

AMENDMENT NO.

CAL. NO.

[STAFF WORKING DRAFT]

October 29, 2001

Purpose: To amend the Merchant Marine Act, 1936, and for other purposes.

IN THE SENATE OF THE UNITED STATES—107TH Cong., 1ST Sess.

S. 1214, 107TH Congress, 1ST Session

OCTOBER —, 2001

() Referred to the Committee on _____ and ordered to be printed

() Ordered to lie on the table and to be printed

INTENDED to be proposed by Mr. HOLLINGS (for himself, Mr. MCCAIN, and Mr. GRAHAM)

Viz: Strike out all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Port, Maritime, and Rail Security Act of 2001”.

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

Sec. 1. Short title; table of contents.

TITLE I—PORT AND MARITIME SECURITY

Sec. 101. Findings.

Sec. 102. Port security task force.

Sec. 103. Identification of strategic seaports.

Sec. 104. Establishment of local port security committees.

Sec. 105. Coast Guard port security vulnerability assessments.

Sec. 106. Maritime transportation plans.

Sec. 107. Employment investigations and restrictions for security-sensitive positions.

Sec. 108. Maritime domain awareness.

- Sec. 109. International port security.
 - Sec. 110. Counter-terrorism and incident contingency plans.
 - Sec. 111. Maritime security professional training.
 - Sec. 112. Port security infrastructure improvement.
 - Sec. 113. Screening and detection equipment.
 - Sec. 114. Revision of port security planning guide.
 - Sec. 115. Attorney General to coordinate port-related crime data collection.
 - Sec. 116. Shared dockside inspection facilities.
 - Sec. 117. Mandatory advanced electronic information for cargo and passengers and other improved customs reporting procedures.
 - Sec. 118. Prearrival messages from vessels destined to United States ports.
 - Sec. 119. Coast Guard domestic maritime safety and security teams.
 - Sec. 120. Research and development for crime and terrorism prevention and detection technology.
 - Sec. 121. Extension of seaward jurisdiction.
 - Sec. 122. Suspension of limitation on strength of Coast Guard.
 - Sec. 123. Additional reports.
 - Sec. 124. Civil penalties.
 - Sec. 125. 4-year reauthorization of tonnage duties.
 - Sec. 126. Definitions.
- TITLE II—RAIL SAFETY AND SECURITY
- Sec. 201. Emergency AMTRAK assistance.
 - Sec. 202. Rail security.
 - Sec. 203. Rail transportation security risk assessment.

1 **SEC. 101. FINDINGS.**

2 The Congress makes the following findings:

3 (1) There are 361 public ports in the United
4 States which have a broad range of characteristics,
5 and all of which are an integral part of our Nation's
6 commerce.

7 (2) United States ports conduct over 95 percent
8 of United States overseas trade. Over the next 20
9 years, the total volume of imported and exported
10 goods at ports is expected to more than double.

11 (3) The variety of trade and commerce that are
12 carried out at ports has greatly expanded. Bulk
13 cargo, containerized cargo, passenger transport and
14 tourism, intermodal transportation systems, and
15 complex domestic and international trade relation-
16 ships have significantly changed the nature, conduct,
17 and complexity of port commerce.

1 (4) The top 50 ports in the United States ac-
2 count for about 90 percent of all the cargo tonnage.
3 Twenty-five United States ports account for 98 per-
4 cent of all container shipments. Cruise ships visiting
5 foreign destinations embark from 16 ports. Ferries
6 in the United States transport 113,000,000 pas-
7 sengers and 32,000,000 vehicles per year.

8 (5) In the larger ports, the activities can stretch
9 along a coast for many miles, including public roads
10 within their geographic boundaries. The facilities
11 used to support arriving and departing cargo are
12 sometimes miles from the coast.

13 (6) Seaports often are a major locus of Federal
14 crime, including drug trafficking, cargo theft, and
15 smuggling of contraband and aliens. The criminal
16 conspiracies often associated with these crimes can
17 pose threats to the people and critical infrastruc-
18 tures of port cities. Seaports that accept inter-
19 national cargo have a higher risk of international
20 crimes like drug and alien smuggling and trade
21 fraud.

22 (7) Seaports are often very open and exposed
23 and, by the very nature of their role in promoting
24 the free flow of commerce, are susceptible to large
25 scale terrorism that could pose a threat to coastal,

1 Great Lake, or riverain populations. Seaport ter-
2 rorism could pose a significant threat to the ability
3 of the United States to pursue its national security
4 objectives.

5 (8) United States ports are international
6 boundaries, however, unlike United States airports
7 and land borders, United States ports receive no
8 Federal funds for security infrastructure.

9 (9) Current inspection levels of containerized
10 cargo are insufficient to counter potential security
11 risks. Technology is currently not adequately de-
12 ployed to allow for the non-intrusive inspection of
13 containerized cargo. Additional promising technology
14 is in the process of being developed that could in-
15 spect cargo in a non-intrusive and efficient fashion.

16 (10) The burgeoning cruise ship industry poses
17 a special risk from a security perspective.

18 (11) Effective physical security and access con-
19 trol in ports is fundamental to deterring and pre-
20 venting potential threats to port operations, and
21 cargo shipments.

22 (12) Securing entry points, open storage areas,
23 and warehouses throughout the port, controlling the
24 movements of trucks transporting cargo through the
25 port, and examining or inspecting containers, ware-

1 houses, and ships at berth or in the harbor are all
2 important requirements that should be implemented.

3 (13) Identification procedures for arriving
4 workers are important tools to deter and prevent
5 port cargo crimes, smuggling, and terrorist actions.

6 (14) On April 27, 1999, the President estab-
7 lished the Interagency Commission on Crime and
8 Security in United States Seaports to undertake a
9 comprehensive study of the nature and extent of the
10 problem of crime in our ports, as well as the ways
11 in which governments at all levels are responding.

12 (15) The Commission has issued findings that
13 indicate the following:

14 (A) Frequent crimes in ports include drug
15 smuggling, illegal car exports, fraud (including
16 Intellectual Property Rights and other trade
17 violations), and cargo theft.

18 (B) Data about crime in ports has been
19 very difficult to collect.

20 (C) Internal conspiracies are an issue at
21 many ports, and contribute to Federal crime.

22 (D) Intelligence and information sharing
23 among law enforcement agencies needs to be
24 improved and coordinated at many ports.

1 (E) Many ports do not have any idea about
2 the threats they face from crime, terrorism, and
3 other security-related activities because of a
4 lack of credible threat information.

5 (F) A lack of minimum physical, proce-
6 dural, and personnel security standards at ports
7 and at terminals, warehouses, trucking firms,
8 and related facilities leaves many ports and port
9 users vulnerable to theft, pilferage, and unau-
10 thorized access by criminals.

11 (G) Access to ports and operations within
12 ports is often uncontrolled.

13 (H) Coordination and cooperation between
14 law enforcement agencies in the field is often
15 fragmented.

16 (I) Meetings between law enforcement per-
17 sonnel, carriers, marine terminal operators, and
18 port authorities regarding security are not
19 being held routinely in the ports. These meet-
20 ings could increase coordination and coopera-
21 tion at the local level.

22 (J) Security-related equipment such as
23 small boats, cameras, and vessel tracking de-
24 vices is lacking at many ports.

1 (K) Detection equipment such as large-
2 scale x-ray machines is lacking at many high-
3 risk ports.

4 (L) A lack of timely, accurate, and com-
5 plete manifest (including in-bond) and trade
6 (entry, importer, etc.) data negatively impacts
7 law enforcement's ability to function effectively.

8 (M) Criminal organizations are exploiting
9 weak security in ports and related intermodal
10 connections to commit a wide range of cargo
11 crimes. Levels of containerized cargo volumes
12 are forecasted to increase significantly, which
13 will create more opportunities for crime while
14 lowering the statistical risk of detection and
15 interdiction.

16 (16) United States ports are international
17 boundaries that—

18 (A) are particularly vulnerable to threats
19 of drug smuggling, illegal alien smuggling,
20 cargo theft, illegal entry of cargo and contra-
21 band;

22 (B) may present weaknesses in the ability
23 of the United States to realize its national secu-
24 rity objectives; and

1 (C) may serve as a vector or target for ter-
2 rorist attacks aimed at the population of the
3 United States.

4 (17) It is in the best interests of the United
5 States—

6 (A) to be mindful that United States ports
7 are international ports of entry and that the
8 primary obligation for the security of inter-
9 national ports of entry lies with the Federal
10 government;

11 (B) to be mindful of the need for the free
12 flow of interstate and foreign commerce and the
13 need to ensure the efficient movement of cargo
14 in interstate and foreign commerce and the
15 need for increased efficiencies to address trade
16 gains;

17 (C) to increase United States port security
18 by establishing a better method of communica-
19 tion amongst law enforcement officials respon-
20 sible for port boundary, security, and trade
21 issues;

22 (D) to formulate requirements for physical
23 port security, recognizing the different char-
24 acter and nature of United States ports, and to

1 require the establishment of security programs
2 at ports;

3 (E) to provide financial incentives to help
4 the States and private sector to increase phys-
5 ical security of United States ports;

6 (F) to invest in long-term technology to fa-
7 cilitate the private sector development of tech-
8 nology that will assist in the non-intrusive time-
9 ly detection of crime or potential crime;

10 (G) to harmonize data collection on port-
11 related and other cargo theft, in order to ad-
12 dress areas of potential threat to safety and se-
13 curity;

14 (H) to create shared inspection facilities to
15 help facilitate the timely and efficient inspection
16 of people and cargo in United States ports;

17 (I) to improve Customs reporting proce-
18 dures to enhance the potential detection of
19 crime in advance of arrival or departure of car-
20 goes; and

21 (J) to promote private sector procedures
22 that provide for in-transit visibility and support
23 law enforcement efforts directed at managing
24 the security risks of cargo shipments.

1 **SEC. 102. PORT SECURITY TASK FORCE.**

2 (a) ESTABLISHMENT.—Within 90 days after the date
3 of enactment of this Act, the Secretary shall establish a
4 Port Security Task Force—

5 (1) to help implement the provisions of this
6 title;

7 (2) to help coordinate programs to enhance the
8 security and safety of United States ports;

9 (3) to help provide long-term solutions for port
10 security issues;

11 (4) to help coordinate the security operations of
12 local port security committees;

13 (5) to help ensure that the public and local port
14 security committees are kept informed about port se-
15 curity enhancement developments;

16 (6) to help provide guidance for the conditions
17 under which loan guarantees and grants are made;

18 (7) to consult with the Coast Guard and the
19 Maritime Administration in establishing port secu-
20 rity program requirements;

21 (8) to help coordinate seaport security issues
22 with landside and waterside cargo distribution sys-
23 tems: and

24 (9) to help establish national certification
25 standards for State and local law enforcement per-

1 sonnel, port authority law enforcement and security
2 personnel, and private sector security personnel.

3 (b) MEMBERSHIP.—

4 (1) IN GENERAL.—The Task Force shall in-
5 clude representatives of Federal agencies as deter-
6 mined by the Secretary.

