



## Senators Feinstein and Kyl Introduce Tough New Legislation Criminalizing the Construction or Financing of Border Tunnels

*- Bill would set criminal penalties for building tunnels that could be used to smuggle drugs, illegal aliens, weapons, or terrorists -*

Marc 1, 2006

**Washington, DC** – U.S. Senators Dianne Feinstein (D-Calif.) and Jon Kyl (R-Ariz.) today introduced tough new legislation that would criminalize the act of constructing or financing a tunnel or subterranean passage across an international border into the United States.

Last week, Senator Feinstein toured a warehouse containing the entrance to a half-mile long tunnel stretching from San Diego through to Tijuana, Mexico discovered by border officials on January 24, 2006.

The legislation is cosponsored by Senators Barbara Boxer (D-Calif.), Bill Frist (R-Tenn.), Maria Cantwell (D-Wash.), and Pete Domenici (R-NM). Companion legislation in the House is sponsored by Representatives David Drier (R-Calif.), Adam Schiff (D-Calif.), Duncan Hunter (R-Calif.), Susan Davis (R-Calif.), and Elton Gallegly (R-Calif.).

There is no law currently on the books that makes it illegal to build, use, or finance such tunnels.

**“Last week, I had the opportunity to tour the border tunnel recently found in San Diego,”** Senator Feinstein said. **“What I found was amazing: a sophisticated tunnel, with lights, ventilation, pumps, and a concrete floor. On the Mexican side, 2000 pounds of marijuana was found, and on the American side 300 pounds was found. Yet, there is no law making the building or financing of these tunnels illegal.**

**“So this really illustrates the danger – that smugglers will use these tunnels to subvert our border checkpoints, trafficking drugs, humans, and weapons under the border. That’s why it’s so important to throw the book at the criminals who would build these tunnels. This is a serious issue not just for San Diego and California, but the entire country.”**

**“Many people are astonished to learn that constructing tunnels across the border is not already illegal,”** said Kyl. **“Tunnels can pose a serious risk to our national security. To**

**take a comprehensive approach to border enforcement, we must close the loopholes in our laws that allow for these gaps in our national security.”**

**“I commend my colleague Senator Feinstein for working to close a gaping loophole in our law,” Senator Boxer said. “This bill addresses illegal immigration and serious national security issues such as drug and weapons smuggling.”**

According to the Department of Homeland Security, these tunnels are typically built first to smuggle drugs, and quickly transition into passages for smuggling illegal aliens. These border tunnels could also be used to smuggle weapons and terrorists into the United States.

Specifically, the legislation would:

- Impose a punishment of up to 20 years imprisonment for constructing or financing a tunnel crossing international borders into the United States;
- Impose a punishment of up to 10 years imprisonment for anyone who recklessly permits others to construct or use an unauthorized tunnel or subterranean passage on their land;
- Punish any person who uses a tunnel or subterranean passage to smuggle aliens, weapons, drugs, terrorists or illegal goods by doubling the sentence for the underlying offense if convicted;
- Forfeit the assets of anyone involved in the offense, or any property traceable to the offense, in addition to imprisonment;
- Instruct the U.S. Sentencing Commission to amend sentencing guidelines to provide for criminal penalties for persons convicted under this bill, and to take into account the gravity of this crime when considering the base offense levels.

### **Tunnel Statistics**

Since 9/11:

- 40 border tunnels discovered in the United States, all but one have been on the southern border
- 21 of the tunnels were along the California-Mexico border;
- 8 of the tunnels were discovered in San Diego since the beginning of the year; and
- These tunnels range in complexity to from simple “gopher holes” a few feet long at the border, to massive drug-cartel built mega-tunnels.

### **San Diego Tunnel**

- Largest, most sophisticated tunnel ever discovered;
- Approximately half-mile long;
- At its deepest point, the tunnel was more than nine stories below ground;
- Equipped with a groundwater drainage system, cement flooring for traction, lighting, and a pulley system;
- The tenants disguised the operation as a produce distribution company known as “V & F Distributors, LLC”;

- The entrance into the tunnel was in a small office inside this warehouse, covered by four square tiles;
- ICE began investigating the case two years ago, and in fact raided the tunnel last month from the Mexican side not knowing if or where an opening on the U.S. would be found; and
- They discovered over 2,000 pounds of marijuana on the Mexican side of the border and approximately 300 on the U.S. side.

###