS**

Sec. 201. Definitions.

Sec. 202. General limitation on United States use of cluster munitions.

Sec. 203. Limitation on use of cluster munitions when use is reasonably likely  
 to unintentionally harm United States citizens or citizens of  
 strategic treaty ally.

Sec. 204. Cleanup plan.

Sec. 205. Provision of cluster munitions to foreign nations.

7 **TITLE I—LIMITATIONS ON**  
 8 **PREPLANNED LETHAL OPER-**  
 9 **ATIONS DELIBERATELY TAR-**  
 10 **GETING UNITED STATES CITI-**  
 11 **ZENS OR CITIZENS OF STRA-**  
 12 **TEGIC TREATY ALLIES**

13 **SEC. 101. DEFINITIONS.**

14 In this title:

15 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
 16 **TEES.**—The term “appropriate congressional com-

1       mittees” means the Committee on the Judiciary, the  
2       Committee on Foreign Relations, the Committee on  
3       Armed Services, the Committee on Appropriations,  
4       and the Committee on Homeland Security and Gov-  
5       ernmental Affairs of the Senate and the Committee  
6       on the Judiciary, the Committee on Foreign Affairs,  
7       the Committee on Armed Services, the Committee  
8       on Appropriations, and the Committee on Oversight  
9       and Government Reform of the House of Represent-  
10      atives.

11           (2) PREPLANNED LETHAL OPERATION.—The  
12      term “preplanned lethal operation” does not include,  
13      limit, or restrict actions taken in immediate self de-  
14      fense or immediate defense of others by members of  
15      the Armed Forces, law enforcement officers, or other  
16      persons authorized to use lethal force in the execu-  
17      tion of their duties.

18           (3) STRATEGIC TREATY ALLY.—The term  
19      “strategic treaty ally” refers to a member nation of  
20      the North Atlantic Treaty Organization, Japan, the  
21      Republic of South Korea, and any other country  
22      with which the United States has entered into a se-  
23      curity treaty.

1 **SEC. 102. SCOPE OF TITLE.**

2 (a) COVERED ENTITIES.—This title applies to all  
3 Federal departments and agencies and the Armed Forces.

4 (b) COVERED PREPLANNED LETHAL OPERATIONS.—  
5 This title only applies to preplanned lethal operations that  
6 deliberately target a citizen of the United States or a cit-  
7 izen of a strategic treaty ally of the United States.

8 **SEC. 103. LIMITATION ON PREPLANNED LETHAL OPER-**  
9 **ATIONS TARGETING UNITED STATES CITI-**  
10 **ZENS OR CITIZENS OF STRATEGIC TREATY**  
11 **ALLIES.**

12 (a) LIMITATION.—A Federal department or agency  
13 or the Armed Forces may not deliberately target a citizen  
14 of the United States or a citizen of a strategic treaty ally  
15 of the United States in a preplanned lethal operation un-  
16 less the preplanned lethal operation is planned and exe-  
17 cuted pursuant to a written determination signed person-  
18 ally by the President—

19 (1) confirming the status of the targeted citizen  
20 as an enemy combatant; and

21 (2) authorizing the deliberate lethal targeting of  
22 the citizen based on an articulated need for the use  
23 of such lethal force.

24 (b) CONGRESSIONAL NOTIFICATION.—Not later than  
25 30 days after making a determination under subsection  
26 (a), the President shall submit to the appropriate congres-

1 sional committees a report, in classified form if nec-  
2 essary—

3 (1) certifying that the timing and details of the  
4 preplanned lethal operation were approved personally  
5 by the President; and

6 (2) describing in detail—

7 (A) the information used to determine that  
8 the targeted citizen is an enemy combatant; and

9 (B) the reasons why the use of lethal force  
10 was necessary.

11 (c) DELEGATION.—The President may not dele-  
12 gate—

13 (1) the final determination of enemy combatant  
14 status; and

15 (2) the final approval of timing and details of  
16 the execution of the preplanned lethal operation.

