

108TH CONGRESS
1ST SESSION

H. R. 3456

To deter and punish terrorism and crime at United States ports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 2003

Mr. BELL introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To deter and punish terrorism and crime at United States ports, 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 “Port Anti-Terrorism
5 and Security Act of 2003”.

1 **TITLE I—DETERRING AND PUN-**
 2 **ISHING TERRORISM AND**
 3 **CRIME AT UNITED STATES**
 4 **PORTS**

5 **SEC. 101. DESTRUCTION OR INTERFERENCE WITH VESSELS**
 6 **OR MARITIME FACILITIES.**

7 (a) IN GENERAL.—Title 18, United States Code, is
 8 amended by inserting after chapter 65 the following:

9 **“CHAPTER 66—MARITIME VESSELS**

“Sec.

“1371. Jurisdiction and scope.

“1372. Destruction of vessel or maritime facility.

“1373. Imparting or conveying false information.

10 **“§ 1371. Jurisdiction and scope**

11 “(a) IN GENERAL.—There is jurisdiction under sec-
 12 tion 3231 over an offense under this chapter if—

13 “(1) the prohibited activity takes place within
 14 the United States, or in waters or submerged lands
 15 thereunder subject to the jurisdiction of the United
 16 States; or

17 “(2) the prohibited activity takes place outside
 18 the United States, and—

19 “(A) an offender or a victim of the prohib-
 20 ited activity is a citizen of the United States;

21 “(B) a citizen of the United States was on
 22 board a vessel to which this chapter applies; or

1 “(C) the prohibited activity involves a ves-
2 sel of the United States.

3 “(b) APPLICABILITY.—Nothing in this chapter shall
4 apply to otherwise lawful activities carried out by, or at
5 the direction of, the United States Government.

6 **“§ 1372. Destruction of vessel or maritime facility**

7 “(a) OFFENSES.—It shall be unlawful for any per-
8 son—

9 “(1) to willfully—

10 “(A) set fire to, damage, destroy, disable,
11 or wreck any vessel; or

12 “(B) place or cause to be placed a destruc-
13 tive device or destructive substance in, upon, or
14 in proximity to, or otherwise make or cause to
15 be made an unworkable or unusable or haz-
16 ardous to work or use, any vessel (as defined in
17 section 3 of title 1), or any part or other mate-
18 rials used or intended to be used in connection
19 with the operation of a vessel; or

20 “(C) set fire to, damage, destroy, disable,
21 or displace a destructive device or destructive
22 substance in, upon, or in proximity to, any mar-
23 itime facility, including any aid to navigation,
24 lock, canal, or vessel traffic service facility or
25 equipment, or interfere by force or violence with

1 the operation of such maritime facility, if such
2 action is likely to endanger the safety of any
3 vessel in navigation;

4 “(D) set fire to, damage, destroy, disable,
5 or place a destructive device or destructive sub-
6 stance in, upon, or in proximity to any appli-
7 ance, structure, property, machine, apparatus,
8 or any facility or other material used or in-
9 tended to be used in connection with the oper-
10 ation, maintenance, loading, unloading, or stor-
11 age of any vessel or any passenger or cargo car-
12 ried on, or intended to be carried on, any vessel;

13 “(E) perform an act of violence against or
14 incapacitate an individual on a vessel, if such
15 act of violence or incapacitation is likely to en-
16 danger the safety of the vessel or those on
17 board;

18 “(F) perform an act of violence against a
19 person that causes or is likely to cause serious
20 bodily injury in, upon, or in proximity to any
21 appliance, structure, property, machine, appa-
22 ratus, or any facility or other material used or
23 intended to be used in connection with the oper-
24 ation, maintenance, loading, unloading, or stor-

1 age of any vessel or any passenger or cargo car-
2 ried or intended to be carried on any vessel; or

3 “(G) communicate information, knowing
4 the information to be false and under cir-
5 cumstances in which such information may rea-
6 sonably be believed, thereby endangering the
7 safety of any vessel in navigation; or

8 “(2) to attempt or conspire to do anything pro-
9 hibited under paragraph (1).

10 “(b) PENALTY.—Any person who—

11 “(1) violates subparagraph (A) or (B) of sub-
12 section (a)(1) shall be fined in accordance with this
13 title or imprisoned for a maximum life imprisonment
14 term, or both, and if death results, shall be subject
15 to the death penalty; and

16 “(2) violates subsection (a)(2) or subparagraph
17 (C), (D), (E), (F), or (G) of subsection (a)(1) shall
18 be fined in accordance with this title or imprisoned
19 not more than 20 years, or both.

