

103D CONGRESS
1ST SESSION

H. R. 477

To reform Customs Service operations, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1993

Mr. RANGEL introduced the following bill; which was referred jointly to the
Committees on Ways and Means and Post Office and Civil Service

A BILL

To reform Customs Service operations, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Customs Inspector
5 Benefit Reform Act of 1993”.

6 **SEC. 2. OVERTIME AND PREMIUM PAY FOR CUSTOMS OFFI-**
7 **CERS.**

8 (a) IN GENERAL.—Section 5 of the Act of February
9 13, 1911 (19 U.S.C. 261 and 267) is amended to read
10 as follows:

1 **“SEC. 5. OVERTIME AND PREMIUM PAY FOR CUSTOMS OF-**
2 **FICERS.**

3 “(a) OVERTIME PAY.—

4 “(1) IN GENERAL.—Subject to paragraph (2)
5 and subsection (c), a customs officer who is officially
6 assigned to perform work in excess of 40 hours in
7 the administrative workweek of the officer or in ex-
8 cess of 8 hours in a day shall be compensated for
9 that work at an hourly rate of pay that is equal to
10 2 times the hourly rate of the basic pay of the offi-
11 cer. For purposes of this paragraph, the hourly rate
12 of basic pay for a customs officer does not include
13 any premium pay provided for under subsection (b).

14 “(2) SPECIAL PROVISIONS RELATING TO OVER-
15 TIME WORK ON CALLBACK BASIS.—

16 “(A) MINIMUM DURATION.—Any work for
17 which compensation is authorized under para-
18 graph (1) and for which the customs officer is
19 required to return to the officer’s place of work
20 shall be treated as being not less than 2 hours
21 in duration; but only if such work begins at
22 least 1 hour after the end of any previous regu-
23 larly scheduled work assignment.

24 “(B) COMPENSATION FOR COMMUTING
25 TIME.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), in addition to the com-
3 pensation authorized under paragraph (1)
4 for work to which subparagraph (A) ap-
5 plies, the customs officer is entitled to be
6 paid, as compensation for commuting time,
7 an amount equal to 3 times the hourly rate
8 of basic pay of the officer.

9 “(ii) EXCEPTION.—Compensation for
10 commuting time is not payable under
11 clause (i) if the work for which compensa-
12 tion is authorized under paragraph (1)
13 commences within 2 hours of the next reg-
14 ularly scheduled work assignment of the
15 customs officer.

16 “(b) PREMIUM PAY FOR CUSTOMS OFFICERS.—

17 “(1) NIGHT WORK DIFFERENTIAL.—

18 “(A) 3 P.M. TO MIDNIGHT SHIFTWORK.—If
19 the majority of the hours of regularly scheduled
20 work of a customs officer occur during the pe-
21 riod beginning at 3 p.m. and ending at 12 a.m.,
22 the officer is entitled to pay for work during
23 such period (except for work to which para-
24 graph (2) or (3) applies) at the officer’s hourly

1 rate of basic pay plus premium pay amounting
2 to 15 percent of that basic rate.

3 “(B) 11 P.M. TO 8 A.M. SHIFTWORK.—If
4 the majority of the hours of regularly scheduled
5 work of a customs officer occur during the pe-
6 riod beginning at 11 p.m. and ending at 8 a.m.,
7 the officer is entitled to pay for work during
8 such period (except for work to which para-
9 graph (2) or (3) applies) at the officer’s hourly
10 rate of basic pay plus premium pay amounting
11 to 20 percent of that basic rate.

12 “(2) SUNDAY DIFFERENTIAL.—A customs offi-
13 cer who performs any regularly scheduled work on a
14 Sunday that is not a holiday is entitled to pay for
15 that work at the officer’s hourly rate of basic pay
16 plus premium pay amounting to 100 percent of that
17 basic rate.

18 “(3) HOLIDAY DIFFERENTIAL.—A customs offi-
19 cer who performs any regularly scheduled work on a
20 holiday is entitled to pay for that work at the offi-
21 cer’s hourly rate of basic pay plus premium pay
22 amounting to 100 percent of that basic rate.

23 “(4) TREATMENT OF PREMIUM PAY.—Premium
24 pay provided for under this subsection may not be

1 treated as being overtime pay or compensation for
2 any purpose.