7 (2) OTHER AGENCIES.—The Secretary shall
8 consult with the Secretary of the Treasury to invite
9 the participation of the United States Customs Serv-
10 ice, and may invite the participation of other depart-
11 ments and agencies of the United States, or of any
12 State, with an interest in port security, port secu-
13 rity-related matters, and border protection issues.

14 (3) REQUIRED PRIVATE SECTOR REPRESENTA-
15 TIVES.—The Task Force shall include representa-
16 tives, appointed by the Secretary of—

17 (A) port authorities;

18 (B) management organizations;

19 (C) longshore labor organizations;

20 (D) ocean carriers and other vessel opera-
21 tors;

22 (E) marine terminal operators;

23 (F) trucking companies;

24 (G) railroad companies;

25 (H) transportation labor organizations;

1 (I) transportation workers;
2 (J) ocean shippers;
3 (K) freight forwarding companies; and
4 (L) other representatives whose participa-
5 tion the Secretary deems beneficial.

6 (4) CHAIRMAN.—The Secretary shall be chair-
7 man of the Task Force.

8 (c) SUBCOMMITTEES.—The Secretary may establish
9 subcommittees, based on recommendations from the Task
10 Force, to facilitate consideration of specific issues, includ-
11 ing port security border protection and maritime domain
12 awareness issues.

13 (d) LAW ENFORCEMENT SUBCOMMITTEE.—The Sec-
14 retary shall establish a subcommittee comprised of Fed-
15 eral, State, and local government law enforcement agen-
16 cies to address port security issues, including resource
17 commitments and law enforcement sensitive matters.

18 (e) EXEMPTION FROM FACCA.—The Federal Advisory
19 Committee Act (5 U.S.C. App.) does not apply to the Task
20 Force.

21 (f) ACCEPTANCE OF CONTRIBUTIONS; JOINT VEN-
22 TURE ARRANGEMENTS.—In carrying out its responsibil-
23 ities under this title, the Task Force, or a member organi-
24 zation or representative acting with the Task Force's con-
25 sent, may accept contributions of funds, material, services,

1 and the use of personnel and facilities from public and
2 private entities by contract or other arrangement if the
3 confidentiality of security-sensitive information is main-
4 tained and access to such information is limited appro-
5 priately.

6 (g) FUNDING.—Of the amounts made available under
7 section 125(b) there shall be made available to the Sec-
8 retary of Transportation for activities of the Task Force
9 \$1,000,000 for each of fiscal years 2003 through 2006
10 without further appropriation, such sums to remain avail-
11 able until expended.

12 (h) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary of
14 Transportation \$1,000,000 for fiscal year 2002 for activi-
15 ties of the task force under subsection (a), such sums to
16 remain available until expended.

17 **SEC. 103. IDENTIFICATION OF STRATEGIC SEAPORTS.**

18 Within 30 days after the date of enactment of this
19 Act, the Secretary shall transmit a report to the Senate
20 Committee on Commerce, Science, and Transportation
21 and the House of Representatives Committee on Trans-
22 portation and Infrastructure that identifies the 50 most
23 important ports in the United States based on their stra-
24 tegic or economic importance.

1 **SEC. 104. ESTABLISHMENT OF LOCAL PORT SECURITY**
2 **COMMITTEES.**

3 (a) IN GENERAL.—Within 120 days after the date
4 of enactment of this Act, the Secretary shall establish port
5 security committees—

6 (1) to utilize the information made available
7 under this title;

8 (2) to assist in defining the physical boundaries
9 within which to conduct vulnerability assessments in
10 recognition of the unique characteristics of each
11 port;

12 (3) to review port security vulnerability assess-
13 ments promulgated under section 105;

14 (4) to help conduct meetings no less frequently
15 than 4 times each year to help coordinate planning
16 and other necessary security activities and to dis-
17 seminate information that will facilitate law enforce-
18 ment activities;

19 (5) to help conduct an exercise at least once
20 every 3 years to verify the effectiveness of each port
21 authority and marine terminal security plan; and

22 (6) to make recommendations and advise on se-
23 curity infrastructure needs.

24 (b) MEMBERSHIP.—In establishing those committees,
25 the Secretary may utilize or augment any existing harbor
26 safety committee or port readiness committee, but the

1 membership of the port security committee shall include
2 local or regional representatives of—

3 (1) the port authority;

4 (2) Federal, State and local government;

5 (3) Federal, State, and local government law
6 enforcement agencies;

7 (4) longshore and transportation labor organi-
8 zations;

9 (5) transportation workers;

10 (6) management organizations;

11 (7) marine terminal operators;

12 (8) ocean carriers and other vessel operators;

13 and

14 (9) private sector interests whose inclusion is
15 deemed beneficial by the Captain-of-the-Port.

16 (c) CHAIRMAN.—The local port security committee
17 shall be chaired by the Captain-of-the-Port.

18 (d) EXEMPTION FROM FACCA.—The Federal Advi-
19 sory Committee Act (5 U.S.C. App.) does not apply to a
20 local port security committee.

21 (e) ACCEPTANCE OF CONTRIBUTIONS; JOINT VEN-
22 TURE ARRANGEMENTS.—In carrying out its responsibil-
23 ities under this title, a local port security committee, or
24 a member organization or representative acting with the
25 committee's consent, may accept contributions of funds,

1 material, services, and the use of personnel and facilities
2 from public and private entities by contract or other ar-
3 rangement if the confidentiality of security-sensitive infor-
4 mation is maintained and access to such information is
5 limited appropriately.

6 (f) FUNDING.—Of the amounts made available under
7 section 125(b) there shall be made available to the Sec-
8 retary \$3,000,000 for each of fiscal years 2003 through
9 2006 without further appropriation to carry out this sec-
10 tion, such sums to remain available until expended.

11 (g) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary
13 \$5,000,000 for each of fiscal years 2002 and 2003 to
14 carry out this section, such sums to remain available until
15 expended.

16 **SEC. 105. COAST GUARD PORT SECURITY VULNERABILITY**
17 **ASSESSMENTS.**

18 (a) IN GENERAL.—The Secretary, in consultation
19 with the Defense Threat Reduction Agency, the Center for
20 Civil Force Protection, and other appropriate public and
21 private sector organizations (including the Task Force),
22 shall develop standards and procedures for conducting
23 port security vulnerability assessments.

24 (b) INITIAL SCHEDULE.—The Secretary, in coopera-
25 tion with local port security committee officials with prop-

1 er security clearances, shall complete security vulnerability
2 assessments for the 50 ports identified by the Secretary
3 under section 103 as soon as practicable, but no later than
4 3 years after the date of enactment of this Act. If a port
5 security vulnerability assessment has been conducted with-
6 in 5 years by or on behalf of a port authority or marine
7 terminal operator, and the Secretary determines that it
8 was conducted in a manner that is generally consistent
9 with the standards and procedures developed under sub-
10 section (a), the Secretary may accept that assessment
11 rather than conducting another port security vulnerability
12 assessment for that port.

13 (c) REVIEW BY PORT SECURITY COMMITTEE.—The
14 Secretary shall make applicable sections of the port secu-
15 rity vulnerability assessment for a port available for review
16 and comment by members of the local port security com-
17 mittee, port authority representatives, marine terminal op-
18 erator representatives, and representatives of other enti-
19 ties connected or affiliated with maritime commerce or
20 port security as the Secretary determines to be appro-
21 priate, based on the recommendations of the local port se-
22 curity committee. Before disclosing information contained
23 in the port security vulnerability assessment to a person,
24 the Secretary shall ensure that the person possesses the
25 appropriate security clearance.

1 (d) MAPS AND CHARTS.—

2 (1) COLLECTION AND DISTRIBUTION.—The
3 Secretary, working through local port security com-
4 mittees where appropriate, shall—

5 (A) collect, store securely, and maintain
6 maps and charts of all United States ports that
7 clearly indicate the location of infrastructure
8 and overt-security equipment;

9 (B) make those maps and charts available
10 upon request, on a secure and confidential
11 basis, to—

12 (i) the Maritime Administration;

13 (ii) the United States Coast Guard;

14 (iii) the St. Lawrence Seaway Devel-
15 opment Corporation;

16 (iv) the United States Customs Serv-
17 ice;

18 (v) the Department of Defense;

19 (vi) the Federal Bureau of Investiga-
20 tion; and

21 (vii) the Immigration and Naturaliza-
22 tion Service.

23 (2) OTHER AGENCIES.—The Secretary shall es-
24 tablish a process for providing relevant maps and
25 charts collected under paragraph (1), and other rel-

1 evant material, available, on a secure and confiden-
2 tial basis, to appropriate Federal, State, and local
3 government agencies, and port authorities, for the
4 purpose of obtaining the comments of those agencies
5 before completing a port vulnerability assessment for
6 each such port.

7 (3) **SECURE STORAGE AND LIMITED ACCESS.**—
8 The Secretary shall establish procedures that ensure
9 that maps, charts, and other material made available
10 to Federal, State, and local government agencies,
11 port authorities, and local port security committees
12 are maintained in a secure and confidential manner
13 and that access thereto is limited appropriately.

14 (e) **FUNDING.**—Of the amounts made available under
15 section 125(b) there shall be made available to the Sec-
16 retary \$10,000,000 for each of fiscal years 2003 through
17 2006 without further appropriation to carry out this sec-
18 tion, such sums to remain available until expended.

19 (f) **AUTHORIZATION OF APPROPRIATIONS.**—There
20 are authorized to be appropriated to the Secretary
21 \$20,000,000 for fiscal year 2002 to carry out this section,
22 such sums to remain available until expended.

23 **SEC. 106. MARITIME TRANSPORTATION PLANS.**

24 (a) **IN GENERAL.**—The Secretary shall prescribe reg-
25 ulations for maritime transportation security plans de-

1 signed to protect the public from, and to improve the re-
2 sponse to, threats of crime or terrorism from or to vessels
3 in maritime transportation originating, transiting, or ter-
4 minating in a United States port as well as threats of
5 crime or terrorism to maritime or intermodal infrastruc-
6 ture directly associated with coastal, intercoastal, and in-
7 land waterfront facilities and other public or commercial
8 structures located within or adjacent to the marine envi-
9 ronment. In prescribing a regulation under this sub-
10 section, the Secretary shall—

11 (1) consult with the Secretary of the Treasury,
12 the Attorney General, the heads of other depart-
13 ments, agencies, and instrumentalities of the United
14 States Government, State and local authorities, and
15 the Task Force; and

16 (2) consider whether a proposed regulation is
17 consistent with—

18 (A) protecting the public;

19 (B) protecting the port and its infrastruc-
20 ture; and

21 (C) the public interest in promoting mari-
22 time and intermodal transportation and com-
23 merce.

24 (b) MARITIME TRANSPORTATION SECURITY
25 PLANS.—

1 (1) PLANS TO BE ESTABLISHED.—The Sec-
2 retary shall prescribe regulations under which each
3 port authority, waterfront facility operator, and op-
4 erator of any other public or commercial structure
5 located within or adjacent to the marine environ-
6 ment shall prepare and submit for the Secretary's
7 approval a maritime transportation security plan
8 that complies with the requirements established by
9 the Secretary.

