

108TH CONGRESS
2D SESSION

S. 2279

AN ACT

To amend title 46, United States Code, with respect to maritime transportation security, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Maritime Transportation Security Act of 2004”.

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

- Sec. 1. Short title; table of contents
- Sec. 2. Enforcement; pier and wharf security costs.
- Sec. 3. Security at foreign ports.
- Sec. 4. Federal and State commercial maritime transportation training.
- Sec. 5. Transportation worker background investigation programs.
- Sec. 6. Report on cruise ship security.
- Sec. 7. Maritime transportation security plan grants.
- Sec. 8. Report on design of maritime security grant programs.

3 **SEC. 2. ENFORCEMENT; PIER AND WHARF SECURITY**
 4 **COSTS.**

5 (a) IN GENERAL.—Chapter 701 of title 46, United
 6 States Code, is amended—

7 (1) by redesignating the second section 70118
 8 (relating to firearms, arrests, and seizure of prop-
 9 erty), as added by section 801(a) of the Coast Guard
 10 and Maritime Transportation Act of 2004, as sec-
 11 tion 70119;

12 (2) by redesignating the first section 70119 (re-
 13 lating to enforcement by State and local officers), as
 14 added by section 801(a) of the Coast Guard and
 15 Maritime Transportation Act of 2004, as section
 16 70120;

17 (3) by redesignating the second section 70119
 18 (relating to civil penalty), as redesignated by section
 19 802(a)(1) of the Coast Guard and Maritime Trans-
 20 portation Act of 2004, as section 70123; and

1 (4) by inserting after section 70120 the fol-
2 lowing:

3 **“§ 70121. Enforcement by injunction or withholding**
4 **of clearance**

5 “(a) INJUNCTION.—The United States district courts
6 shall have jurisdiction to restrain violations of this chapter
7 or of regulations issued hereunder, for cause shown.

8 “(b) WITHHOLDING OF CLEARANCE.—

9 “(1) If any owner, agent, master, officer, or
10 person in charge of a vessel is liable for a penalty
11 or fine under section 70119, or if reasonable cause
12 exists to believe that the owner, agent, master, offi-
13 cer, or person in charge may be subject to a penalty
14 under section 70119, the Secretary may, with re-
15 spect to such vessel, refuse or revoke any clearance
16 required by section 4197 of the Revised Statutes of
17 the United States (46 U.S.C. App. 91).

18 “(2) Clearance refused or revoked under this
19 subsection may be granted upon filing of a bond or
20 other surety satisfactory to the Secretary.

21 **“§ 70122. Security of piers and wharfs**

22 “(a) IN GENERAL.—Notwithstanding any other pro-
23 vision of law, the Secretary shall require any uncleared,
24 imported merchandise remaining on the wharf or pier onto
25 which it was unladen for more than 7 calendar days, not

1 including any time the imported merchandise was held in
 2 federal custody, to be removed from the wharf or pier and
 3 deposited in the public stores or a general order ware-
 4 house, where it shall be inspected for determination of con-
 5 tents, and thereafter a permit for its delivery may be
 6 granted.

7 “(b) PENALTY.—The Secretary may impose an ad-
 8 ministrative penalty of \$5,000 on the consignee for each
 9 bill of lading for general order merchandise remaining on
 10 a wharf or pier in violation of subsection (a), except that
 11 no penalty shall be imposed if the violation was a result
 12 of force majeure.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) The chapter analysis for chapter 701 of title
 15 46, United States Code, is amended by striking the
 16 items following the item relating to section 70116
 17 and inserting the following:

“70117. In rem liability for civil penalties and certain costs
 “70118. Withholding of clearance
 “70119. Firearms, arrests, and seizure of property
 “70120. Enforcement by State and local officers
 “70121. Enforcement by injunction or withholding of clearance
 “70122. Security of piers and wharfs
 “70123. Civil penalty”.

18 (2) Section 70117(a) of title 46, United States
 19 Code, is amended by striking “section 70120” and
 20 inserting “section 70123”.

1 (3) Section 70118(a) of such title is amended
2 by striking “under section 70120,” and inserting
3 “under that section.”