3 “(c) EXCLUSIVITY OF PAY UNDER THIS SECTION.—

4 A customs officer who receives overtime pay under sub-
5 section (a) or premium pay under subsection (b) for time
6 worked may not receive pay or other compensation for
7 that work under any other provision of law.

8 “(d) REGULATIONS.—The Secretary of the Treasury
9 shall prescribe such regulations as are necessary or appro-
10 priate to carry out this section, including regulations—

11 “(1) to ensure that callback work assignments
12 are commensurate with the overtime pay authorized
13 for such work; and

14 “(2) to prevent the disproportionate assignment
15 of overtime work to customs officers who are near
16 to retirement.

17 “(e) DEFINITIONS.—As used in this section:

18 “(1) The term ‘customs officer’ means an indi-
19 vidual performing those functions specified by regu-
20 lation by the Secretary of the Treasury for a cus-
21 toms inspector or canine enforcement officer. Such
22 functions shall be consistent with such applicable
23 standards as may be promulgated by the Office of
24 Personnel Management.

1 “(2) The term ‘holiday’ means any day des-
2 ignated as a holiday under a Federal statute or Ex-
3 ecutive order.”.

4 (b) CONFORMING AMENDMENTS.—

5 (1) Section 2 of the Act of June 3, 1944 (19
6 U.S.C. 1451a), is repealed.

7 (2) Section 450 of the Tariff Act of 1930 (19
8 U.S.C. 1450) is amended—

9 (A) by striking out “**AT NIGHT**” in the
10 section heading and inserting “**DURING OVER-**
11 **TIME HOURS**”;

12 (B) by striking out “at night” and insert-
13 ing “during overtime hours”; and

14 (C) by inserting “aircraft,” immediately
15 before “vessel”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 subsections (a) and (b) apply to customs inspectional serv-
18 ices provided on or after the date occurring 90 days after
19 the date of the enactment of this Act.

20 **SEC. 3. FOREIGN LANGUAGE PROFICIENCY AWARDS FOR**
21 **CUSTOMS OFFICERS.**

22 Cash awards for foreign language proficiency may,
23 under regulations prescribed by the Secretary of the
24 Treasury, be paid to customs officers (as referred to in
25 section 5(e)(1) of the Act of February 13, 1911) to the

1 same extent and in the same manner as would be allowable
2 under subchapter III of chapter 45 of title 5, United
3 States Code, with respect to law enforcement officers (as
4 defined by section 4521 of such title).

5 **SEC. 4. APPROPRIATIONS REIMBURSEMENTS FROM THE**
6 **CUSTOMS USER FEE ACCOUNT.**

7 Section 13031(f)(3) of the Consolidated Omnibus
8 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3))
9 is amended by amending clause (i) of subparagraph (A)
10 to read as follows:

11 “(i) in—

12 “(I) paying overtime compensation and
13 premium pay under section 5(a) and (b) of the
14 Act of February 13, 1911,

15 “(II) paying necessary expenses for agency
16 contributions to the Civil Service Retirement
17 and Disability Fund or the Federal Employees
18 Retirement System to match deductions from
19 the overtime compensation paid under
20 subclause (I), and

21 “(III) providing all preclearance services
22 for which the recipients of such services are not
23 required to reimburse the Secretary of the
24 Treasury, and”.

1 **SEC. 5. TREATMENT OF CERTAIN PAY OF CUSTOMS OFFI-**
2 **CERS FOR RETIREMENT PURPOSES.**

3 (a) IN GENERAL.—Section 8331(3) of title 5, United
4 States Code, is amended—

5 (1) by striking out “and” at the end of sub-
6 paragraph (C);

7 (2) by striking out the semicolon at the end of
8 subparagraph (D) and inserting “; and”;

9 (3) by adding after subparagraph (D) the fol-
10 lowing:

11 “(E) with respect to a customs officer (re-
12 ferred to in subsection (e)(1) of section 5 of the
13 Act of February 13, 1911), compensation for
14 overtime inspectional services provided for
15 under subsection (a) of such section 5, but not
16 to exceed 50 percent of any statutory maximum
17 in overtime pay for customs officers which is in
18 effect for the year involved;” and

19 (4) by striking out “subparagraphs (B), (C),
20 and (D) of this paragraph,” and inserting “subpara-
21 graphs (B), (C), (D), and (E) of this paragraph”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) take effect on the date of the enactment
24 of this Act and apply only with respect to service per-
25 formed on or after such date.