10 (2) GENERAL REQUIREMENTS.—A maritime
11 transportation security plan established under para-
12 graph (1) shall identify security procedures, pro-
13 grams, and capabilities that provide for the safety of
14 the public from threats of crime and terrorism
15 against vessels and coastal, intercoastal, and inland
16 waterfront facilities and other public or commercial
17 structures located within or adjacent to the marine
18 environment and for a rapid and effective response
19 to any such threats or incidents.

20 (3) SPECIFIC REQUIREMENTS.—A maritime
21 transportation security plan established under para-
22 graph (1) shall include—

23 (A) provisions for establishing and main-
24 taining physical security and positive access
25 controls for vessels, waterfront facilities, and

1 other public or commercial structures located
2 within or adjacent to the marine environment;

3 (B) provisions for establishing and main-
4 taining procedural security for processing pas-
5 sengers, cargo, and crewmembers;

6 (C) provisions for establishing secure areas
7 and secure perimeter areas within waterfront
8 facilities and other public or commercial struc-
9 tures located within or adjacent to the marine
10 environment;

11 (D) a credentialing process for the purpose
12 of limiting access to waterfront facilities and
13 other public or commercial structures located
14 within or adjacent to the marine environment,
15 designed to ensure that only authorized individ-
16 uals and service providers gain admittance;

17 (E) provisions for the personal security of
18 individuals on board vessels and at waterfront
19 facilities and other public or commercial struc-
20 tures located within or adjacent to the marine
21 environment;

22 (F) a process to restrict vehicular access to
23 waterfront facilities and other public or com-
24 mercial structures located within or adjacent to
25 the marine environment, while ensuring that

1 authorized persons are admitted safely and effi-
2 ciently to such areas;

3 (G) a procedure to evacuate people from
4 port areas in the event of a terrorist attack or
5 other emergency, and to assess the safety and
6 security of the port area before port operations
7 are resumed;

8 (H) restrictions on carrying firearms and
9 other prohibited weapons;

10 (I) provisions for the use of qualified State
11 and local law enforcement personnel, port au-
12 thority law enforcement and security personnel,
13 and private sector security personnel; and

14 (J) provisions for a security awareness
15 program for all employees.

16 (4) ADOPTION OF EXISTING MARITIME TRANS-
17 PORTATION SECURITY PLAN.—Notwithstanding the
18 requirements of paragraph (3), the Secretary may
19 approve any existing security plan that satisfies the
20 objectives of this section.

21 (5) DISAPPROVAL OF MARITIME TRANSPOR-
22 TATION SECURITY PLAN.—If the Secretary dis-
23 approves a maritime transportation security plan,
24 the Secretary shall—

1 (A) notify the port authority, waterfront
2 facility operator, or operator of a public or com-
3 mercial structure located within or adjacent to
4 the marine environment that submitted the plan
5 in writing of the reasons for the disapproval;
6 and

7 (B) require the port authority, waterfront
8 facility operator, or operator of the public or
9 commercial structure to submit a revised mari-
10 time transportation security plan within 6
11 months after receiving the notification of dis-
12 approval from the Secretary.

13 (6) 5-YEAR REVIEWS.—Whenever appropriate,
14 but in no event less frequently than once every 5
15 years, each port authority, waterfront facility oper-
16 ator, or operator of a public or commercial structure
17 located within or adjacent to the marine environ-
18 ment required to prepare a maritime transportation
19 security plan under this section shall review its plan,
20 make such revisions to the plan as are necessary or
21 appropriate, and submit the results of its review and
22 the revised plan to the Secretary.

23 (7) INTERIM SECURITY MEASURES.—The Sec-
24 retary shall require each port authority, waterfront
25 facility operator, or operator of a public or commer-

1 cial structure located within or adjacent to the ma-
2 rine environment to implement any necessary secu-
3 rity measures, including the establishment of a se-
4 cure perimeter and positive access controls, until the
5 maritime security plan for that port authority, wa-
6 terfront facility operator, or operator of a public or
7 commercial structure located within or adjacent to
8 the marine environment is approved.

9 (8) EXERCISES.—The Secretary shall require
10 each port authority, waterfront facility operator, and
11 operator of any other public or commercial structure
12 located within or adjacent to the marine
13 environment—

14 (A) to conduct an annual simulation exer-
15 cise of its plan; and

16 (B) to conduct practice drills or actual ex-
17 ercises at least once every 3 years.

18 **SEC. 107. EMPLOYMENT INVESTIGATIONS AND RESTRIC-**
19 **TIONS FOR SECURITY-SENSITIVE POSITIONS.**

20 (a) IN GENERAL.—The Secretary shall initiate a
21 rulemaking within 10 days after the date of enactment
22 of this Act to prescribe regulations governing the conduct
23 of criminal history record checks required under this sec-
24 tion to ensure that individuals employed in security-sen-
25 sitive positions (as defined by the Secretary in those regu-

1 lations) do not pose a threat to national security, public
2 safety, or to the safety and security of maritime com-
3 merce. The Secretary shall complete the rulemaking and
4 promulgate a final rule as soon as practicable, taking into
5 account the urgency of the need for commencing such in-
6 vestigations and checks under this section.

7 (b) REQUIRED INVESTIGATIONS.—

8 (1) NEW EMPLOYEES.—The Secretary shall
9 conduct a criminal history record check for each in-
10 dividual seeking employment in a security-sensitive
11 position.

12 (2) EXISTING EMPLOYEES.—The Secretary
13 shall conduct a criminal history record check for
14 each individual employed in a security-sensitive posi-
15 tion for 10 years or less as of the effective date of
16 the regulations.

17 (c) DISQUALIFICATION FROM NEW OR CONTINUED
18 EMPLOYMENT.—

19 (1) IN GENERAL.—An individual may not be
20 employed in a security-sensitive position at any wa-
21 terfront facility or other public or commercial struc-
22 ture located within or adjacent to the marine envi-
23 ronment if—

24 (A) a background investigation or criminal
25 records check reveals that the individual was

1 convicted, or found not guilty by reason of in-
2 sanity within the previous 10 years, of an of-
3 fense described in paragraph (2); or

4 (B) the individual does not meet other cri-
5 teria established by the Secretary.

6 (2) DISQUALIFYING OFFENSES.—The offenses
7 referred to in paragraph (1)(A) are the following:

8 (A) Murder.

9 (B) Assault with intent to murder.

10 (C) Espionage.

11 (D) Sediton.

12 (E) Treason.

13 (F) Rape.

14 (G) Kidnaping.

15 (H) Unlawful possession, sale, distribution,
16 or manufacture of an explosive or weapon.

17 (I) Extortion.

18 (J) Armed or felony unarmed robbery.

19 (K) Distribution of, or intent to distribute,
20 a controlled substance.

21 (L) A felony involving a threat.

22 (M) A felony involving—

23 (i) willful destruction of property;

24 (ii) importation of manufacturing of a
25 controlled substance;

- 1 (iii) burglary;
- 2 (iv) theft;
- 3 (v) dishonesty, fraud, or misrepresen-
- 4 tation;
- 5 (vi) possession or distribution of sto-
- 6 len property;
- 7 (vii) aggravated assault;
- 8 (viii) bribery; or
- 9 (ix) illegal possession of a controlled
- 10 substance punishable by a maximum term
- 11 of imprisonment of more than 1 year.

12 (N) Conspiracy to commit any of the of-

13 fenses referred to in subparagraphs (A) through

14 (M).

15 (O) Any other offense specified by the Sec-

16 retary.

17 (3) MITIGATING CIRCUMSTANCES.—If an indi-

18 vidual is determined to be disqualified under para-

19 graph (1) for employment in a security-sensitive po-

20 sition, the Secretary shall give consideration to the

21 circumstances of any disqualifying act or offense,

22 restitution made by the individual, Federal and

23 State mitigation remedies, and other factors from

24 which it may be included that the individual's pro-

25 pensity for criminal conduct no longer prevails.

1 (4) RESTRICTIONS ON USE AND MAINTENANCE
2 OF INFORMATION.—Any information other than
3 criminal acts or offenses constituting grounds for
4 disqualification under paragraph (1) shall be main-
5 tained confidentially by the Secretary and may be
6 used only for making determinations under this sub-
7 section.

8 (5) APPEALS PROCESS.—The Secretary shall
9 establish an appeals process in the regulations pro-
10 mulgated under this section for individuals found to
11 be ineligible for employment in security sensitive po-
12 sitions.

13 (6) ALTERNATIVE ARRANGEMENTS.—Notwith-
14 standing paragraph (1), an individual may be em-
15 ployed in a security-sensitive position although that
16 individual would otherwise be disqualified from such
17 employment if the employer establishes alternate se-
18 curity arrangements acceptable to the Secretary.

19 (d) ADMINISTRATIVE PROVISIONS.—

20 (1) EFFECTIVENESS AUDITS.—The Inspector
21 General of the Department of Transportation shall
22 provide for the periodic audit of the effectiveness of
23 criminal history record checks required by this sec-
24 tion.

1 (2) INTERNATIONAL CHECKS.—The criminal
2 history record check shall include a check of the
3 INTERPOL-United States National Central Bureau
4 Records System.

5 (3) FINGERPRINT CHECKS.—Notwithstanding
6 any other provision of law to the contrary, but sub-
7 ject to existing or new procedural safeguards im-
8 posed by the Attorney General, the Secretary is au-
9 thorized to access the Federal Bureau of Investiga-
10 tion's Integrated Automatic Fingerprinting Identi-
11 fication System, the Fingerprint Identification
12 Record System, the Interstate Identification Index,
13 and the National Crime Identification System for
14 the purpose of carrying out the requirements of this
15 section.

16 (e) FEES AND CHARGES.—

17 (1) IN GENERAL.—The Secretary and the At-
18 torney General shall—

19 (A) establish reasonable fees and charges
20 to pay expenses incurred by the Federal govern-
21 ment in carrying out any investigation, criminal
22 history record check, fingerprinting, or identi-
23 fication verification services provided under this
24 section; and

1 (B) collect such fees and charges from em-
2 ployers of individuals investigated under this
3 subsection for those services.

4 (2) OFFSETTING COLLECTIONS.—Amounts re-
5 ceived by the Attorney General or Secretary under
6 this section shall be credited to the account in the
7 Treasury from which the expenses were incurred as
8 offsetting collections and shall be available to the
9 Secretary and the Attorney General without further
10 appropriation for those expenses.