20 “(c) ADDITIONAL PENALTIES.—Any person who is
21 fined or imprisoned in accordance with subsection (b) for
22 an offense that involved a vessel that, at the time the viola-
23 tion occurred, carried high-level radioactive waste or spent
24 nuclear fuel shall be fined in accordance with this title or
25 imprisoned for not less than 30 years, or for life.

1 “(d) THREATENED OFFENSE.—Any person who will-
2 fully imparts or conveys any threat to do an act which
3 would violate this chapter, with an apparent determination
4 and will to carry out the threat, shall be—

5 “(1) fined in accordance with this title or im-
6 prisoned not more than 5 years, or both; and

7 “(2) liable for all costs incurred as a result of
8 such threat.

9 “(e) DEFINITIONS.—For purposes of this section—

10 “(1) the term ‘destructive device’ has the mean-
11 ing as such term in section 921(a)(4);

12 “(2) the term ‘destructive substance’ has the
13 meaning as such term in section 31;

14 “(3) the term ‘high-level radioactive waste’ has
15 the meaning as such term in section 2(12) of the
16 Nuclear Waste Policy Act of 1982 (42 U.S.C.
17 10101(12));

18 “(4) the term ‘serious bodily injury’ has the
19 meaning as such term in section 1365(g); and

20 “(5) the term ‘spent nuclear fuel’ has the
21 meaning as such term in section 2(23) of the Nu-
22 clear Waste Policy Act of 1982 (42 U.S.C.
23 10101(23)).

1 **“§ 1373. Imparting or conveying false information**

2 “(a) IN GENERAL.—Any person who imparts or con-
 3 veys, or causes to be imparted or conveyed, false informa-
 4 tion, knowing the information to be false, concerning an
 5 attempt or alleged attempt being made or to be made, to
 6 do any act that is an offense under this chapter or chapter
 7 2, 97, or 111, shall be subject to a civil penalty of not
 8 more than \$5,000, which shall be recoverable in a civil
 9 action brought in the name of the United States.

10 “(b) INCREASED PENALTY.—Any person who will-
 11 fully and maliciously, or with reckless disregard for the
 12 safety of human life, imparts or conveys, or causes to be
 13 imparted or conveyed, false information, knowing the in-
 14 formation to be false, concerning an attempt or alleged
 15 attempt being made by or to be made, to do any act that
 16 is an offense under this chapter or chapter 2, 97, or 111,
 17 shall be fined in accordance with this title or imprisoned
 18 not more than 5 years, or both.”.

19 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 20 The table of chapters at the beginning of title 18, is
 21 amended by inserting after the item relating to chapter
 22 65 the following:

“66. Maritime Vessels 1371”.

1 **SEC. 102. CRIMINAL SANCTIONS FOR PLACEMENT OF DE-**
2 **STRUCTIVE DEVICES OR SUBSTANCES IN**
3 **UNITED STATES JURISDICTIONAL WATERS.**

4 (a) IN GENERAL.—Chapter 111 of title 18, United
5 States Code, is amended by inserting after section 2280
6 the following:

7 **“§ 2280A. Devices or substances in waters of the**
8 **United States likely to destroy or damage**
9 **ships**

10 “(a) IN GENERAL.—Any person who knowingly
11 places or causes to be placed in waters subject to the juris-
12 diction of the United States, by any means, a device or
13 substance that is likely to destroy or cause damage to a
14 ship or its cargo, or cause interference with the safe navi-
15 gation of vessels or interference with maritime commerce,
16 such as by damaging or destroying marine terminals, fa-
17 cilities, and any other maritime structure or entity used
18 in maritime commerce, with the intent of causing such de-
19 struction or damage—

20 “(1) shall be fined in accordance with this title
21 and imprisoned for any term of years or for life; and

22 “(2) if the death of any person results from
23 conduct prohibited under this section, may be pun-
24 ished by death.

1 “(b) APPLICABILITY.—Nothing in this section shall
 2 be construed to apply to otherwise lawfully authorized and
 3 conducted activities of the United States Government.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 5 The table of sections for chapter 111 of title 18, United
 6 States Code, is amended by inserting after the item relat-
 7 ing to section 2280 the following:

“2280A. Devices or substances in waters of the United States likely to destroy
 or damage ships.”.

8 **SEC. 103. PIRACY AND PRIVATEERING.**

9 Chapter 81 of title 18, United States Code, is amend-
 10 ed to read as follows:

11 **“CHAPTER 81—PIRACY AND**
 12 **PRIVATEERING**

“Sec.