17 **SEC. 104. PROHIBITION ON PREPLANNED LETHAL OPER-**  
18 **ATIONS INSIDE THE TERRITORY OF THE**  
19 **UNITED STATES.**

20 Nothing in this title may be construed to authorize  
21 any Federal department or agency or the Armed Forces  
22 to deliberately target a citizen of the United States or a  
23 citizen of a strategic treaty ally in a preplanned lethal op-  
24 eration inside the territory of the United States or any  
25 location under the jurisdiction of the United States.

1 **TITLE II—LIMITATIONS ON USE**  
2 **OF CLUSTER MUNITIONS**

3 **SEC. 201. DEFINITIONS.**

4 In this title:

5 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
6 **TEES.**—The term “appropriate congressional com-  
7 mittees” means the Committee on Foreign Rela-  
8 tions, the Committee on Armed Services, and the  
9 Committee on Homeland Security and Governmental  
10 Affairs of the Senate and the Committee on Foreign  
11 Affairs, the Committee on Armed Services, and the  
12 Committee on Oversight and Government Reform of  
13 the House of Representatives.

14 (2) **CLUSTER MUNITIONS.**—

15 (A) **IN GENERAL.**—The term “cluster mu-  
16 nitions” means conventional munitions that are  
17 designed to disperse or release explosive sub-  
18 munitions each weighing less than 40 pounds.

19 (B) **EXCLUSIONS.**—The term does not in-  
20 clude any of the following:

21 (i) Munitions or submunitions de-  
22 signed to dispense flares, smoke, pyrotech-  
23 nics or chaff.

24 (ii) Munitions designed exclusively for  
25 an air defense role.

1 (iii) Munitions or submunitions de-  
2 signed to produce electrical or electronic  
3 effects.

4 (iv) Munitions that, in order to avoid  
5 indiscriminate area effects and risks posed  
6 by unexploded submunitions, have all of  
7 the following characteristics:

8 (I) The munition contains fewer  
9 than ten explosive submunitions.

10 (II) Each explosive submunition  
11 is designed to detect and engage a  
12 single target object.

13 (III) Each explosive submunition  
14 is equipped with an electronic self-de-  
15 struction or deactivation mechanism.

16 (3) STRATEGIC TREATY ALLY.—The term  
17 “strategic treaty ally” refers to a member nation of  
18 the North Atlantic Treaty Organization, Japan, the  
19 Republic of South Korea, and any other country  
20 with which the United States has entered into a se-  
21 curity treaty.

22 **SEC. 202. GENERAL LIMITATION ON UNITED STATES USE**  
23 **OF CLUSTER MUNITIONS.**

24 (a) LIMITATION.—The President, head of any Fed-  
25 eral department or agency, or general officer or flag officer

1 of the Armed Forces may not authorize the use of any  
2 cluster munitions unless—

3 (1) the submunitions of the cluster munitions,  
4 after arming, will not result in more than 1 percent  
5 unexploded ordnance across the range of intended  
6 operational environments; and

7 (2) the policy applicable to the use of the clus-  
8 ter munitions requires that the cluster munitions—

9 (A) will only be used against clearly de-  
10 fined military targets; and

11 (B) will not be used in locations where ci-  
12 vilian noncombatants are known to be present  
13 or in areas normally inhabited by civilian non-  
14 combatants.

15 (b) PRESIDENTIAL WAIVER AUTHORITY.—

16 (1) LIMITED WAIVER AUTHORITY.—The Presi-  
17 dent may waive the limitation imposed by subsection  
18 (a)(1) if, before authorizing the use of cluster muni-  
19 tions in a certain situation, the President certifies  
20 that use of the cluster munitions in such situation  
21 is vital to protect the security of the United States.