4 **SEC. 3. SECURITY AT FOREIGN PORTS.**

5 (a) IN GENERAL.—Section 70109 of title 46, United
6 States Code, is amended—

7 (1) by striking “The Secretary,” in subsection
8 (b) and inserting “The Administrator of the Mari-
9 time Administration,”; and

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

11 “(c) FOREIGN ASSISTANCE PROGRAMS.—The Ad-
12 ministrator of the Maritime Administration, in coordina-
13 tion with the Secretary of State, shall identify foreign as-
14 sistance programs that could facilitate implementation of
15 port security antiterrorism measures in foreign countries.
16 The Administrator and the Secretary shall establish a pro-
17 gram to utilize those programs that are capable of imple-
18 menting port security antiterrorism measures at ports in
19 foreign countries that the Secretary finds, under section
20 70108, to lack effective antiterrorism measures.”.

21 (b) REPORT ON SECURITY AT PORTS IN THE CARIB-
22 BEAN BASIN.—Not later than 60 days after the date of
23 enactment of this Act, the Secretary of Homeland Security
24 shall submit to the Committee on Commerce, Science, and
25 Transportation of the Senate and Committee on Trans-

1 portation and Infrastructure of the House of Representa-
2 tives a report on the security of ports in the Caribbean
3 Basin. The report shall include the following:

4 (1) An assessment of the effectiveness of the
5 measures employed to improve security at ports in
6 the Caribbean Basin and recommendations for any
7 additional measures to improve such security.

8 (2) An estimate of the number of ports in the
9 Caribbean Basin that will not be secured by July
10 2004, and an estimate of the financial impact in the
11 United States of any action taken pursuant to sec-
12 tion 70110 of title 46, United States Code, that af-
13 fects trade between such ports and the United
14 States.

15 (3) An assessment of the additional resources
16 and program changes that are necessary to maxi-
17 mize security at ports in the Caribbean Basin.

18 **SEC. 4. FEDERAL AND STATE COMMERCIAL MARITIME**
19 **TRANSPORTATION TRAINING.**

20 Section 109 of the Maritime Transportation Security
21 Act of 2002 (46 U.S.C. 70101 note) is amended—

22 (1) by redesignating subsections (c) through (f)
23 as subsections (d) through (g), respectively; and

24 (2) by inserting after subsection (b) the fol-
25 lowing:

1 “(c) FEDERAL AND STATE COMMERCIAL MARITIME
2 TRANSPORTATION TRAINING.—The Secretary of Trans-
3 portation shall establish a curriculum, to be incorporated
4 into the curriculum developed under subsection (a)(1), to
5 educate and instruct Federal and State officials on com-
6 mercial maritime and intermodal transportation. The cur-
7 riculum shall be designed to familiarize those officials with
8 commercial maritime transportation in order to facilitate
9 performance of their commercial maritime and intermodal
10 transportation security responsibilities. In developing the
11 standards for the curriculum, the Secretary shall consult
12 with each agency in the Department of Homeland Security
13 with maritime security responsibilities to determine areas
14 of educational need. The Secretary shall also coordinate
15 with the Federal Law Enforcement Training Center in the
16 development of the curriculum and the provision of train-
17 ing opportunities for Federal and State law enforcement
18 officials at appropriate law enforcement training facili-
19 ties.”.

20 **SEC. 5. TRANSPORTATION WORKER BACKGROUND INVES-**
21 **TIGATION PROGRAMS.**

22 Within 120 days after the date of enactment of this
23 Act, the Secretary of Homeland Security, after consulta-
24 tion with the Secretary of Transportation, shall transmit
25 a report to the Senate Committee on Commerce, Science,

1 and Transportation and the House of Representatives
2 Committee on Transportation and Infrastructure—

3 (1) making recommendations (including legisla-
4 tive recommendations, if appropriate or necessary)
5 for harmonizing, combining, or coordinating require-
6 ments, procedures, and programs for conducting
7 background checks under section 70105 of title 46,
8 United States Code, section 5103a(e) of title 49,
9 United States Code, section 44936 of title 49,
10 United States Code, and other provisions of Federal
11 law or regulations requiring background checks for
12 individuals engaged in transportation or transpor-
13 tation-related activities;

14 (2) setting forth a detailed timeline for imple-
15 mentation of such harmonization, combination, or
16 coordination;

17 (3) setting forth a plan with a detailed timeline
18 for the implementation of the Transportation Work-
19 er Identification Credential in seaports;

20 (4) making recommendations for a waiver and
21 appeals process for issuing a transportation security
22 card to an individual found otherwise ineligible for
23 such a card under section 70105(e)(2) and (3) of
24 title 46, United States Code, along with rec-

1 ommendations on the appropriate level of funding
2 for such a process; and

3 (5) making recommendations for how informa-
4 tion collected through the Transportation Worker
5 Identification Credential program may be shared
6 with port officials, terminal operators, and other of-
7 ficials responsible for maintaining access control
8 while also protecting workers' privacy.