“1651. Piracy.

“1652. Crimes against United States persons or property on board a ship or
 maritime structure.

“1653. Crimes against persons on board a ship or maritime structure within the
 territorial jurisdiction of the United States.

“1654. Crimes by United States citizens or resident aliens.

“1655. Privateering.

“1656. Theft or conversion of vessel, maritime structure, cargo, or effects.

“1657. Intentional wrecking or plunder of a vessel, maritime structure, cargo,
 or effects.

“1658. Knowing receipt of an illegally acquired vessel, maritime structure,
 cargo, or effects.

“1659. Attempts.

“1660. Accessories.

“1661. Inapplicability to United States Government activities.

13 **“§ 1651. Piracy**

14 “Any person who commits the crime of piracy and
 15 is afterwards brought into, or found in, the United States
 16 shall be imprisoned for life.

1 **“§ 1652. Crimes against United States persons or**
2 **property on board a ship or maritime**
3 **structure**

4 “Any person who commits any illegal act of violence,
5 detention, or depredation against the United States, in-
6 cluding any vessel of the United States, citizen of the
7 United States, any commercial structure owned in whole
8 or in part by a United States citizen or resident alien,
9 or any United States citizen or resident alien, or the prop-
10 erty of that citizen or resident alien, on board a ship or
11 maritime structure and is afterwards brought into or
12 found in the United States, shall be fined in accordance
13 with this title or imprisoned not more than 20 years, or
14 both.

15 **“§ 1653. Crimes against persons on board a ship or**
16 **maritime structure within the territorial**
17 **jurisdiction of the United States**

18 “Any person who commits any illegal act of violence,
19 detention, or depredation against an individual on board
20 a ship or maritime structure, or the property of that indi-
21 vidual, in waters or submerged lands thereunder, subject
22 to the jurisdiction of the United States, shall be fined in
23 accordance with this title or imprisoned not more than 20
24 years, or both.

1 **“§ 1654. Crimes by United States citizens or resident**
2 **aliens**

3 “Any person, being a United States citizen or resi-
4 dent alien, or purporting to act under the authority of the
5 United States, who commits any illegal act of violence, de-
6 tention, or depredation against an individual on board a
7 ship or maritime structure, or the property of that indi-
8 vidual, shall be fined in accordance with this title or im-
9 prisoned not more than 20 years, or both.

10 **“§ 1655. Privateering**

11 “(a) OFFENSE.—It shall be unlawful for any person
12 to furnish, fit out, arm, or serve in a privateer or private
13 vessel used to commit any illegal act of violence, detention,
14 or depredation against an individual, or the property of
15 that individual, or any vessel or maritime structure with-
16 out the express authority of the United States Government
17 when—

18 “(1) the perpetrator of the act is a United
19 States citizen or resident alien, or purports to act
20 under authority of the United States;

21 “(2) the individual against whom the act is
22 committed is a United States citizen or resident
23 alien or the property, vessel, or maritime structure
24 involved is owned, in whole or in part, by a United
25 States citizen or resident alien; or

1 “(3) some element of the illegal act of violence,
2 detention, or depredation is committed in waters
3 subject to the jurisdiction of the United States.

4 “(b) PENALTY.—Any person who violates subsection
5 (a) shall be fined in accordance with this title or impris-
6 oned not more than 20 years, or both.

7 **“§ 1656. Theft or conversion of vessel, maritime struc-**
8 **ture, cargo, or effects**

9 “(a) OFFENSE.—It shall be unlawful for any person
10 who is a captain, officer, crewman, or passenger of a vessel
11 or maritime structure to assist in the theft or conversion
12 of such vessel or maritime structure, or its cargo or effects
13 when—

14 “(1) the perpetrator is a United States citizen
15 or resident alien, or purports to act under the au-
16 thority of the United States;

17 “(2) the vessel, maritime structure, cargo, or
18 effects is owned in whole or in part by a United
19 States citizen or resident alien; or

20 “(3) some element of the theft or conversion is
21 committed in waters subject to the jurisdiction of
22 the United States.

23 “(b) PENALTY.—Any person who violates subsection
24 (a) shall be fined in accordance with this title or impris-
25 oned not more than 20 years, or both.