11 **SEC. 108. MARITIME DOMAIN AWARENESS.**

12 (a) INFORMATION COLLECTION AND ANALYSIS.—
13 Within 6 months after the date of enactment of this Act,
14 the Secretary shall transmit to the Senate Committee on
15 Commerce, Science, and Transportation and the House of
16 Representatives Committee on Transportation and Infra-
17 structure a report that—

18 (1) identifies existing international, Federal,
19 State, and other information systems and databases
20 related to maritime transportation and provides rec-
21 ommendations on how they could be better utilized
22 to collect information about the movements of ves-
23 sels, cargo, and maritime passengers, and other such
24 information to identify criminal threats, national
25 and economic security threats, and threats of ter-

1 rorism, and any suggested modifications to improve
2 the collection, analysis, and dissemination of such in-
3 formation;

4 (2) evaluates the feasibility of linking existing
5 systems or establishing a new general database that
6 could be used to collect information about the move-
7 ments of vessels, cargo, and maritime passengers,
8 and other such information and to identify criminal
9 threats, national and economic security threats, and
10 threats of terrorism;

11 (3) estimates the potential costs of establishing
12 and operating such a new or linked database and
13 provides recommendations on what agencies should
14 contribute to the cost of its operation;

15 (4) estimates the potential costs and benefits of
16 utilizing commercial supercomputing platforms and
17 data bases to enhance information collection and
18 analysis capabilities across multiple Federal agen-
19 cies;

20 (5) suggests a time frame for the development
21 of such a system or database; and

22 (6) makes recommendations for ensuring co-
23 operation among law enforcement agencies while also
24 ensuring the integrity of proper areas of law enforce-
25 ment jurisdiction.

1 (b) MINIMUM REQUIREMENTS.—At a minimum, the
2 information system or database recommended by the Sec-
3 retary should be capable of—

4 (1) enabling Federal security-related agencies
5 to track cargo, passenger, and crew manifests across
6 multiple modes of travel;

7 (2) identifying suspicious itineraries or ship-
8 ments;

9 (3) enabling such agencies to compare the iden-
10 tity of individuals against a list of suspected terror-
11 ists or criminals; and

12 (4) permitting positive confirmation of an indi-
13 vidual's identity.

14 (c) PORT SECURITY TECHNOLOGIES.—In addition to
15 the matter described in subsection (a), the Secretary shall
16 include in the report required by subsection (a)—

17 (1) an evaluation of available technologies for
18 the detection of explosives, firearms, weapons of
19 mass destruction, chemical and biological weapons,
20 drug and other illicit cargos or passengers; and

21 (2) a cost benefit analysis for applications at
22 ports.

23 (d) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated to the Secretary

1 \$500,000 for fiscal year 2002 to carry out subsection (a),
2 such sums to remain available until expended.

3 **SEC. 109. INTERNATIONAL PORT SECURITY.**

4 (a) INTERNATIONAL APPLICATION.—The Secretary
5 shall make every effort to have the requirements developed
6 under section 116 adopted by appropriate international or-
7 ganizations as international standards and shall, acting
8 through appropriate officers of the United States Govern-
9 ment, seek to encourage the development and adoption of
10 port security standards under international agreements in
11 other countries where adoption of the same or similar
12 standards might be appropriate.

13 (b) PORT ACCREDITATION PROGRAM.—The Sec-
14 retary shall make every effort to have the requirements
15 developed under section 116 adopted by appropriate orga-
16 nizations as security standards and shall encourage the
17 establishment of a program for the private sector accredi-
18 tation of ports that implement security standards that are
19 consistent with these requirements.

20 (c) INTERNATIONAL PORT SECURITY IMPROVEMENT
21 ACTIVITIES.—

22 (1) IN GENERAL.—The Secretary shall establish
23 a program to assist foreign port operators in identi-
24 fying port security risks, conducting port security

1 vulnerability assessments, and implementing port se-
2 curity standards.

3 (2) IDENTIFICATION OF STRATEGIC FOREIGN
4 PORTS.—The Secretary shall work with the Sec-
5 retary of Defense and the Attorney General to iden-
6 tify those foreign ports where inadequate security or
7 a high level of port security vulnerability poses a
8 strategic threat to United States defense interests or
9 may be implicated in criminal activity in the United
10 States.

11 (3) DISSEMINATION OF INFORMATION
12 ABROAD.—The Secretary shall work with the Sec-
13 retary of State to facilitate the dissemination of port
14 security program information to port authorities and
15 marine terminal operators in other countries.

16 (d) ENFORCEMENT.—The Secretary, in consultation
17 with the Secretary of the Treasury, the Secretary of Agri-
18 culture, and the Attorney General, shall develop measure
19 to protect the safety and security of United States ports
20 from risks related to vessels arriving from foreign ports
21 that do not maintain an acceptable level of security.

22 (e) FUNDING.—Of the amounts made available under
23 section 125(b) there shall be made available to the Sec-
24 retary \$1,000,000 for each of fiscal years 2003 through

1 2006 without further appropriation to carry out this sec-
2 tion, such sums to remain available until expended.

3 (f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary for use
5 in developing the program described in subsection (c)(1)—

6 (1) \$1,000,000 for fiscal year 2002; and

7 (2) \$500,000 for each of fiscal years 2003
8 through 2006,

9 such sums to remain available until expended

10 **SEC. 110. COUNTER-TERRORISM AND INCIDENT CONTIN-**
11 **GENCY PLANS.**

12 (a) IN GENERAL.—The Secretary, in coordination
13 with the Director of the Federal Bureau of Investigation,
14 shall ensure that all area maritime counter-terrorism and
15 incident contingency plans are reviewed, revised, and up-
16 dated no less frequently than once every 3 years.

17 (b) LOCAL SEAPORT SECURITY COMMITTEES.—The
18 Secretary shall ensure that port security committees es-
19 tablished under section 114 are involved in the review, re-
20 vision, and updating of the plans.

21 (c) SIMULATION EXERCISES.—The Secretary shall
22 ensure that—

23 (1) simulation exercises are conducted annually
24 for all such plans; and

1 (2) actual practice drills and exercises are con-
2 ducted at least once every 3 years.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to the Secretary
5 \$1,000,000 for each of fiscal years 2002 through 2006
6 to carry out this section, such sums to remain available
7 until expended.

8 **SEC. 111. MARITIME SECURITY PROFESSIONAL TRAINING.**

9 (a) IN GENERAL.—The Secretary, through the Fed-
10 eral Law Enforcement Training Center and the United
11 States Merchant Marine Academy's Global Maritime and
12 Transportation School, shall establish, operate, and con-
13 duct a series of training programs in consultation with the
14 Maritime Security Council, the International Association
15 of Airport and Seaport Police, the American Association
16 of Port Authorities, and the National Security Council to
17 develop standards and procedures for training and certifi-
18 cation of maritime security professional personnel.

19 (b) ESTABLISHMENT OF SECURITY INSTITUTE.—The
20 Secretary shall establish a Maritime Security Institute uti-
21 lizing the combined capabilities of the Federal Law En-
22 forcement Training Center and the Global Maritime and
23 Transportation School and establish such other offsite
24 training centers as the Secretary determines to be appro-
25 priate. The Maritime Security Institute shall train and

1 certify maritime security professional personnel in accord-
2 ance with internationally recognized law enforcement
3 standards. Institute instructors shall be knowledgeable
4 about Federal and international law enforcement, mari-
5 time security, and port and maritime operations. An advi-
6 sory board representative of public and private maritime
7 security organizations and public and private sector orga-
8 nizations familiar with maritime transportation shall be
9 established in order to provide advice and consultation.

10 (c) TRAINING AND CERTIFICATION.—The following
11 individuals shall be eligible for training at the Institute:

12 (1) Maritime security professional personnel.

13 (2) Individuals who are employed, whether in
14 the public or private sector, in maritime law enforce-
15 ment or security activities.

16 (3) Individuals who are employed, whether in
17 the public or private sector, in planning, executing,
18 or managing security operations—

19 (A) at United States ports;

20 (B) on passenger or cargo vessels with
21 United States citizens as passengers or crew-
22 members;

23 (C) in foreign ports used by United States-
24 flagged vessels or by foreign-flagged vessels

1 with United States citizens as passengers or
2 crewmembers.

3 (d) PROGRAM ELEMENTS.—The program established
4 by the Federal Law Enforcement Training Center in con-
5 junction with the Maritime Administration under sub-
6 section (a) shall include the following elements:

7 (1) The development of standards and proce-
8 dures, including baseline programs, to meet min-
9 imum standards for certifying maritime security pro-
10 fessional personnel, or eligible individuals employed
11 in the public or private sector.

12 (2) The training and certification of maritime
13 security professional personnel and eligible individ-
14 uals employed in the public or private sector in ac-
15 cordance with internationally accepted law enforce-
16 ment and security guidelines, policies, and proce-
17 dures.

18 (3) The training of students and instructors in
19 all aspects of prevention, detection, investigation,
20 and reporting of criminal activities in the inter-
21 national maritime environment.

22 (4) The provision of offsite training through
23 train-the-trainers program that provide certification
24 for personnel at United States and foreign ports
25 used by United States-flagged vessels, or by foreign-

1 flagged vessels with United States citizens as pas-
2 sengers or crewmembers, in order to develop and en-
3 hance security awareness and practices.

4 (e) TRAINING CURRICULA.—The Institute shall offer
5 a wide variety of maritime security programs, which may
6 include the following:

7 (1) A basic maritime security training program
8 for ship's security officers, port police, port security,
9 transportation workers involved in port security, and
10 other law enforcement officials responsible for the
11 security of passengers, cargo, vessels, and ports.

12 (2) An advanced maritime security training to
13 meet the needs of senior level security and law en-
14 forcement personnel.

15 (3) A maritime security instructor training pro-
16 gram to train-the-trainers on security and law en-
17 forcement for maritime operations.

18 (4) A maritime force protection to address pro-
19 tection of personnel and assets in the maritime envi-
20 ronment.

21 (5) A port security assessment training pro-
22 gram to provide skills required to conduct port secu-
23 rity vulnerability assessments in domestic or foreign
24 ports.

1 (6) A port security antiterrorism program that
2 focuses on antiterrorism and counterterrorism for
3 port facilities.

4 (7) A maritime weapons of mass destruction
5 training program to train-the-trainers on the threat
6 of explosive, chemical, biological, and radiological
7 weapons in the maritime environment.

8 (8) A cargo theft investigation training pro-
9 gram to train criminal investigators and industry se-
10 curity personnel in investigation of cargo theft,
11 methods of detection and apprehension of suspects,
12 and recovery of stolen cargo.

13 (f) FUNDING.—Of the amounts made available under
14 section 125(b), there shall be made available to the Sec-
15 retary without further appropriation—

16 (1) \$2,500,000 for each of fiscal years 2003
17 and 2004 for additional hiring, use of contract as-
18 sistance, travel expenses to include non-Federal per-
19 sonnel to attend course development meetings and
20 pilot programs, and other operational costs for the
21 Maritime Security Institute and such off-site loca-
22 tions as are appropriate, and

23 (2) \$3,000,000 for each of fiscal years 2005
24 and 2006 for hiring, the use of contract assistance,
25 travel expenses, further needed course development,

1 program validation, and other operational costs for
2 the Maritime Security Institute and such off-site lo-
3 cations as are appropriate,
4 such sums to remain available until expended.

