

Calendar No. 530

108TH CONGRESS
2D SESSION**S. 2279****[Report No. 108–274]**

To amend title 46, United States Code, with respect to maritime transportation security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 1, 2004

Mr. HOLLINGS (for himself, Mr. MCCAIN, and Mr. BREAU) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MAY 20, 2004

Reported by Mr. MCCAIN, with an amendment in the nature of a substitute
[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

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:

See. 1: Short title; table of contents
 See. 2: In rem liability; enforcement; pier and wharf security costs.
 See. 3: Maritime information.
 See. 4: Intermodal cargo security plan.
 See. 5: Joint operations center for port security.
 See. 6: Maritime transportation security plan grants.
 See. 7: Assistance for foreign ports.
 See. 8: Federal and State commercial maritime transportation training.
 See. 9: Port security research and development.
 See. 10: Nuclear facilities in maritime areas.
 See. 11: Transportation worker background investigation programs.
 See. 12: Security service fee.
 See. 13: Port security capital fund.

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

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

7 (1) by redesignating section 70117 as 70120;

8 and

9 (2) by inserting after section 70116 the fol-
 10 lowing:

11 “§ 70117. **In rem liability for civil penalties and cer-**
 12 **tain costs**

13 “(a) **IN GENERAL.**—Any vessel subject to the provi-
 14 sions of this chapter, which is used in violation of this
 15 chapter or any regulations issued hereunder shall be liable
 16 in rem for any civil penalty assessed pursuant to section
 17 70120 and may be proceeded against in the United States
 18 district court for any district in which such vessel may
 19 be found.

1 “(b) REIMBURSABLE COSTS.—

2 “(1) IN GENERAL.—Any vessel subject to the
3 provisions of this chapter shall be liable in rem for
4 the reimbursable costs incurred by any valid claim-
5 ant related to implementation and enforcement of
6 this chapter with respect to the vessel, including port
7 authorities, facility or terminal operators, shipping
8 agents, Federal, State, or local government agencies,
9 and other persons to whom the management of the
10 vessel at the port of supply is entrusted, and any
11 fine or penalty relating to reporting requirements of
12 the vessel or its cargo, crew, or passengers, and may
13 be proceeded against in the United States district
14 court for any district in which such vessel may be
15 found.

16 “(2) REIMBURSABLE COSTS DEFINED.—In this
17 subsection the term ‘reimbursable costs’ means costs
18 incurred by any service provider, including port au-
19 thorities, facility or terminal operators, shipping
20 agents, Federal, State, or local government agencies,
21 or other person to whom the management of the ves-
22 sel at the port of supply is entrusted, for—

23 “(A) vessel crew on board, or in transit to
24 or from, the vessel under lawful order, including

accommodation; detention; transportation; and
 medical expenses; and

“(B) required handling under lawful order
 of cargo or other items on board the vessel.

**“§ 70118. Enforcement by injunction or withholding
 of clearance**

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

“(b) WITHHOLDING OF CLEARANCE.—

“(1) If any owner, agent, master, officer, or
 person in charge of a vessel is liable for a penalty
 or fine under section 70120, or if reasonable cause
 exists to believe that the owner, agent, master, offi-
 cer, or person in charge may be subject to a penalty
 under section 70120, the Secretary may, with re-
 spect to such vessel, refuse or revoke any clearance
 required by section 4197 of the Revised Statutes of
 the United States (46 U.S.C. App. 91).

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

“§ 70119. Security of piers and wharfs

“(a) IN GENERAL.—Notwithstanding any provision
 of law, the Secretary shall require any uncleared, imported

1 merchandise remaining on the wharf or pier onto which
 2 it was unladen for more than 5 calendar days to be re-
 3 moved from the wharf or pier and deposited in the public
 4 stores or a general order warehouse, where it shall be in-
 5 speected for determination of contents, and thereafter a
 6 permit for its delivery may be granted.

7 “(b) PENALTY.—The Secretary may impose an ad-
 8 ministrative penalty of \$5,000 for each bill of lading for
 9 general order merchandise remaining on a wharf or pier
 10 in violation of subsection (a).”.

11 (b) CONFORMING AMENDMENT FOR IN REM LIABIL-
 12 ITY PROVISION IN CHAPTER 701.—Section 2 of the Act
 13 of June 15, 1917 (50 U.S.C. 192) is amended—

14 (1) by striking “Act,” each place it appears and
 15 inserting “title,”; and

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

17 “(d) IN REM LIABILITY.—Any vessel subject to the
 18 provisions of this title, which is used in violation of this
 19 title, or any regulations issued hereunder, shall be liable
 20 in rem for any civil penalty assessed pursuant to sub-
 21 section (c) and may be proceeded against in the United
 22 States district court for any district in which such vessel
 23 may be found.

