AMENDMENT TO H.R. 4310
OFFERED BY MR. KING OF NEW YORK

At the end of subtitle F of title V, add the following new section:

SEC. 5. AWARD OF PURPLE HEART TO MEMBERS OF THE ARMED FORCES KILLED OR WOUNDED IN TERRORIST ATTACKS WITHIN THE UNITED STATES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Final Report of the National Commission on Terrorist Attacks Upon the United States (commonly known as the “9/11 Commission Report”) recognizes that there is a certain ideology that gives rise to terrorism.

(2) This ideology, which gives rise to terrorism, can even influence citizens and residents of the United States to perpetrate attacks within the United States against members of the Armed Forces.

(3) Two such attacks have already occurred within the United States, one at a recruiting station
in Little Rock, Arkansas, on June 1, 2009, and one
at Fort Hood, Texas, on November 5, 2009.

(4) According to investigative reports released
by the Committee on Homeland Security of the
House of Representatives and the Committee on
Homeland Security and Governmental Affairs of the
Senate at least 36 threats, plots and strikes related
to domestic terrorism against United States military
communities have been uncovered since September

(5) These threats, plots and attacks dem-
 monstrate that members of the Armed Forces are at
risk of terrorist attack not only when deployed over-
seas but also while stationed within the United
States.

(b) SENSE OF CONGRESS.—It is the sense of Con-
gress that the Secretary of Defense (and the Commandant
of the Coast Guard on behalf of the President with respect
to the Coast Guard) should duly honor those members of
the Armed Forces who are killed or wounded in terrorist
attacks within the United States that are inspired by the
ideology that gives rise to terrorism, as defined by the
Final Report of the National Commission on Terrorist At-
tacks Upon the United States (commonly known as the
(c) Award of Purple Heart.—

(1) Award Required.—Chapter 57 of title 10, United States Code, is amended by inserting after section 1129 the following new section:

§ 1129a. Purple Heart: members killed or wounded by terrorist attacks perpetrated within the United States

“(a) For purposes of the award of the Purple Heart, the Secretary concerned shall treat a member of the armed forces described in subsection (b) in the same manner as a member who is killed or wounded in action as the result of an act of the enemy of the United States.

“(b)(1) A member of the armed forces described in this subsection is a member who the Secretary of Homeland Security determines was killed or wounded in a terrorist attack within the United States perpetrated by an individual or individuals expressing a political, religious, or ideological obligation to engage in unlawful violence directed against United States military operations or foreign policy.

“(2) In this subsection, the term ‘terrorist attack’ means activities that—

“(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would
be a criminal violation if committed within the juris-
diction of the United States or of any State;

“(B) appear to be intended—

“(i) to intimidate or coerce a civilian popu-
lation;

“(ii) to influence the policy of a govern-
ment by intimidation or coercion; or

“(iii) to affect the conduct of a government
by mass destruction, assassination, or kidnap-
ning.

“(3) The determination by the Secretary of Home-
land Security that a member of the armed forces is killed
or wounded as a result of a terrorist attack is solely for
the purpose of determining eligibility for the awarding of
the Purple Heart and shall be made without regard to
pending or anticipated Federal or State criminal prosecu-
tion of the offense upon which the determination is made.

“(e) In implementing this section, the Secretary of
Homeland Security shall make no distinction between
‘international terrorism’ and ‘domestic terrorism’, as those
terms are defined in section 2331 of title 18.

“(d) Subsection (a) shall not apply to a member of
the armed forces whose death or wounding is the result
of the willful misconduct of the member.

“(e) Nothing in this section shall be interpreted—
“(1) to affect the designation of any individual
alleged to have perpetrated an attack referred to in
subsection (b)(1) as an enemy combatant for any
purposes under law; or

“(2) to preempt or otherwise affect any legal
proceedings relating to such an attack.”.

(2) CLERICAL AMENDMENT.—The table of sec-
tions at the beginning of such chapter is amended
by inserting after the item relating to section 1129
the following new item:

“1129a. Purple Heart: members killed or wounded by terrorist attacks per-
petrated within the United States.”.

(3) RETROACTIVE EFFECTIVE DATE AND APPLI-
cATION.—

(A) EFFECTIVE DATE.—The amendments
made by this subsection shall take effect as of
January 1, 2009.

(B) REVIEW OF CERTAIN PREVIOUS INCI-
dENTS.—The Secretary of Defense shall pro-
vide the Secretary of Homeland Security the
pertinent information necessary to undertake a
review of each death or wounding of a member
of the Armed Forces that occurred between
January 1, 2009, and the date of the enact-
ment of this Act under circumstances that
could qualify the death or wounding as being
the result of a terrorist attack so that the Secretary of Homeland Security can make a determination whether the death or wounding of the member qualifies as a death or wounding resulting from a terrorist attack for purposes of section 1129a of title 10, United States Code, as added by this subsection.

(C) Responsibility for Determination.—The Secretary of Homeland Security shall be responsible for making the determination of whether a member of the Armed Forces who is wounded or killed is a victim of a terrorist attack (as defined in section 1129a of title 10, United States Code).

(D) Actions Following Review.—If the death or wounding of a member of the Armed Forces reviewed under this paragraph is determined to qualify as a death or wounding resulting from a terrorist attack within the United States for purposes of section 1129a of title 10, United States Code, the Secretary of Defense (or the Commandant of the Coast Guard on behalf of the President with respect to a member of the Coast Guard) shall take appropriate ac-
tion under such section to award the Purple Heart to the member.