1 **“§ 1657. Intentional wrecking or plunder of a vessel,**
2 **maritime structure, cargo, or effects**

3 “(a) OFFENSE.—It shall be unlawful for any person
4 to—

5 “(1) intentionally cause the wrecking of a vessel
6 or maritime structure by act or omission, either di-
7 rectly such as by intentional grounding, or indirectly
8 by modification or destruction of any navigational
9 marker or safety device;

10 “(2) intentionally plunder, steal, or destroy a
11 vessel, maritime structure, cargo, or effects when
12 such vessel or maritime structure is in distress,
13 wrecked, lost, stranded, or cast away; or

14 “(3) intentionally obstruct or interfere with the
15 rescue of a person on board a vessel or maritime
16 structure in distress, wrecked, lost, stranded, or cast
17 away, or the legal salvage of such a vessel, maritime
18 structure, cargo, or effects, when—

19 “(A) the perpetrator is a United States cit-
20 izen or resident alien, or purports to act under
21 authority of the United States;

22 “(B) the vessel, maritime structure, cargo,
23 or effects is owned in whole or in part by a
24 United States citizen or resident alien; or

1 “(b) AVOIDANCE OF CONSEQUENCES.—Any person
2 who knowingly assists any person in avoiding the con-
3 sequences of an act that constitutes an offense under this
4 chapter shall be fined in accordance with this title or im-
5 prisoned not more than 20 years, or both.

6 **“§ 1661. Inapplicability to United States Government**
7 **activities**

8 “Nothing in this chapter shall apply to otherwise law-
9 ful activities—

10 “(1) carried out by, or at the direction of, the
11 United States Government; or

12 “(2) undertaken under a letter or marque and
13 reprisal issued by the United States Government.”.

14 **SEC. 104. USE OF A DANGEROUS WEAPON OR EXPLOSIVE**
15 **ON A PASSENGER VESSEL.**

16 (a) IN GENERAL.—Chapter 39 of title 18, United
17 States Code, is amended by inserting after section 831 the
18 following:

19 **“§ 832. Use of a dangerous weapon or explosive on a**
20 **passenger vessel**

21 “(a) OFFENSE.—It shall be unlawful for any person
22 to willfully—

23 “(1) commit an act, including the use of a dan-
24 gerous weapon, explosive, or incendiary device, with
25 the intent to cause death or serious bodily injury to

1 a crew member or passenger of a passenger vessel
2 or any other person while on board a passenger ves-
3 sel; or

4 “(2) attempt, threaten, or conspire to do any
5 act referred to in paragraph (1).

6 “(b) PENALTY.—An person who violates subsection
7 (a) shall be fined in accordance with this title or impris-
8 oned not more than 20 years, or both.

9 “(c) AGGRAVATED OFFENSE.—Any person who com-
10 mits an offense described in subsection (a) in a cir-
11 cumstance in which—

12 “(1) the vessel was carrying a passenger at the
13 time of the offense; or

14 “(2) the offense has resulted in the death of
15 any person—

16 shall be guilty of an aggravated offense and shall be
17 fined in accordance with this title or imprisoned for any
18 term of years or for life.

19 “(d) APPLICABILITY.—This section shall apply to
20 vessels that are subject to the jurisdiction of the United
21 States, and vessels carrying passengers who are United
22 States citizens or resident aliens, wherever located.

23 “(e) DEFINITIONS.—For purposes of this section—

24 “(1) the term ‘dangerous weapon’ has the
25 meaning given such term in section 930(g);

1 “(2) the term ‘explosive or incendiary device’
2 has the meaning given such term in section 232(5);

3 “(3) the term ‘passenger’ has the same mean-
4 ing given such term in section 2101(21) of title 46;

5 “(4) the term ‘passenger vessel’ has the same
6 meaning given such term in section 2101(22) of title
7 46; and

8 “(5) the term ‘serious bodily injury’ has the
9 meaning given such term in section 1365(g).”.

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—
11 The table of sections for chapter 39 of title 18, United
12 States Code, is amended by inserting after the item relat-
13 ing to section 831 the following:

“832. Use of a dangerous weapon or explosive on a passenger vessel.”.

14 **SEC. 105. SANCTIONS FOR FAILURE TO HEAVE TO AND FOR**
15 **OBSTRUCTION OF BOARDING AND PRO-**
16 **VIDING FALSE INFORMATION.**

17 (a) IN GENERAL.—Chapter 109 of title 18, United
18 States Code, is amended by adding at the end the fol-
19 lowing:

20 **“§ 2237. Sanctions for failure to heave to; sanctions**
21 **for obstruction of boarding or providing**
22 **false information**

23 “(a) FAILURE TO HEAVE TO.—It shall be unlawful
24 for the master, operator, or person in charge of a vessel
25 of the United States, or a vessel subject to the jurisdiction

1 of the United States, to knowingly fail to obey an order
2 to heave to on being ordered to do so by an authorized
3 Federal law enforcement officer.