1 **SEC. 6. REPORTS.**

2 (a) CUSTOMS USER FEE ACCOUNT REPORTS.—Sub-
3 paragraph (D) of section 13031(f)(3) of the Consolidated
4 Omnibus Budget Reconciliation Act of 1985 (19 U.S.C.
5 58c(f)(3)(D)) is amended to read as follows:

6 “(D) At the close of each fiscal year, the Secretary
7 of the Treasury shall submit a report to the Committee
8 on Finance of the Senate and the Committee on Ways and
9 Means of the House of Representatives—

10 “(i) containing a detailed accounting of all ex-
11 penditures from the Customs User Fee Account dur-
12 ing such year, including a summary of the expendi-
13 tures, on a port-by-port basis, for which reimburse-
14 ment has been provided under subparagraph (A)(ii);
15 and

16 “(ii) containing a listing of all callback assign-
17 ments of customs officers for which overtime com-
18 pensation was paid under section 5(a) of the Act of
19 February 13, 1911, and that were less than 1 hour
20 in duration.”.

21 (b) OTHER REPORTS.—

22 (1) GAO REPORT.—The Comptroller General of
23 the United States shall undertake—

24 (A) an evaluation of the appropriateness
25 and efficiency of the customs user fee laws for

1 financing the provision of customs inspectional
2 services; and

3 (B) a study to determine whether cost sav-
4 ings in the provision of overtime inspectional
5 services could be realized by the United States
6 Customs Service through the use of additional
7 inspectors as opposed to continuing the current
8 practice of relying on overtime pay.

9 The Comptroller General shall submit a report on
10 the evaluation and study required under this sub-
11 section to the Committees by no later than the 1st
12 anniversary of the date of the enactment of this Act.

13 (2) TREASURY RECOMMENDATION.—On the day
14 that the President submits the budget for the
15 United States Government for fiscal year 1994 to
16 the Congress under section 1105(a) of title 31,
17 United States Code, the Secretary of the Treasury
18 shall submit to the Committees recommended legis-
19 lative proposals for improving the operation of cus-
20 toms user fee laws in financing the provision of cus-
21 toms inspectional services.

22 (3) DEFINITION OF COMMITTEES.—For pur-
23 poses of this subsection, the term “Committees”
24 means the Committee of Ways and Means of the

1 House of Representatives and the Committee on Fi-
2 nance of the Senate.

3 **SEC. 7. HAZARDOUS DUTY DIFFERENTIAL.**

4 (a) IN GENERAL.—Notwithstanding section 5545(d)
5 of title 5, United States Code, in the administration of
6 such section, the Commissioner of Customs of the United
7 States Customs Service may designate hazardous duty
8 functions for the purpose of paying hazardous duty dif-
9 ferentials to customs officers.

10 (b) DEFINITION.—For purposes of this section the
11 term “customs officer” means an individual performing
12 those functions specified by regulation by the Secretary
13 of the Treasury for a customs inspector or canine enforce-
14 ment officer. Such functions shall be consistent with such
15 applicable standards as may be promulgated by the Office
16 of Personnel Management.

17 (c) EFFECTIVE DATE.—This section shall take effect
18 and apply to inspectional services provided on or after Oc-
19 tober 1, 1993.

20 **SEC. 8. SPECIAL PAY ADJUSTMENT FOR CUSTOMS SERVICE**
21 **EMPLOYEES.**

22 (a) IN GENERAL.—Section 405 of the Federal Em-
23 ployees Pay Comparability Act of 1990 (5 U.S.C. 5305
24 note) is amended by adding at the end thereof the follow-
25 ing new subsection:

1 “(d)(1) The provisions of subsection (a) shall apply
2 to customs officers.

3 “(2) For purposes of this section the appropriate
4 agency head for prescribing regulations shall be the Sec-
5 retary of the Treasury.

6 “(3) For purposes of this section the term ‘customs
7 officer’ means an individual performing those functions
8 specified by regulation by the Secretary of the Treasury
9 for a customs inspector or canine enforcement officer.
10 Such functions shall be consistent with such applicable
11 standards as may be promulgated by the Office of Person-
12 nel Management.”.