5 (g) AUTHORIZATION OF APPROPRIATIONS—There
6 are authorized to be appropriated to the Secretary for use
7 by the Maritime Security Institute—

8 (1) \$5,500,000 for fiscal year 2002, of which—

9 (A) \$5,000,000 may be used for hiring, the
10 use of contract assistance, travel expenses to in-
11 clude non-Federal personnel to attend course
12 development meetings and pilot programs, and
13 all other start-up operations for the Maritime
14 Security Institute; and

15 (B) up to \$500,000 may be used for the
16 development of a facilities infrastructure plan
17 and necessary funding requests to be submitted
18 to the Congress by July 1, 2002;

19 (2) \$3,000,000 to the Secretary for use by the
20 Maritime Security Institute for each of fiscal years
21 2003 and 2004 for additional hiring, use of contract
22 assistance, travel expenses to include non-Federal
23 personnel to attend course development meetings
24 and pilot programs, and other operational costs for

1 the Maritime Security Institute and such off-site lo-
2 cations as are appropriate, and

3 (3) \$2,500,000 to the Secretary for use by the
4 Maritime Security Institute for each of fiscal years
5 2005 and 2006 for hiring, the use of contract assist-
6 ance, travel expenses, further needed course develop-
7 ment, program validation, and other operational
8 costs for the Maritime Security Institute and such
9 off-site locations as are appropriate.

10 **SEC. 112. PORT SECURITY INFRASTRUCTURE IMPROVE-**
11 **MENT.**

12 (a) IN GENERAL.—The Merchant Marine Act, 1936
13 (46 U.S.C. App. 1101 et seq.) is amended by adding at
14 the end the following:

15 **“TITLE XIV—PORT SECURITY IN-**
16 **FRASTRUCTURE IMPROVE-**
17 **MENT**

18 **“SEC. 1401. LOAN GUARANTEES FOR PORT SECURITY IN-**
19 **FRASTRUCTURE IMPROVEMENTS.**

20 “(a) IN GENERAL.—The Secretary of Transpor-
21 tation, subject to the terms the Secretary shall prescribe
22 and after consultation with the United States Coast
23 Guard, the United States Customs Service, and the Port
24 Security Task Force established under section 102 of the
25 Port, Maritime, and Rail Security Act of 2001, may guar-

1 antee or make a commitment to guarantee the payment
2 of the principal of, and the interest on, an obligation for
3 seaport security infrastructure improvements for an eligi-
4 ble project at any United States seaport.

5 “(b) LIMITATIONS.—Guarantees or commitments to
6 guarantee under this section are subject to the extent ap-
7 plicable to all the laws, requirements, regulations, and pro-
8 cedures that apply to guarantees or commitments to guar-
9 antee made under title XI, except that—

10 “(1) guarantees or commitments to guarantee
11 made under this section are eligible for not more
12 than 87.5 percent of the actual cost of the security
13 infrastructure improvement;

14 “(2) notwithstanding section 1104A(d), deter-
15 mination of economic soundness for a security infra-
16 structure project shall be based upon the economic
17 soundness of the applicant and not the project;

18 “(3) guarantees or commitments to guarantee
19 may be made under this section to persons who are
20 not citizens of the United States as defined in sec-
21 tion 2 of the Shipping Act, 1916 (46 U.S.C. App.
22 802).

23 “(c) TRANSFER OF FUNDS.—The Secretary may ac-
24 cept the transfer of funds from any other department,
25 agency, or instrumentality of the United States Govern-

1 ment and may use those funds to cover the cost (as de-
2 fined in section 502 of the Federal Credit Reform Act of
3 1990 (2 U.S.C. 61a)) of making guarantees or commit-
4 ments to guarantee loans entered into under this section.

5 “(d) ELIGIBLE PROJECTS.—A project is eligible for
6 a loan guarantee or commitment under subsection (a) if
7 it is for the construction or acquisition of new security
8 infrastructure, including infrastructure constructed, modi-
9 fied, or acquired no earlier than 3 years before the date
10 on which an application for a loan guarantee under this
11 section is submitted, that is—

12 “(1) equipment or facilities to be used for port
13 security monitoring and recording;

14 “(2) security gates and fencing;

15 “(3) security-related lighting systems;

16 “(4) remote surveillance systems;

17 “(5) concealed video systems; or

18 “(6) other security infrastructure or equipment
19 that contributes to the overall security of passengers,
20 cargo, or crewmembers.

21 **“SEC. 1402. GRANTS.**

22 “(a) FINANCIAL ASSISTANCE.—The Secretary may
23 provide financial assistance for eligible projects (within the
24 meaning of section 1401(d).

25 “(b) MATCHING REQUIREMENTS.—

1 “(1) 75-PERCENT FEDERAL FUNDING.—Except
2 as provided in paragraph (2), Federal funds for any
3 eligible project under this section shall not exceed 75
4 percent of the total cost of such project.

5 “(2) EXCEPTIONS.—

6 “(A) SMALL PROJECTS.—There are no
7 matching requirements for grants under sub-
8 section (a) for projects costing not more than
9 \$25,000.

10 “(B) HIGHER LEVEL OF SUPPORT RE-
11 QUIRED.—If the Secretary determines that a
12 proposed project merits support and cannot be
13 undertaken without a higher rate of Federal
14 support, then the Secretary may approve grants
15 under this section with a matching requirement
16 other than that specified in paragraph (1).

17 “(c) ALLOCATION.—The Secretary shall ensure that
18 financial assistance provided under subsection (a) during
19 a fiscal year is distributed so that funds are awarded for
20 eligible projects that address emerging priorities or threats
21 identified by the Task Force under section 102 of the
22 Port, Maritime, and Rail Security Act of 2001.

23 “(d) PROJECT PROPOSALS.—Each proposal for a
24 grant under this section shall include the following:

1 “(1) The name of the individual or entity re-
2 sponsible for conducting the project.

3 “(2) A comprehensive description of the need
4 for the project, and a statement of the project’s rela-
5 tionship to the security plan.

6 “(3) A description of the qualifications of the
7 individuals who will conduct the project.

8 “(4) An estimate of the funds and time re-
9 quired to complete the project.

10 “(5) Evidence of support of the project by ap-
11 propriate representatives of States or territories of
12 the United States or other government jurisdictions
13 in which the project will be conducted.

14 “(6) Information regarding the source and
15 amount of matching funding available to the appli-
16 cant, as appropriate.

17 “(7) Any other information the Secretary con-
18 siders to be necessary for evaluating the eligibility of
19 the project for funding under this title.”.

20 (b) ANNUAL ACCOUNTING.—The Secretary of Trans-
21 portation shall submit an annual summary of loan guaran-
22 tees and commitments to make loan guarantees under sec-
23 tion 1401 of the Merchant Marine Act, 1936, and grants
24 made under section 1402 of that Act, to the Committee
25 on Commerce, Science, and Transportation and the House

1 of Representatives Committee on Transportation and In-
2 frastructure and the Task Force through appropriate
3 media of communication, including the Internet.

4 (c) FUNDING.—Of amounts made available under
5 section 125(b), there shall be made available to the Sec-
6 retary of Transportation without further appropriation—

7 (1) \$9,000,000 for each of the fiscal years
8 2003, 2004, 2005, and 2006 as guaranteed loan
9 costs (as defined in section 502(5) of the Federal
10 Credit Reform Act of 1990; 2 U.S.C. 661a(5))
11 under section 1401 of the Merchant Marine Act,
12 1936,

13 (2) \$10,000,000 for each of such fiscal years
14 for grants under section 1402 of the Merchant Ma-
15 rine Act, 1936, and

16 (3) \$1,000,000 for each such fiscal year to
17 cover administrative expenses related to loan guar-
18 antees under section 1401 of the Merchant Marine
19 Act, 1936, and grants under section 1402 of that
20 Act,

21 such amounts to remain available until expended.

22 (d) ADDITIONAL APPROPRIATIONS AUTHORIZED.—
23 In addition to the amounts made available under sub-
24 section (c)(2), there are authorized to be appropriated to
25 the Secretary of Transportation—

1 (1) \$26,000,000 for each of fiscal years 2002
2 through 2006 to the Secretary as guaranteed loan
3 costs (as defined in section 502(5) of the Federal
4 Credit Reform Act of 1990; 2 U.S.C. 661a(5))
5 under section 1401 of the Merchant Marine Act,
6 1936;

7 (2) \$70,000,000 for each of fiscal years 2002
8 through 2006 to the Secretary for grants under sec-
9 tion 1402 of the Merchant Marine Act, 1936; and

10 (3) \$4,000,000 for each of fiscal years 2002
11 through 2006 to the Secretary to cover administra-
12 tive expenses related to loan guarantees and grants
13 under paragraphs (8) and (9),

14 such sums to remain available until expended.

15 **SEC. 113. SCREENING AND DETECTION EQUIPMENT.**

16 (a) FUNDING.—Of amounts made available under
17 section 125(b), there shall be made available to the Com-
18 missioner of Customs without further appropriation for
19 the purchase of nonintrusive screening and detection
20 equipment for use at United States ports—

21 (1) \$15,000,000 for fiscal year 2003,

22 (2) \$16,000,000 for fiscal year 2004,

23 (3) \$18,000,000 for fiscal year 2005, and

24 (4) \$19,000,000 for fiscal year 2006,

25 such sums to remain available until expended.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Commissioner
3 \$20,000,000 for each of fiscal years 2002 through 2006
4 to the Commissioner of Customs for the purchase of non-
5 intrusive screening and detection equipment for use at
6 United States ports, such sums to remain available until
7 expended.

8 (c) FUNDING FOR FISCAL YEAR 2002.—There are
9 authorized to be appropriated \$145,000,000 for the
10 United States Customs Service for fiscal year 2002 for
11 1,200 new customs inspector positions, 300 new customs
12 agent positions, and other necessary port security posi-
13 tions, and for purchase and support of equipment (includ-
14 ing camera systems for docks and vehicle-mounted com-
15 puters), canine enforcement for port security, and to up-
16 date computer systems to help improve customs reporting
17 procedures.

18 **SEC. 114. REVISION OF PORT SECURITY PLANNING GUIDE.**

19 The Secretary of Transportation, acting through the
20 Maritime Administration and after consultation with the
21 Task Force and the United States Coast Guard, shall pub-
22 lish a revised version of the document entitled “Port Secu-
23 rity: A National Planning Guide”, incorporating the re-
24 quirements promulgated under section 116, within 3 years

1 after the date of enactment of this Act, and make that
2 revised document available on the Internet.

3 **SEC. 115. ATTORNEY GENERAL TO COORDINATE PORT-RE-**
4 **LATED CRIME DATA COLLECTION.**

5 (a) IN GENERAL.—The Attorney General shall—

6 (1) require, to the extent feasible, United States
7 government agencies with significant regulatory or
8 law enforcement responsibilities at United States
9 ports to modify their information databases to en-
10 sure the collection and retrievability of data relating
11 to crime at or affecting such ports;

12 (2) evaluate the feasibility of capturing data on
13 cargo theft offenses (including such offenses occur-
14 ring outside such ports) that would indicate the port
15 of entry, the port where the shipment originated,
16 where the theft occurred, and maintaining the con-
17 fidentiality of shipper and carrier unless voluntarily
18 disclosed, and, if feasible, implement its capture;

19 (3) if the capture of data under paragraph (2)
20 is feasible—

21 (A) establish an outreach program to work
22 with State law enforcement officials to har-
23 monize the reporting of data on cargo theft
24 among the States and with the United States
25 government's reports; and

1 (B) if the harmonization of the reporting
2 of such data among the States is not feasible,
3 evaluate the feasibility of using private data-
4 bases on cargo theft and disseminating cargo
5 theft information that maintains the confiden-
6 tiality of shipper and carrier to the Captain-of-
7 the-Port of the port of entry for further dis-
8 semination to appropriate law enforcement offi-
9 cials; and

10 (4) restrict the use of all data captured or dis-
11 seminated under this subsection to use by law en-
12 forcement authorities for law enforcement or port se-
13 curity measures.