4 “(b) OBSTRUCTION OF BOARDING AND PROVIDING
5 FALSE INFORMATION.—It shall be unlawful for any per-
6 son on board a vessel of the United States or a vessel sub-
7 ject to the jurisdiction of the United States to—

8 “(1) forcibly assault, resist, oppose, prevent,
9 impede, intimidate, or interfere with a boarding or
10 other law enforcement action authorized by any Fed-
11 eral law, or to resist a lawful arrest; or

12 “(2) provide information to a Federal law en-
13 forcement officer during a boarding of a vessel re-
14 garding the vessel’s destination, origin, ownership,
15 registration, nationality, cargo, or crew that the per-
16 son knows is false.

17 “(c) LIMITATIONS.—This section shall not limit the
18 authority of—

19 “(1) an officer under section 581 of the Tariff
20 Act of 1930 (19 U.S.C. 1581) or any other provision
21 of law enforced or administered by the Secretary of
22 the Treasury or the Under Secretary for Border and
23 Transportation Security of the Department of
24 Homeland Security; or

1 “(2) a Federal law enforcement officer under
2 any law of the United States to order a vessel to
3 stop or heave to.

4 “(d) CONSENT OR OBJECTION TO ENFORCEMENT.—
5 A foreign nation may consent or waive objection to the
6 enforcement of United States law by the United States
7 under this section by radio, telephone, or similar oral or
8 electronic means, which consent or waiver may be proven
9 by certification of the Secretary of State or the Secretary’s
10 designee.

11 “(e) PENALTY.—Any person who intentionally vio-
12 lates this section shall be fined in accordance with this
13 title and imprisoned not more than 1 year.

14 “(f) DEFINITIONS.—For purposes of this section—

15 “(1) the terms ‘vessel of the United States’ and
16 ‘vessel subject to the jurisdiction of the United
17 States’ have the same meanings as such terms in
18 section 3 of the Maritime Drug Law Enforcement
19 Act (46 U.S.C. App. 1903);

20 “(2) the term ‘heave to’ means to cause a vessel
21 to slow, come to a stop, or adjust its course or speed
22 to account for the weather conditions and sea state
23 to facilitate a law enforcement boarding; and

1 14, if such act endangers or is likely to endan-
2 ger the safe navigation of a ship;” and

3 (C) in subparagraph (I), as so redesign-
4 nated, by striking “through (G)” and inserting
5 “through (H)” and

6 (2) in paragraph (2), by striking “(C) or (E)”
7 and inserting “(C), (E), or (F)”.

8 **SEC. 107. CRIMINAL SANCTIONS FOR MALICIOUS DUMPING.**

9 (a) IN GENERAL.—Chapter 111 of title 18, United
10 States Code, is amended by adding at the end the fol-
11 lowing:

12 **“§ 2282. Knowing discharge or release**

13 “(a) ENDANGERMENT OF HUMAN LIFE.—Any per-
14 son who knowingly discharges or releases oil, a hazardous
15 material, a noxious liquid substance, or any other sub-
16 stance into the navigable waters of the United States or
17 the adjoining shoreline with the intent to endanger human
18 life, health, or welfare—

19 “(1) shall be fined in accordance with this title
20 and imprisoned for any term of years or for life; and

21 “(2) if the death of any person results from
22 conduct prohibited under this section, may be pun-
23 ished by death.

24 “(b) ENDANGERMENT OF MARINE ENVIRONMENT.—
25 Any person who knowingly discharges or releases oil, a

1 hazardous material, a noxious liquid substance, or any
2 other substance into the navigable waters of the United
3 States or the adjacent shoreline with the intent to endan-
4 ger the marine environment shall be fined in accordance
5 with this title or imprisoned not more than 30 years, or
6 both.

7 “(c) DEFINITIONS.—For purposes of this section—

8 “(1) the term ‘discharge’ means any spilling,
9 leaking, pumping, pouring, emitting, emptying, or
10 dumping;

11 “(2) the term ‘hazardous material’ has the
12 same meaning given such term in section 2101(14)
13 of title 46;

14 “(3) the term ‘marine environment’ has the
15 same meaning given such term in section 2101(15)
16 of title 46;

17 “(4) the term ‘navigable waters’ has the same
18 meaning given such term in section 502(7) of the
19 Federal Water Pollution Control Act (33 U.S.C.
20 1362(7)), and also includes the territorial sea of the
21 United States as described in Presidential Proclama-
22 tion 5928 of December 27, 1988; and

23 “(5) the term ‘noxious liquid substance’ has the
24 same meaning given such term in the MARPOL
25 Protocol as defined in section 2(a)(3) of the Act to

1 Prevent Pollution from Ships (33 U.S.C.
2 1901(a)(3)).”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—

4 The table of sections for chapter 111 of title 18, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

“2282. Knowing discharge or release.”.