13 (b) EFFECTIVE DATE.—

14 (1) IN GENERAL.—Subject to the provisions of
15 paragraph (2), the amendment made by this section
16 shall be effective on and after the first day of the
17 first applicable pay period beginning on or after Oc-
18 tober 1, 1993.

19 (2) REGULATIONS.—The Secretary of the
20 Treasury may prescribe regulations after the date of
21 the enactment of this section to provide for the im-
22 plementation of the amendment made by this section
23 on or after the effective date under paragraph (1).

1 **SEC. 9. CUSTOMS INSPECTOR AND CANINE ENFORCEMENT**
2 **OFFICER CREDITABLE SERVICE FOR RETIRE-**
3 **MENT.**

4 (a) DESIGNATION OF ARDUOUS ENFORCEMENT PO-
5 SITIONS.—The Commissioner of Customs (hereafter in
6 this section referred to as the “Commissioner”) may des-
7 ignate positions in the Customs Service as arduous en-
8 forcement positions. An arduous enforcement position may
9 only be filled by an employee who—

10 (1) is a customs inspector or canine enforce-
11 ment officer;

12 (2) is capable of performing duties which are
13 sufficiently rigorous that employment opportunities
14 should be limited to young and physically vigorous
15 individuals, as determined by the Commissioner;

16 (3) is less than 57 years of age;

17 (4) qualifies in firearms tests conducted on a
18 quarterly basis under regulations promulgated by
19 the Commissioner; and

20 (5) qualifies in all physical fitness standards
21 under regulations promulgated by the Commissioner
22 that are generally applicable to all Federal law en-
23 forcement officers.

24 (b) REMOVAL FROM ARDUOUS ENFORCEMENT POSI-
25 TION.—A customs inspector or canine enforcement officer
26 who fails to qualify on any quarterly firearms test as re-

1 quired under subsection (a)(4) or fails to maintain the
2 physical fitness standards under subsection (a)(5) shall be
3 removed from an arduous enforcement position. Such in-
4 spector or officer may not be assigned to an arduous en-
5 forcement position for a period of no less than 6 months.

6 (c) CIVIL SERVICE RETIREMENT SYSTEM.—

7 (1) DEFINITIONS.—Section 8331 of title 5,
8 United States Code, is amended—

9 (A) in paragraph (25) by striking out
10 “and” after the semicolon;

11 (B) in paragraph (26) by striking out the
12 period and inserting in lieu thereof a semicolon
13 and “and”; and

14 (C) by adding at the end thereof the fol-
15 lowing new paragraph:

16 “(27) ‘designated customs inspector’ means a
17 customs inspector or canine enforcement officer who
18 is serving in an arduous enforcement position as
19 designated by the Commissioner of Customs under
20 section 9 of the Customs Inspector Benefit Reform
21 Act of 1993.’”.

22 (2) CREDITABLE SERVICE.—Section 8332 of
23 title 5, United States Code, is amended by adding
24 at the end thereof the following new subsection:

1 “(o)(1) For purposes of this chapter, and subject to
2 the provisions of this subsection, a designated customs in-
3 spector shall receive 1½ years of creditable service for
4 each year of actual service as a designated customs inspec-
5 tor. Such service shall be based on full years and twelfth
6 parts thereof, excluding from the aggregate the fractional
7 part of a month, if any.

8 “(2) The provisions of paragraph (1) shall not apply
9 to any customs inspector or canine enforcement officer un-
10 less such inspector or officer has no less than 5 years of
11 actual service as an employee (which is otherwise cred-
12 itable service under this section).

13 “(3) No customs inspector or canine enforcement of-
14 ficer may be credited with more than 20 years of cred-
15 itable service under the provisions of paragraph (1).

16 “(4) This subsection shall not be construed to give
17 any customs inspector or canine enforcement officer credit
18 for both service as such inspector or officer and service
19 as a designated customs inspector during any specified
20 time period.”.