22 (2) CONGRESSIONAL NOTIFICATION.—Not later  
23 than 30 days after the date on which the President  
24 makes a certification under paragraph (1), the  
25 President shall submit to the appropriate congres-



1 sional committees a report, in classified form if nec-  
2 essary, describing in detail—

3 (A) the reasons for the certification;

4 (B) the steps that were taken or will be  
5 taken to protect civilian noncombatants against  
6 contact with the cluster munitions; and

7 (C) the failure rate of the cluster muni-  
8 tions and whether the cluster munitions are  
9 fitted with self-destruct or self-deactivation de-  
10 vices.

11 (3) NO DELEGATION.—The President may not  
12 delegate the authority to make a certification under  
13 paragraph (1).

14 **SEC. 203. LIMITATION ON USE OF CLUSTER MUNITIONS**  
15 **WHEN USE IS REASONABLY LIKELY TO UNIN-**  
16 **TENTIONALLY HARM UNITED STATES CITI-**  
17 **ZENS OR CITIZENS OF STRATEGIC TREATY**  
18 **ALLY.**

19 (a) LIMITATION.—In addition to the limitation on the  
20 use of cluster munitions applicable under section 202(a),  
21 and notwithstanding any other provision of law, the Presi-  
22 dent, head of any Federal department or agency, or gen-  
23 eral officer or flag officer of the Armed Forces may not  
24 authorize the use of any cluster munitions if the use of  
25 the cluster munitions is reasonably likely to unintention-

1 ally harm any citizen of the United States or citizen of  
2 a strategic treaty ally of the United States.

3 (b) PRESIDENTIAL WAIVER AUTHORITY.—

4 (1) LIMITED WAIVER AUTHORITY.—The Presi-  
5 dent may waive the limitation imposed by subsection  
6 (a) if, before authorizing the use of cluster muni-  
7 tions, the President certifies that, notwithstanding  
8 the risk to any citizen of the United States or citizen  
9 of a strategic treaty ally of the United States, use  
10 of the cluster munitions is vital to protect the secu-  
11 rity of the United States.

12 (2) CONGRESSIONAL NOTIFICATION.—Not later  
13 than 30 days after the date on which the President  
14 makes a certification under paragraph (1), the  
15 President shall submit to the appropriate congress-  
16 sional committees a report, in classified form if nec-  
17 essary, describing in detail—

18 (A) the reasons for the certification;

19 (B) the steps that were taken or will be  
20 taken to prevent unintentional harm to any citi-  
21 zen of the United States or citizen of a stra-  
22 tegic treaty ally of the United States; and

23 (C) the failure rate of the cluster muni-  
24 tions and whether the cluster munitions are

1 fitted with self-destruct or self-deactivation de-  
2 vices.

3 (3) NO DELEGATION.—The President may not  
4 delegate the authority to make a certification under  
5 paragraph (1).

6 (c) RULE OF CONSTRUCTION.—For the purposes of  
7 this section, use of cluster munitions is reasonably likely  
8 to unintentionally harm a United States citizen or a cit-  
9 izen of a strategic treaty ally in any situation in which  
10 any citizen of the United States or any citizen of a stra-  
11 tegic treaty ally is known to be within a two-mile radius  
12 of the area to be targeted with cluster munitions.

13 **SEC. 204. CLEANUP PLAN.**

14 Not later than 90 days after the date on which any  
15 cluster munitions are used by a Federal department or  
16 agency or the Armed Forces consistent with this title, the  
17 President shall submit to the appropriate congressional  
18 committees a plan for cleaning up any of the cluster muni-  
19 tions and submunitions that fail to explode and, therefore,  
20 continue to pose a hazard to civilian noncombatants.

21 **SEC. 205. PROVISION OF CLUSTER MUNITIONS TO FOREIGN**  
22 **NATIONS.**

23 The President, head of any Federal department or  
24 agency, or general officer or flag officer of the Armed

1 Forces may not provide any cluster munitions to a foreign  
2 nation, agency, or armed forces unless—

3           (1) the cluster munitions to be provided will be  
4           used in a combined military operation with the  
5           United States; and

6           (2) the use of the cluster munitions complies  
7           with the provisions of this title.

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