7 **SEC. 108. ATTORNEY GENERAL TO COORDINATE PORT-RE-**
8 **LATED CRIME DATA COLLECTION.**

9 (a) REGULATIONS.—The Attorney General shall
10 issue regulations to—

11 (1) require the reporting by a carrier that is the
12 victim of a cargo theft offense to the Attorney Gen-
13 eral of information on the cargo theft offense (in-
14 cluding offenses occurring outside ports of entry and
15 ports of shipment origination) that identifies the
16 port of entry, the port where the shipment origi-
17 nated, where the theft occurred, and any other infor-
18 mation specified by the Attorney General;

19 (2) create a database to contain the reports de-
20 scribed in paragraph (1) and integrate those reports,
21 to the extent feasible, with other noncriminal justice
22 and intelligence data, such as insurer bill of lading,
23 cargo contents and value, point of origin, and lien
24 holder filings; and

1 (3) prescribe procedures for access to the data-
2 base created in accordance with paragraph (2) by
3 appropriate Federal, State, and local governmental
4 agencies and private companies or organizations,
5 while limiting access to privacy of the information in
6 accordance with other applicable Federal laws.

7 (b) MODIFICATION OF DATABASES.—

8 (1) IN GENERAL.—United States Government
9 agencies with significant regulatory or law enforce-
10 ment responsibilities at United States ports shall, to
11 the extent feasible, modify their information data-
12 bases to ensure the collection and retrievability of
13 data relating to crime, terrorism, and related activi-
14 ties at, or affecting, United States ports.

15 (2) DESIGNATION OF AGENCIES.—The Attor-
16 ney General, after consultation with the Secretary of
17 Homeland Security, shall designate the agencies re-
18 ferred to in paragraph (1).

19 (c) OUTREACH PROGRAM.—The Attorney General, in
20 consultation with the Secretary of Homeland Security, the
21 National Maritime Security Advisory Committee estab-
22 lished under section 70112 of title 46, United States Code,
23 and the appropriate Federal and State agencies, shall es-
24 tablish an outreach program—

1 (1) to work with State and local law enforce-
2 ment officials to harmonize the reporting of data on
3 cargo theft among States and localities with the
4 United States Government’s reports; and

5 (2) to work with local port security committees
6 to disseminate cargo theft information to appro-
7 priate law enforcement officials.

8 (d) ANNUAL REPORT.—The Attorney General shall
9 report annually to the Committee on the Judiciary of the
10 Senate and the House of Representatives on the imple-
11 mentation of this section.

12 (e) INTERSTATE OR FOREIGN SHIPMENTS BY CAR-
13 RIER; STATE PROSECUTIONS.—

14 (1) STATE PROSECUTIONS.—Section 659 of
15 title 18, United States Code, is amended—

16 (A) in the first undesignated paragraph—

17 (i) by striking “Whoever embezzles”

18 and inserting the following:

19 “(a) OFFENSE; PENALTY.—Whoever—

20 “(1) embezzles”;

21 (ii) by striking “from any pipeline sys-
22 tem” and all that follows through “with in-
23 tent to convert to his own use”; and

24 (iii) by striking “or” at the end;

1 (B) in the second undesignated para-
2 graph—

3 (i) by striking “Whoever buys” and
4 inserting the following:

5 “(2) buys”; and

6 (ii) by striking “or” at the end;

7 (C) in the third undesignated paragraph—

8 (i) by striking “Whoever embezzles”
9 and inserting the following”

10 “(3) embezzles”; and

11 (ii) by striking “with intent to convert
12 to his own use”;

13 (D) in the fourth undesignated paragraph,
14 by striking “Whoever embezzles” and inserting
15 the following:

16 “(4) embezzles”;

17 (E) in the fifth undesignated paragraph,
18 by striking “Shall in each case” and inserting
19 the following: “shall in each case”;

20 (F) in the sixth undesignated paragraph,
21 by striking “The” and inserting the following:

22 “(b) LOCATION OF OFFENSE.—The”;

23 (G) in the seventh undesignated para-
24 graph, by striking “The” and inserting the fol-
25 lowing:

1 “(c) SEPARATE OFFENSE.—The”;