21 (3) DEDUCTIONS, CONTRIBUTIONS, AND DEPOS-
22 ITS.—Section 8334 of title 5, United States Code, is
23 amended—

1 (A) in the first sentence of subsection
 2 (a)(1) by inserting “designated customs inspec-
 3 tor,” after “law enforcement officer,”; and

4 (B) in the table under subsection (c) by in-
 5 serting after the item relating to law enforce-
 6 ment officers and firefighters the following new
 7 item:

“Designated customs inspector for designated customs inspector service	7½.....	After September 31, 1993.”.
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8 (4) COMPUTATION OF ANNUITY.—Section 8339
 9 of title 5, United States Code, is amended by adding
 10 at the end thereof the following new subsection:

11 “(r) The annuity of an employee with creditable serv-
 12 ice under section 8332(o) retiring under this subchapter
 13 is computed under subsection (a) of this section, except
 14 the annuity of such employee is computed with respect to
 15 the service credited under section 8322(o)(1) as a des-
 16 ignated customs inspector by multiplying 2½ percent of
 17 his average pay by the years of that service.”.

18 (5) APPLICATION.—The amendments made by
 19 this subsection shall be effective on and after Octo-
 20 ber 1, 1993, and shall apply with regard to service
 21 performed by a customs inspector or canine enforce-
 22 ment officer in an arduous enforcement position on
 23 and after such date.

24 (d) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

1 (1) DEFINITIONS.—Section 8401 of title 5,
2 United States Code, is amended—

3 (A) in paragraph (31) by striking out
4 “and” after the semicolon;

5 (B) in paragraph (32) by striking out the
6 period and inserting in lieu thereof a semicolon
7 and “and”; and

8 (C) by adding at the end thereof the fol-
9 lowing new paragraph:

10 “(33) ‘designated customs inspector’ means a
11 customs inspector or canine enforcement officer who
12 is serving in an arduous enforcement position as
13 designated by the Commissioner of Customs under
14 section 9 of the Customs Inspector Benefit Reform
15 Act of 1993.’”.

16 (2) CREDITABLE SERVICE.—Section 8411 of
17 title 5, United States Code, is amended by adding
18 at the end thereof the following new subsection:

19 “(h)(1) For purposes of this chapter, and subject to
20 the provisions of this subsection, a designated customs in-
21 spector shall receive 1½ years of creditable service for
22 each year of actual service as a designated customs inspec-
23 tor. Such service shall be based on full years and twelfth
24 parts thereof, excluding from the aggregate the fractional
25 part of a month, if any.

1 “(2) The provisions of paragraph (1) shall not apply
2 to any customs inspector or canine enforcement officer un-
3 less such inspector or officer has no less than 5 years of
4 actual service as an employee (which is otherwise cred-
5 itable service under this section).

6 “(3) No customs inspector or canine enforcement of-
7 ficer may be credited with more than 20 years of cred-
8 itable service under the provisions of paragraph (1).

9 “(4) This subsection shall not be construed to give
10 any customs inspector or canine enforcement officer credit
11 for both service as such inspector or officer and service
12 as a designated customs inspector during any specified
13 time period.”.

14 (3) DEDUCTIONS FROM PAY.—Section
15 8422(a)(2)(B) of title 5, United States Code, is
16 amended by inserting “designated customs inspec-
17 tor,” after “law enforcement officer,”.

18 (4) GOVERNMENT CONTRIBUTIONS.—Section
19 8423(a) is amended—

20 (A) in paragraph (1)(B) by inserting “des-
21 ignated customs inspector,” after “law enforce-
22 ment officer,”; and

23 (B) in paragraph (3)(A) by inserting “des-
24 ignated customs inspector,” after “law enforce-
25 ment officer,”.

1 (5) COMPUTATION OF ANNUITY.—Section 8415
2 of title 5, United States Code, is amended—

3 (A) in subsection (g)(2) by inserting “des-
4 ignated customs inspector,” after “law enforce-
5 ment officer,”; and

6 (B) by adding at the end thereof the fol-
7 lowing new subsection:

8 “(h) The annuity of an employee with creditable serv-
9 ice under section 8411(h) retiring under this subchapter
10 is computed under subsection (a) of this section, except
11 the annuity of such employee is computed with respect to
12 the service credited under section 8411(h)(1) as a des-
13 ignated customs inspector by multiplying $1\frac{7}{10}$ percent of
14 his average pay by the years of that service.”.

15 (6) APPLICATION.—The amendments made by
16 this subsection shall be effective on and after Octo-
17 ber 1, 1993, and shall apply with regard to service
18 performed by a customs inspector or canine enforce-
19 ment officer in an arduous enforcement position on
20 and after such date.

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