14 (b) INTERSTATE OR FOREIGN SHIPMENTS BY CAR-
15 RIER.—

16 (1) IN GENERAL.—Section 659 of title 18,
17 United States Code, is amended—

18 (A) by striking “with intent to convert to
19 his own use” each place it appears;

20 (B) by inserting “trailer,” after
21 “motortruck,” in the first undesignated para-
22 graph;

23 (C) by inserting “air cargo container,”
24 after “aircraft,” in the first undesignated para-
25 graph;

1 (D) by inserting a comma and “or from
2 any intermodal container, trailer, container
3 freight station, warehouse, or freight consolida-
4 tion facility,” after “air navigation facility” in
5 the first undesignated paragraph;

6 (E) by striking “one year” and inserting
7 “3 years” in the fifth undesignated paragraph;

8 (F) by adding at the end of the fifth un-
9 designated paragraph the following: “Notwith-
10 standing the preceding sentence, the court may,
11 upon motion of the Attorney General, reduce
12 any penalty imposed under this paragraph with
13 respect to any defendant who provides informa-
14 tion leading to the arrest and conviction of any
15 dealer or wholesaler of stolen goods or chattels
16 moving as or which are a part of or which con-
17 stitute an interstate or foreign shipment.”;

18 (G) by inserting after the first sentence in
19 the penultimate undesignated paragraph the
20 following: “For purposes of this section, goods
21 and chattel shall be construed to be moving as
22 an interstate or foreign shipment at all points
23 between the point of origin and the final des-
24 tination (as evidenced by the waybill or other
25 shipping document of the shipment), regardless

1 of any temporary stop while awaiting trans-
2 shipment or otherwise.”; and

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

4 “‘It shall be an affirmative defense (on which the de-
5 fendant bears the burden of persuasion by a preponder-
6 ance of the evidence) to an offense under this section that
7 the defendant bought, received, or possessed the goods,
8 chattels, money, or baggage at issue with the sole intent
9 to report the matter to an appropriate law enforcement
10 officer or to the owner of the goods, chattels, money, or
11 baggage.’”.

12 (2) FEDERAL SENTENCING GUIDELINES.—Pur-
13 suant to section 994 of title 28, United States Code,
14 the United States Sentencing Commission shall
15 amend the Federal sentencing guidelines to provide
16 a sentencing enhancement of not less than 2 levels
17 for any offense under section 659 of title 18, United
18 States Code, as amended by this section.

19 (c) FUNDING.—Out of amounts made available under
20 section 125(b), there shall be made available to the Attor-
21 ney General, without further appropriation, \$1,000,000
22 for each of fiscal years 2003, 2004, 2005, and 2006, to
23 modify existing data bases to capture data on cargo theft
24 offenses and to make grants to States to harmonize data

1 on cargo theft, such sums to remain available until ex-
2 pended.

3 **SEC. 116. SHARED DOCKSIDE INSPECTION FACILITIES.**

4 (a) IN GENERAL.—The Secretary of the Treasury,
5 the Secretary of Agriculture, the Secretary of Transpor-
6 tation, the Attorney General, and the Administrator of the
7 General Services Administration shall work with each
8 other, the Task Force, and the States to establish shared
9 dockside inspection facilities at United States ports for
10 Federal and State agencies.

11 (b) FUNDING.—Of the amounts made available under
12 section 125(b), there shall be made available to the Sec-
13 retary of the Transportation, without further appropria-
14 tion, \$1,000,000 for each of fiscal years 2003, 2004,
15 2005, and 2006, such sums to remain available until ex-
16 pended, to establish shared dockside inspection facilities
17 at United States ports in consultation with the Secretary
18 of the Treasury, the Secretary of Agriculture, and the At-
19 torney General.

20 **SEC. 117. MANDATORY ADVANCED ELECTRONIC INFORMA-**
21 **TION FOR CARGO AND PASSENGERS AND**
22 **OTHER IMPROVED CUSTOMS REPORTING**
23 **PROCEDURES.**

24 (a) CARGO INFORMATION.—

1 (1) IN GENERAL.—Section 431(b) of the Tariff
2 Act of 1930 (19 U.S.C. 1431(b)) is amended—

3 (A) by striking “Any manifest” and insert-
4 ing “(1) Any manifest”; and

5 (B) by adding at the end the following new
6 paragraph:

7 “(2)(A) In addition to any other requirement
8 under this section, for every land, air, or vessel car-
9 rier required to make entry or obtain clearance
10 under the customs laws of the United States, the
11 pilot, master, operator, or owner of such carrier (or
12 the authorized agent of such owner or operator)
13 shall provide by electronic transmission cargo mani-
14 fest information described in subparagraph (B) in
15 advance of such entry or clearance in such manner,
16 time, and form as the Secretary shall prescribe. The
17 Secretary may exclude any class of land, aircraft, or
18 vessel for which he concludes the requirements of
19 this subparagraph are not necessary.

20 “(B) The information described in this sub-
21 paragraph is as follows:

22 “(i) The port of arrival or departure,
23 whichever is applicable.

24 “(ii) The carrier code, prefix code, or both.

25 “(iii) The flight, voyage, or trip number.

1 “(iv) The date of scheduled arrival or date
2 of scheduled departure, as the case may be.

3 “(v) The request for permit to proceed to
4 the destination, if applicable.

5 “(vi) The numbers and quantities from the
6 carrier’s master air waybill, bills of lading, or
7 ocean bills of lading.

8 “(vii) The first port of lading of the cargo.

9 “(viii) A description and weight of the
10 cargo or, for a sealed container, the shipper’s
11 declared description and weight of the cargo.

12 “(ix) The shippers name and address from
13 all air waybills and bills of lading.

14 “(x) The consignee’s name and address
15 from all air waybills and bills of lading, if avail-
16 able at the time the cargo is tendered.

17 “(xi) Notice that actual boarded quantities
18 are not equal to air waybill or bills of lading
19 quantities, except that a carrier is not required
20 by this clause to verify boarded quantities of
21 cargo in sealed containers.

22 “(xii) Transfer or transit information for
23 the cargo while it has been under the control of
24 the carrier.

1 “(xiii) Warehouse or other location of the
2 cargo while it has been under the control of the
3 carrier.

4 “(xiv) Any additional information that the
5 Secretary by regulation determines is reason-
6 ably necessary to ensure aviation, maritime,
7 and surface transportation safety pursuant to
8 those laws enforced and administered by the
9 Customs Service.

10 “(3) The Secretary by regulation shall require
11 nonvessel operating common carriers to meet the re-
12 quirements of subparagraphs (A) and (B).”.

13 (2) CONFORMING AMENDMENTS.—Subpara-
14 graphs (A) and (C) of section 431(d)(1) of such Act
15 are each amended by inserting “or subsection
16 (b)(2)” before the semicolon.

17 (b) DOCUMENTATION OF CARGO.—Part II of title IV
18 of the Tariff Act of 1930 is amended by inserting after
19 section 431 the following new section:

20 **“SEC. 431A. DOCUMENTATION OF WATERBORNE CARGO.**

21 “(a) APPLICABILITY.—This section shall apply to all
22 cargo to be exported moving by a vessel common carrier
23 from a port in the United States.

24 “(b) DOCUMENTATION REQUIRED.—(1) No shipper
25 of cargo subject to this section (including an ocean trans-

1 portation intermediary that is a nonvessel-operating com-
2 mon carrier (as defined in section 3(17)(B) of the Ship-
3 ping Act of 1984 (46 U.S.C. App. 1702(17)(B)) may ten-
4 der or cause to be tendered to a vessel common carrier
5 cargo subject to this section for loading on a vessel in a
6 United States port, unless such cargo is properly docu-
7 mented pursuant to this subsection.

8 “(2) For the purposes of this subsection, cargo shall
9 be considered properly documented if the shipper submits
10 to the vessel common carrier or its agent a complete set
11 of shipping documents no later than 24 hours after the
12 cargo is delivered to the marine terminal operator.

13 “(3) A complete set of shipping documents shall
14 include—

15 “(A) for shipments for which a shipper’s
16 export declaration is required a copy of the ex-
17 port declaration or, if the shipper files such dec-
18 larations electronically in the Automated Export
19 system, the shipper’s Automated Export System
20 number on the bill of lading master or shipping
21 instructions; or

22 “(B) for those shipments for which a ship-
23 per’s export declaration is not required, such
24 other documents or information as the Sec-
25 retary may by regulation prescribe.

1 “(4) The Secretary shall by regulation prescribe
2 the time, manner, and form by which shippers shall
3 transmit documents or information required under
4 this subsection to the Customs Service.

5 “(c) LOADING UNDOCUMENTED CARGO PROHIB-
6 ITED.—

7 “(1) No marine terminal operator (as defined in
8 section 3(14) of the Shipping Act of 1984 (46
9 U.S.C. App. 1702(14))) may load, or cause to be
10 loaded, any cargo subject to this section on a vessel
11 unless instructed by the vessel common carrier oper-
12 ating the vessel that such cargo has been properly
13 documented in accordance with this section.

14 “(2) When cargo is booked by one vessel com-
15 mon carrier to be transported on the vessel of an-
16 other vessel common carrier, the booking carrier
17 shall notify the operator of the vessel that the cargo
18 has been properly documented in accordance with
19 this section. The operator of the vessel may rely on
20 such notification in releasing the cargo for loading
21 aboard the vessel.

22 “(d) REPORTING OF UNDOCUMENTED CARGO.—A
23 vessel common carrier shall notify the United States Cus-
24 toms Service of any cargo tendered to such carrier that
25 is not properly documented pursuant to this section and

1 that has remained in the marine terminal for more than
2 48 hours after being delivered to the marine terminal, and
3 the location of the cargo in the marine terminal. For vessel
4 common carriers that are members of vessel sharing
5 agreements (or any other arrangement whereby a carrier
6 moves cargo on another carrier's vessel), the vessel com-
7 mon carrier accepting the booking shall be responsible for
8 reporting undocumented cargo, without regard to whether
9 it operates the vessel on which the transportation is to
10 be made.

11 “(e) ASSESSMENT OF PENALTIES.—Whoever violates
12 subsection (b) of this section shall be liable to the United
13 States for civil penalties in a monetary amount up to the
14 value of the cargo, or the actual cost of the transportation,
15 whichever is greater.

16 “(f) SEIZURE OF UNDOCUMENTED CARGO.—

17 “(1) Any cargo that is not properly documented
18 pursuant to this section and has remained in the
19 marine terminal for more than 48 hours after being
20 delivered to the marine terminal operator shall be
21 subject to search, seizure, and forfeiture.