2 (H) in the eighth undesignated paragraph,
3 by striking “To” and inserting the following:

4 “(d) PRIMA FACIE EVIDENCE.—To”;

5 (I) in the ninth undesignated paragraph,
6 by striking “A” and inserting the following:

7 “(e) PROSECUTION.—A”; and

8 (J) by adding at the end the following:

9 “(f) CIVIL PENALTY.—

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of law, and in addition to any penalties
12 that may be available under any other provision of
13 law, a person who is found by the Secretary of
14 Homeland Security, after notice and an opportunity
15 for a hearing, to have violated this section or a regu-
16 lation issued under this section shall be liable to the
17 United States for a civil penalty not to exceed
18 \$25,000 for each violation.

19 “(2) SEPARATE VIOLATIONS.—Each day of a
20 continuing violation shall constitute a separate viola-
21 tion.

22 “(3) AMOUNT OF PENALTY.—

23 “(A) IN GENERAL.—The amount of a civil
24 penalty for a violation of this section or a regu-
25 lation issued under this section shall be as-

1 sessed by the Attorney General, or the designee
2 of the Attorney General, by written notice.

3 “(B) CONSIDERATIONS.—In determining
4 the amount of a civil penalty under this para-
5 graph, the Attorney General shall take into ac-
6 count—

7 “(i) the nature, circumstances, extent,
8 and gravity of the prohibited act com-
9 mitted; and

10 “(ii) with respect to the violator, the
11 degree of culpability, any history of prior
12 offenses, ability to pay, and such other
13 matters as justice may require.

14 “(4) MODIFICATION OF PENALTY.—The Sec-
15 retary of Homeland Security may compromise, mod-
16 ify, or remit, with or without conditions, any civil
17 penalty that is subject to imposition or which has
18 been imposed under this section.

19 “(5) FAILURE TO PAY.—If a person fails to pay
20 an assessment of a civil penalty after it has become
21 final, the Secretary of Homeland Security may refer
22 the matter to the Attorney General for collection in
23 an appropriate district court of the United States.

24 “(g) DEFINITION.—For purposes of this section, the
25 term ‘goods or chattels’ means to be moving as an inter-

1 state or foreign shipment at all points between the point
2 of origin and the final destination (as evidenced by the
3 waybill or other shipping document of the shipment) re-
4 gardless of any temporary stop while awaiting trans-
5 shipment or otherwise.”.

6 (2) FEDERAL SENTENCING GUIDELINES.—Pur-
7 suant to section 994 of title 28, United States Code,
8 the United States Sentencing Commission shall re-
9 view the Federal Sentencing Guidelines to determine
10 whether sentencing enhancement is appropriate for
11 any offense under section 659 of title 18, United
12 States Code, as amended by this subsection.

13 (3) ANNUAL REPORT.—The Attorney General
14 shall annually submit to Congress a report that shall
15 include an evaluation of law enforcement activities
16 relating to the investigation and prosecution of of-
17 fenses under section 659 of title 18, United States
18 Code.

19 **TITLE II—PROTECTING UNITED**
20 **STATES PORTS AGAINST TER-**
21 **RORISM AND CRIME**

22 **SEC. 201. DEFINITIONS.**

23 In this title:

1 (1) AIRCRAFT.—The term “aircraft” has the
2 meaning given that term in section 40102 of title
3 49, United States Code.

4 (2) CAPTAIN-OF-THE-PORT.—The term “Cap-
5 tain-of-the-Port”, with respect to a United States
6 seaport, means the individual designated by the
7 Commandant of the Coast Guard as the Captain-of-
8 the-Port at that seaport.

9 (3) COMMON CARRIER.—The term “common
10 carrier” means any person that holds itself out to
11 the general public as a provider for hire of a trans-
12 portation by water, land, or air of merchandise,
13 whether or not the person actually operates the ves-
14 sel, vehicle, or aircraft by which the transportation
15 is provided, between a port or place and a port or
16 place in the United States.

17 (4) CONTAINER.—The term “container” means
18 a container that is used or designed for use for the
19 international transportation of merchandise by ves-
20 sel, vehicle, or aircraft.

21 (5) DIRECTORATE.—The term “Directorate”
22 means the Border and Transportation Security Di-
23 rectorate of the Department of Homeland Security.

1 (6) MANUFACTURER.—The term “manufac-
2 turer” means a person who fabricates or assembles
3 merchandise for sale in commerce.

4 (7) MERCHANDISE.—The term “merchandise”
5 has the meaning given that term in section 401 of
6 the Tariff Act of 1930 (19 U.S.C. 1401).