9 **SEC. 6. REPORT ON CRUISE SHIP SECURITY.**

10 (a) IN GENERAL.—Not later than 120 days after the
11 date of enactment of this Act, the Secretary of Homeland
12 Security shall submit to the Senate Committee on Com-
13 merce, Science, and Transportation and the House of Rep-
14 resentatives Committee on Transportation and Infrastruc-
15 ture a report on the security of ships and facilities used
16 in the cruise line industry.

17 (b) CONTENT.—The report required by subsection
18 (a) shall include an assessment of security measures em-
19 ployed by the cruise line industry, including the following:

20 (1) An assessment of the security of cruise
21 ships that originate at ports in foreign countries.

22 (2) An assessment of the security of ports uti-
23 lized for cruise ship docking.

24 (3) The costs incurred by the cruise line indus-
25 try to carry out the measures required by the Mari-

1 time Transportation Security Act of 2002 (Public
2 Law 107–295; 116 Stat. 2064) and the amendments
3 made by that Act.

4 (4) The costs of employing canine units and
5 hand-held explosive detection wands at ports, includ-
6 ing the costs of screening passengers and baggage
7 with such methods.

8 (5) An assessment of security measures taken
9 by the Secretary of Homeland Security to increase
10 the security of the cruise line industry and the costs
11 incurred to carry out such security measures.

12 (6) A description of the need for and the feasi-
13 bility of deploying explosive detection systems and
14 canine units at ports used by cruise ships and an as-
15 sessment of the cost of such deployment.

16 (7) A summary of the fees paid by passengers
17 of cruise ships that are used for inspections and the
18 feasibility of creating a dedicated passenger vessel
19 security fund from such fees.

20 (8) The recommendations of the Secretary, if
21 any, for measures that should be carried out to im-
22 prove security of cruise ships that originate at ports
23 in foreign countries.

24 (9) The recommendations of the Secretary, if
25 any, on the deployment of further measures to im-

1 prove the security of cruise ships, including explosive
2 detection systems, canine units, and the use of tech-
3 nology to improve baggage screening, and an assess-
4 ment of the cost of implementing such measures.

5 **SEC. 7. MARITIME TRANSPORTATION SECURITY PLAN**
6 **GRANTS.**

7 Section 70107(a) of title 46, United States Code, is
8 amended to read as follows:

9 “(a) IN GENERAL.—The Under Secretary of Home-
10 land Security for Border and Transportation Security
11 shall establish a grant program for making a fair and eq-
12 uitable allocation of funds to implement Area Maritime
13 Transportation Security Plans and to help fund compli-
14 ance with Federal security plans among port authorities,
15 facility operators, and State and local agencies required
16 to provide security services. Grants shall be made on the
17 basis of threat-based risk assessments subject to review
18 and comment by the appropriate Federal Maritime Secu-
19 rity Coordinators and the Maritime Administration. The
20 grant program shall take into account national security
21 priorities, national economic, and strategic defense con-
22 cerns and shall be coordinated with the Director of the
23 Office of Domestic Preparedness to ensure that the grant
24 process is consistent with other Department of Homeland
25 Security grant programs.”.

1 **SEC. 8. REPORT ON DESIGN OF MARITIME SECURITY**
2 **GRANT PROGRAMS.**

3 Within 90 days after the date of enactment of this
4 Act, the Secretary of Homeland Security shall transmit
5 a report to the Senate Committee on Commerce, Science,
6 and Transportation and the House of Representatives
7 Committee on Transportation and Infrastructure on the
8 design of maritime security grant programs that includes
9 recommendations on—

10 (1) whether the grant programs should be dis-
11 cretionary or formula based and why;

12 (2) requirements for ensuring that Federal
13 funds will not be substituted for grantee funds;

14 (3) targeting requirements to ensure that fund-
15 ing is directed in a manner that reflects a national,
16 risk-based perspective on priority needs, the fiscal
17 capacity of recipients to fund the improvements
18 without grant funds, and an explicit analysis of the
19 impact of minimum funding to small ports that
20 could affect funding available for the most strategic
21 or economically important ports; and

22 (4) matching requirements to ensure that Fed-
23 eral funds provide an incentive to grantees for the

- 1 investment of their own funds in the improvements
- 2 financed in part by Federal funds.

Passed the Senate September 21, 2004.

Attest:

Secretary.

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