22 “(2) The shipper of any such cargo is liable to
23 the marine terminal operator and to the ocean car-
24 rier for demurrage and other applicable charges for
25 any undocumented cargo which has been notified to

1 or searched or seized by the Customs Service for the
2 entire period the cargo remains under the order and
3 direction of the Customs Service. The marine ter-
4 minal operator and the ocean carrier shall have a
5 lien on the cargo for the amount of the demurrage
6 and other charges.

7 “(g) EFFECT ON OTHER PROVISIONS.—Nothing in
8 this section shall be construed, interpreted, or applied to
9 relieve or excuse any party from compliance with any obli-
10 gation or requirement arising under any other law, regula-
11 tion, or order with regard to the documentation or car-
12 riage of cargo.”.

13 (c) PASSENGER INFORMATION.—Part II of title IV
14 of the Tariff Act of 1930, as amended by subsection (b),
15 is further amended by inserting after section 431A the fol-
16 lowing new section:

17 **“SEC. 431B. PASSENGER AND CREW MANIFEST**
18 **INFORMATION REQUIRED FOR CARRIERS.**

19 “(a) IN GENERAL.—For each person arriving or de-
20 parting on an air or land carrier or vessel required to
21 make entry or obtain clearance under the customs laws
22 of the United States, the pilot, master, operator, or owner
23 of such carrier (or the authorized agent of such owner or
24 operator) shall provide by electronic transmission manifest
25 information described in subsection (b) in advance of such

1 entry or clearance in such manner, time, and form as the
2 Secretary shall prescribe.

3 “(b) INFORMATION DESCRIBED.—The information
4 described in this subsection shall include for each person:

5 “(1) Full name.

6 “(2) Date of birth and citizenship.

7 “(3) Gender.

8 “(4) Passport number and country of issuance.

9 “(5) United States visa number or resident
10 alien card number, as applicable.

11 “(6) Passenger name record.

12 “(7) Such additional information that the Sec-
13 retary, by regulation, determines is reasonably nec-
14 essary to ensure aviation and maritime safety pursu-
15 ant to the laws enforced or administered by the Cus-
16 toms Service.”.

17 (d) DEFINITION.—Section 401 of the Tariff Act of
18 1930 is amended by adding at the end the following new
19 subsections:

20 “(t) LAND AIR AND VESSEL CARRIER.—The terms
21 ‘land carrier’, ‘air carrier’, and ‘vessel carrier’ mean a car-
22 rier that transports by land, air, or water, respectively,
23 goods or passengers for payment or other consideration,
24 including money or services rendered.

1 “(u) VESSEL COMMON CARRIER.—The term ‘vessel
2 common carrier’ has the meaning given the term ‘ocean
3 common carrier’ in section 3(16) of the Shipping Act of
4 1984 (46 U.S.C. App. 1702(16)) and the term ‘common
5 carrier by water in interstate commerce’ as defined in sec-
6 tion 1 of the Shipping Act, 1916 (46 U.S.C. App. 801).”.

7 (e) OTHER REQUIREMENTS FOR IMPROVED REPORT-
8 ING PROCEDURES.—In a manner that is consistent with
9 the promulgation of the manifesting regulations, the
10 United States Customs Service shall improve reporting of
11 goods arriving at United States seaports—

12 (1) by promulgating regulations to require, not-
13 withstanding sections 552 and 553 of the Tariff Act
14 of 1930 (19 U.S.C. 1552 and 1553), not less than
15 48 hours before the arrival of an in-bond movement
16 of goods at the initial port of unloading, that infor-
17 mation shall be electronically filed identifying the
18 consignor, consignee, country of origin, and the Har-
19 monized Tariff Schedule of the United States 6-digit
20 classification of the goods, except that the informa-
21 tion shall not, to the best of the filer’s knowledge,
22 be considered the entry for the goods under section
23 424 of that Act (19 U.S.C. 1484) or subject to sec-
24 tion 592 or 595a of that Act (19 U.S.C. 1484); and

1 (2) by distributing the information reported
2 under the regulations promulgated under paragraph
3 (1) or section 431(b)(2), 431A, or 431B of the Tar-
4 riff Act of 1930 on a real-time basis to any Federal,
5 State, or local government agency that has a regu-
6 latory or law-enforcement interest in the goods.

7 (f) EFFECTIVE DATE.—The amendments made by
8 subsections (a) through (d) of this section shall take effect
9 45 days after the date of enactment of this Act.

10 **SEC. 118. PRE-ARRIVAL MESSAGES FROM VESSELS DES-**
11 **TINED TO UNITED STATES PORTS.**

12 The Ports and Waterways Safety Act (33 U.S.C.
13 1221 et seq.) is amended—

14 (1) by striking “environment” in section 2(a)
15 (33 U.S.C. 1221(a)) and inserting “environment,
16 and the safety and security of United States ports
17 and waterways,”;

18 (2) by striking paragraph (5) of section 4(a)
19 (33 U.S.C. 1223(a)) and inserting the following:

20 “(5) require—

21 “(A) the receipt of pre-arrival messages
22 from any vessel destined for a port or place
23 subject to the jurisdiction of the United States;

24 “(B) require the message to include any
25 information the Secretary determines to be nec-

1 mestic ports of strategic importance to the United States.

2 Each maritime safety and security team shall include per-

3 sonnel trained in—

4 (1) anti-terrorism;

5 (2) drug interdiction;

6 (3) navigation assistance;

7 (4) facilitating response to security threats; and

8 (5) such other capabilities as the Secretary de-

9 termines to be necessary or appropriate to carrying

10 out their mission.

11 (b) AUTHORIZATION.—There are authorized to be ap-

12 propriated to the Secretary \$8,000,000 for each of fiscal

13 years 2002 through 2006 for each domestic maritime safe-

14 ty and security team established under subsection (a).

15 **SEC. 120. RESEARCH AND DEVELOPMENT FOR CRIME AND**

16 **TERRORISM PREVENTION AND DETECTION**

17 **TECHNOLOGY.**

18 (a) GRANT PROGRAM.—

19 (1) IN GENERAL.—The Secretary, in consulta-

20 tion with the Task Force, shall establish a grant

21 program to fund eligible projects for the develop-

22 ment, testing, and transfer of technology to enhance

23 security at United States seaports with respect to

24 security risks, including—

25 (A) explosives or firearms;

- 1 (B) weapons of mass destruction;
- 2 (C) chemical and biological weapons;
- 3 (D) drug and illegal alien smuggling;
- 4 (E) trade fraud; and
- 5 (F) other criminal activity.

6 (2) MATCHING FUNDS REQUIRED.—The max-
7 imum amount of any grant of funds made available
8 under the program to a participant other than a de-
9 partment or agency of the United States for a tech-
10 nology development project may not exceed 75 per-
11 cent of costs of that project.

12 (b) ELIGIBLE PROJECTS.—A project is eligible for a
13 grant under subsection (a) if it is for the construction,
14 acquisition, testing, or deployment of surveillance equip-
15 ment and technology capable of preventing or detecting
16 terrorist or other criminal activity as determined by the
17 Secretary.

18 (c) ANNUAL ACCOUNTING; DISSEMINATION OF IN-
19 FORMATION.—The Secretary shall submit an annual sum-
20 mary of grants under subsection (a), together with a gen-
21 eral description of the tests and any technology transfers
22 under the program, to the Senate Committee on Com-
23 merce, Science, and Transportation and the House of Rep-
24 resentatives Committee on Transportation and Infrastruc-
25 ture.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary
3 \$15,000,000 for each of fiscal years 2002 through 2006,
4 such sums to remain available until expended.

5 **SEC. 121. EXTENSION OF SEAWARD JURISDICTION.**

6 Section 1 of the Act of June 15, 1917 (50 U.S.C.
7 195) is amended—

8 (1) by inserting “(a) IN GENERAL.—” before
9 “The”; and

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

11 “(b) TERRITORIAL WATERS.—The term “territorial
12 waters of the United States”, as used in this Act, includes
13 all waters of the territorial sea of the United States as
14 described in Presidential Proclamation 5928 of December
15 27, 1988.”.

16 **SEC. 122. SUSPENSION OF LIMITATION ON STRENGTH OF**
17 **COAST GUARD.**

18 (a) PERSONNEL END STRENGTHS.—Section 661(a)
19 of title 14, United States Code, is amended by adding at
20 the end the following: “If at the end of any fiscal year
21 there is in effect a declaration of war or national emer-
22 gency, the President may defer the effectiveness of any
23 end-strength and grade distribution limitation with re-
24 spect to that fiscal year prescribed by law for any military
25 or civilian component of the Coast Guard, for a period

1 not to exceed 6 months after the end of the war or termi-
2 nation of the national emergency.”.

3 (b) OFFICERS IN COAST GUARD RESERVE.—Section
4 724 of title 14, United States Code, is amended by adding
5 at the end thereof the following:

6 “(c) DEFERRAL OF LIMITATION.—If at the end of
7 any fiscal year there is in effect a declaration of war or
8 national emergency, the President may defer the effective-
9 ness of any end-strength and grade distribution limitation
10 with respect to that fiscal year prescribed by law for any
11 military or civilian component of the Coast Guard Reserve,
12 for a period not to exceed 6 months after the end of the
13 war or termination of the national emergency.”.

14 **SEC. 123. ADDITIONAL REPORTS.**

15 (a) ADDITIONAL SECURITY NEEDS.—Within 1 year
16 after the date of enactment of this Act, the Secretary shall
17 transmit a report to the Senate Committee on Commerce,
18 Science, and Transportation and the House of Represent-
19 atives Committee on Transportation and Infrastructure on
20 the need for any additional security requirements or meas-
21 ures under this title in order to provide for national secu-
22 rity and protect the flow of commerce.

23 (b) ANNUAL STATUS REPORT TO CONGRESS.—Not-
24 withstanding section 7(c) of the Ports and Waterways
25 Safety Act (33 U.S.C. 1226(c)), the Secretary shall report

1 annually to the Senate Committee on Commerce, Science,
2 and Transportation and the House of Representatives
3 Committee on Transportation and Infrastructure on the
4 status of port security in a form that does not com-
5 promise, or present a threat to the disclosure of security-
6 sensitive information about, the port security vulnerability
7 assessments conducted under this Act. The report may in-
8 clude recommendations for further improvements in port
9 security measures and for any additional enforcement
10 measures necessary to ensure compliance with the port se-
11 curity plan requirements of this title.

12 (c) ANNUAL REPORT ON MARITIME SECURITY AND
13 TERRORISM.—Section 905 of the International Maritime
14 and Port Security Act (46 U.S.C. App. 1802) is amended
15 by adding at the end thereof the following: “Beginning
16 with the first report submitted under this section after the
17 date of enactment of the Port, Maritime, and Rail Security
18 Act of 2001, the Secretary shall include a description of
19 activities undertaken under title I of that Act and an anal-
20 ysis of the effect of those activities on port security against
21 acts of terrorism.”.