7 (8) SHIPMENT.—The term “shipment” means
8 cargo traveling in international commerce under a
9 bill of lading.

10 (9) UNITED STATES SEAPORT.—The term
11 “United States seaport” means a place in the
12 United States on a waterway with shoreside facilities
13 for the intermodal transfer of cargo containers that
14 are used in international trade.

15 (10) VEHICLE.—The term “vehicle” has the
16 meaning given that term in section 401 of the Tariff
17 Act of 1930 (19 U.S.C. 1401).

18 (11) VESSEL.—The term “vessel” has the
19 meaning given that term in section 401 of the Tariff
20 Act of 1930 (19 U.S.C. 1401).

21 **SEC. 202. DESIGNATED SECURITY AUTHORITY.**

22 The Captain-of-the-Port of each United States sea-
23 port shall be the primary authority responsible for security
24 at the United States seaport and shall—

25 (1) coordinate security at such seaport; and

1 (2) be the point of contact on seaport security
2 issues for civilian and commercial port entities at
3 such seaport.

4 **SEC. 203. PENALTIES FOR INACCURATE MANIFEST.**

5 (a) FALSITY OR LACK OF MANIFEST.—Section 584
6 of the Tariff Act of 1930 (19 U.S.C. 1584) is amended—

7 (1) in subsection (a)(1)—

8 (A) by striking “\$1,000” each place it ap-
9 pears and inserting “\$50,000”; and

10 (B) by striking “\$10,000” and inserting
11 “\$50,000”; and

12 (2) by adding at the end the following new sub-
13 section:

14 “(c) CRIMINAL PENALTIES.—Any person who ships
15 or prepares for shipment any merchandise bound for the
16 United States who intentionally provides inaccurate or
17 false information, whether inside or outside the United
18 States, with respect to such merchandise for the purpose
19 of introducing such merchandise into the United States
20 in violation of the laws of the United States, shall be lia-
21 ble, upon conviction of a violation of this subsection, for
22 a fine of not more than \$50,000 or imprisonment for 1
23 year, or both; except that if the importation of such mer-
24 chandise into the United States is prohibited, such person
25 shall be liable for an additional fine of not more than

1 \$50,000 or imprisonment for not more than 5 years, or
2 both.”.

3 (b) PENALTIES FOR VIOLATIONS OF THE ARRIVAL,
4 REPORTING, ENTRY, AND CLEARANCE REQUIREMENTS.—
5 Subsections (b) and (c) of section 436 of Tariff Act of
6 1930 (19 U.S.C. 1436) are amended to read as follows:

7 “(b) CIVIL PENALTY.—Any master, person in charge
8 of a vessel, vehicle, or aircraft pilot who commits any viola-
9 tion listed in subsection (a) shall be liable for a civil pen-
10 alty of \$25,000 for the first violation, and \$50,000 for
11 each subsequent violation, and any conveyance used in
12 connection with any such violation is subject to seizure
13 and forfeiture.

14 “(c) CRIMINAL PENALTY.—In addition to being liable
15 for a civil penalty under subsection (b), any master, per-
16 son in charge of a vessel, vehicle, or aircraft pilot who in-
17 tentiously commits or causes another to commit any vio-
18 lation listed in subsection (a) shall be liable, upon convic-
19 tion, for a fine of not more than \$50,000 or imprisonment
20 for 1 year, or both; except that if the conveyance has, or
21 is discovered to have had, on board any merchandise
22 (other than sea stores or the equivalent for conveyances
23 other than vessels) the importation of which into the
24 United States is prohibited, such individual shall be liable

1 for an additional fine of not more than \$50,000 or impris-
2 onment for not more than 5 years, or both.”.

3 **SEC. 204. INSPECTION OF MERCHANDISE AT FOREIGN FA-**
4 **CILITIES.**

5 Not later than 180 days after the date of enactment
6 of this Act, the Secretary of Homeland Security shall sub-
7 mit to Congress a plan to—

8 (1) station inspectors from the Directorate,
9 other Federal agencies, or the private sector at the
10 foreign facilities of manufacturers or common car-
11 riers to profile and inspect merchandise and the con-
12 tainers or other means by which such merchandise
13 is transported as they are prepared for shipment on
14 a vessel that will arrive at any port or place in the
15 United States;

16 (2) develop procedures to ensure the security of
17 merchandise inspected as described in paragraph (1)
18 until it reaches the United States; and

19 (3) permit merchandise inspected as described
20 in paragraph (1) to receive expedited inspection
21 upon arrival in the United States.

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