22 (d) ANNUAL REPORT OF EXPENDITURE OF FUNDS
23 FOR TRAINING OF MARITIME SECURITY PROFES-
24 SIONALS.—The Secretary shall transmit an annual report
25 to the Senate Committee on Commerce, Science, and

1 Transportation and the House of Representatives Com-
2 mittee on Transportation and Infrastructure on the ex-
3 penditure of appropriated funds and the development of
4 training and certification programs under section 111 of
5 this title.

6 (e) REPORTS BY THE ATTORNEY GENERAL.—The
7 Attorney General shall submit a report to Congress within
8 1 year after the date of enactment of this Act on the feasi-
9 bility of each activity authorized by section 115 of this
10 title, and shall annually submit a report to Congress that
11 evaluates law enforcement activities relating to the inves-
12 tigation and prosecution of offenses under section 659 of
13 title 18, United States Code.

14 (f) ACCOUNTING.—The Commissioner of Customs
15 shall submit a report for each of fiscal years 2002 through
16 2006 to the Senate Committee on Commerce, Science, and
17 Transportation and the House of Representatives Com-
18 mittee on Transportation and Infrastructure on the ex-
19 penditure of funds appropriated pursuant to section 113
20 of this title.

21 **SEC. 124. CIVIL PENALTIES.**

22 (a) IN GENERAL.—Any person who is found by the
23 Secretary, after notice and an opportunity for a hearing,
24 to have violated section 106 or 107 of this title, or any
25 regulation issued under either of those sections, is liable

1 to the United States for a civil penalty of not more than
2 \$25,000 for each violation. Each day of a continuing viola-
3 tion constitutes a separate violation. The amount of the
4 penalty shall be assessed by the Secretary by written no-
5 tice. In determining the amount of the penalty, the Sec-
6 retary shall take into account the nature, circumstances,
7 extent, and gravity of the prohibited acts committed and,
8 with respect to the violator, the degree of culpability, any
9 history of prior offenses, ability to pay, and such other
10 matters as justice may require.

11 (b) COMPROMISE, ETC.—The Secretary may com-
12 promise, modify, or remit, with or without conditions, any
13 civil penalty under this section.

14 (c) COLLECTION.—If any person fails to pay an as-
15 sessment of a civil penalty after it has become final, the
16 Secretary may refer the matter to the Attorney General
17 for collection in any appropriate district court of the
18 United States.

19 **SEC. 125. 4-YEAR REAUTHORIZATION OF TONNAGE DUTIES.**

20 (a) IN GENERAL.—

21 (1) EXTENSION OF DUTIES.—Section 36 of the
22 Act of August 5, 1909 (36 Stat. 111; 46 U.S.C.
23 App. 121), is amended by striking “through 2002,”
24 each place it appears and inserting “through 2006,”.

1 (2) CONFORMING AMENDMENT.—The Act enti-
2 tled “An Act concerning tonnage duties on vessels
3 entering otherwise than by sea”, approved March 8,
4 1910 (36 Stat 234; 46 U.S.C. App. 132), is amend-
5 ed by striking “through 2002,” and inserting
6 “through 2006,”.

7 (b) AVAILABILITY OF FUNDS.—Amounts deposited in
8 the general fund of the Treasury as receipts of tonnage
9 charges collected as a result of the amendments made by
10 subsection (a) shall be made available in each of fiscal
11 years 2003 through 2006 to carry out this title, as pro-
12 vided in sections 102(g), 104(f), 105(e), 110(e), 111(f),
13 112(e), 113(a), 115(c), and 116(b).

14 **SEC. 126. DEFINITIONS.**

15 In this title:

16 (1) CAPTAIN-OF-THE-PORT.—The term “Cap-
17 tain-of-the-Port” means the United States Coast
18 Guard’s Captain-of-the-Port.

19 (2) SECRETARY.—Except as otherwise provided,
20 the term “Secretary” means the Secretary of Trans-
21 portation.

22 (4) TASK FORCE.—The term “Task Force”
23 means the Port Security Task Force established
24 under section 102.

1 (5) MARINE TERMINAL OPERATOR.—The term
2 “marine terminal operator” has the meaning given
3 that term in section 1702(14) of title 46, United
4 States Code.

5 **TITLE II—RAIL SAFETY AND**
6 **SECURITY**

7 **SEC. 201. EMERGENCY AMTRAK ASSISTANCE.**

8 (a) IN GENERAL.—There are authorized to be appro-
9 priated to the Secretary of Transportation for the use of
10 Amtrak—

11 (1) \$515,000,000 for systemwide security up-
12 grades, including the reimbursement of extraor-
13 dinary security-related costs determined by the Sec-
14 retary to have been incurred by Amtrak since Sep-
15 tember 11, 2001, and including the hiring and train-
16 ing additional police officers, canine-assisted security
17 units, and surveillance equipment;

18 (2) \$998,000,000 to be used to complete New
19 York tunnel life safety projects and rehabilitate tun-
20 nels in Washington, D.C., and Baltimore, Maryland;
21 and

22 (3) \$254,000,000 to be used for increasing the
23 accessibility of Penn Station, New York City, for
24 safety and emergency response situations, renova-
25 tions to the Thames and Niantic Bridges in Con-

1 necticut, and improved safety of operations through
2 an advanced civil speed enforcement system radio
3 system in high-speed territory.

4 (b) AVAILABILITY OF APPROPRIATED FUNDS.—
5 Amounts appropriated pursuant to subsection (a) shall re-
6 main available until expended.

7 (c) PLAN REQUIRED.—The Secretary may not make
8 amounts available to Amtrak for obligation or expenditure
9 under subsection (a)—

10 (1) for implementing systemwide security up-
11 grades until Amtrak has submitted to the Secretary,
12 and the Secretary has approved, a plan for such up-
13 grades;

14 (2) for completing the tunnel life safety and re-
15 habilitation projects until Amtrak has submitted to
16 the Secretary, and the Secretary has approved, an
17 engineering and financial plan for such projects;

18 (3) for completing the projects described in sub-
19 section (a)(3) until Amtrak has submitted to the
20 Secretary and the Secretary has approved, a plan for
21 such projects; and

22 (4) Amtrak has submitted to the Secretary such
23 additional information as the Secretary may require
24 in order to ensure full accountability for the obliga-
25 tion or expenditure of amounts made available to

1 Amtrak for the purpose for which the funds are pro-
2 vided.

3 (d) 50-PERCENT TO BE SPENT OUTSIDE THE
4 NORTHEAST CORRIDOR.—The Secretary shall ensure that
5 up to 50 percent of the amounts appropriated pursuant
6 to subsection (a)(1) is obligated or expended for projects
7 outside the Northeast Corridor.

8 (e) ASSESSMENTS BY DOT INSPECTOR GENERAL.—

9 (1) INITIAL ASSESSMENT.—Within 60 days
10 after the date of enactment of this Act, the Inspec-
11 tor General of the Department of Transportation
12 shall transmit to the Senate Committee on Com-
13 merce, Science, and Transportation and the House
14 of Representatives Committee on Transportation
15 and Infrastructure a report—

16 (A) identifying any overlap between capital
17 projects for which funds are provided under
18 such funding documents, procedures, or ar-
19 rangements and capital projects included in
20 Amtrak's 20-year capital plan; and

21 (B) indicating any adjustments that need
22 to be made in that plan to exclude projects for
23 which funds are appropriated pursuant to sub-
24 section (a).

1 (2) OVERLAP REVIEW.—The Inspector General
2 shall, as part of the Department’s annual assess-
3 ment of Amtrak’s financial status and capital fund-
4 ing requirements review the obligation and expendi-
5 ture of funds under each such funding document,
6 procedure, or arrangement to ensure that the ex-
7 penditure and obligation of those funds are con-
8 sistent with the purposes for which they are provided
9 under this title.

10 (f) COORDINATION WITH EXISTING LAW.—Amounts
11 made available to Amtrak under this section shall not be
12 considered to be Federal assistance for purposes of part
13 C of subtitle V of title 49, United States Code.

14 **SEC. 202. RAIL SECURITY.**

15 (a) SECRETARY OF TRANSPORTATION.—Section
16 20103(a) of title 49, United States Code, is amended by
17 striking “safety” and inserting “safety, including the secu-
18 rity of railroad operations,”.

19 (b) RAIL POLICE OFFICERS.—Section 28101 of title
20 49, United States Code, is amended by striking “the rail
21 carrier” each place it appears and inserting “any rail car-
22 rier”.

23 (c) REVIEW OF RAIL REGULATIONS.—Within 180
24 days after the date of enactment of this Act, the Secretary
25 of Transportation, in consultation with the Federal Rail-

1 road Administration's Rail Safety Advisory Committee,
2 shall review existing rail regulations of the Department
3 of Transportation for the purpose of identifying areas in
4 which those regulations need to be revised to improve rail
5 safety and security.

6 **SEC. 203. RAIL TRANSPORTATION SECURITY RISK ASSESS-**
7 **MENT.**

8 (a) IN GENERAL.—

9 (1) IN GENERAL.—The Secretary of Transpor-
10 tation shall assess the security risks associated with
11 rail transportation and develop prioritized rec-
12 ommendations for—

13 (A) improving the security of rail tunnels,
14 rail bridges, rail switching areas, and other
15 areas identified by the Secretary as posing sig-
16 nificant rail-related risks to public safety and
17 the movement of interstate commerce, taking
18 into account the impact that any proposed secu-
19 rity measure might have on the provision of rail
20 service; and

21 (B) dealing with the immediate and long-
22 term economic impact of measures that may be
23 required to address those risks.

24 (2) EXISTING PRIVATE AND PUBLIC SECTOR
25 EFFORTS.—The assessment shall include a review of

1 any actions already taken to address identified secu-
2 rity issues by both public and private entities.

3 (b) CONSULTATION; USE OF EXISTING RE-
4 SOURCES.—In carrying out the assessment required by
5 subsection (a), the Secretary shall—

6 (1) consult with rail management, rail labor,
7 and public safety officials (including officials respon-
8 sible for responding to emergencies); and

9 (2) utilize, to the maximum extent feasible, the
10 resources and assistance of—

11 (A) the Federal Railroad Administration’s
12 Rail Safety Advisory Committee; and

13 (B) the Transportation Research Board of
14 the National Academy of Sciences.

15 (c) REPORT.—

16 (1) CONTENTS.—Within 180 days after the
17 date of enactment of this Act, the Secretary shall
18 transmit to the Senate Committee on Commerce,
19 Science, and Transportation and the House of Rep-
20 resentatives Committee on Transportation and In-
21 frastructure a report, without compromising national
22 security, containing—

23 (A) the assessment and prioritized rec-
24 ommendations required by subsection (a); and

1 (B) any proposals the Secretary deems ap-
2 propriate for providing Federal financial, tech-
3 nological, or research and development assist-
4 ance to railroads to assist the railroads in re-
5 ducing the likelihood, severity, and con-
6 sequences of deliberate acts of crime or ter-
7 rorism toward rail employees, rail passengers,
8 rail shipments, or rail property.

9 (2) **FORMAT.**—The Secretary may submit the
10 report in both classified and redacted formats if the
11 Secretary determines that such action is appropriate
12 or necessary.

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