1 “(e) INJUNCTION.—The United States district courts
2 shall have jurisdiction to restrain violations of this title
3 or of regulations issued hereunder, for cause shown.

4 “(f) WITHHOLDING OF CLEARANCE.—

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

14 “(2) Clearance refused or revoked under this
15 subsection may be granted upon filing of a bond or
16 other surety satisfactory to the Secretary of the De-
17 partment in which the Coast Guard is operating.”.

18 “(c) EMPTY CONTAINERS.—Within 90 days after the
19 date of enactment of this Act, the Secretary of Homeland
20 Security shall review United States ports and transmit to
21 the Senate Committee on Commerce, Science, and Trans-
22 portation and the House of Representatives Committee on
23 Transportation and Infrastructure a report on the prac-
24 tices and policies in place to secure shipment of empty
25 containers. The Secretary shall include in the report rec-

1 ommendations with respect to whether additional regula-
 2 tions or legislation is necessary to ensure the safe and se-
 3 cure delivery of cargo and to prevent potential acts of ter-
 4 rorism involving such containers.

5 (d) CLERICAL AMENDMENT.—The chapter analysis
 6 for chapter 701 of title 46, United States Code, is amend-
 7 ed by striking the last item and inserting the following:

“70117. In rem liability for civil penalties and certain costs
 “70118. Enforcement by injunction or withholding of clearance
 “70119. Security of piers and wharfs
 “70120. Civil penalty”.

8 **SEC. 3. MARITIME INFORMATION.**

9 Within 90 days after the date of enactment of this
 10 Act, the Secretary of Homeland Security shall submit a
 11 report to the Senate Committee on Commerce, Science,
 12 and Transportation and the House of Representatives
 13 Committee on Transportation and Infrastructure that pro-
 14 vides a preliminary plan for the implementation of section
 15 70113 of title 46, United States Code. The plan shall—

16 (1) provide the identification of Federal agen-
 17 cies with maritime information relating to vessels,
 18 crew, passengers, cargo, and cargo shippers;

19 (2) establish a timeline for coordinating the ef-
 20 forts of those Federal agencies in the collection of
 21 maritime information;

22 (3) establish a timeline for the incorporation of
 23 information on vessel movements derived through

1 the implementation of sections 70114 and 70115 of
2 title 46, United States Code;

3 (4) include recommendations on co-locating
4 agency personnel in order to maximize expertise,
5 minimize cost, and avoid redundancy;

6 (5) include recommendations on how to leverage
7 information on commercial maritime information col-
8 lected by the Department of the Navy, and identify
9 any legal impediments that would prevent or reduce
10 the utilization of such information outside the De-
11 partment of the Navy;

12 (6) include recommendations on educating Fed-
13 eral officials on commercial maritime operations in
14 order to facilitate the identification of security risks
15 posed through commercial maritime transportation
16 operations;

17 (7) include recommendations on how private
18 sector resources could be utilized to collect or ana-
19 lyze information, along with a preliminary assess-
20 ment of the availability and expertise of private sec-
21 tor resources;

22 (8) include recommendations on how to dissemi-
23 nate information collected and analyzed through
24 Federal maritime security coordinator while consid-
25 ering the need for nondisclosure of sensitive security

1 information and the maximizing of security through
 2 the utilization of State, local, and private security
 3 personnel; and

4 (9) include recommendations on how the De-
 5 partment could help support a maritime information
 6 sharing and analysis center for the purpose of col-
 7 lecting information from public and private entities;
 8 along with recommendations on the appropriate lev-
 9 els of funding to help disseminate maritime security
 10 information to the private sector.

11 **SEC. 4. INTERMODAL CARGO SECURITY PLAN.**

12 (a) IN GENERAL.—In addition to the plan submitted
 13 under section 3, within 180 days after the date of enact-
 14 ment of this Act, the Secretary of Homeland Security shall
 15 submit a report to the Senate Committee on Commerce,
 16 Science, and Transportation and the House of Represent-
 17 atives Committee on Transportation and Infrastructure
 18 containing the following:

19 (1) SECURE SYSTEMS OF TRANSPORTATION (46
 20 U.S.C. 70116).—A plan, along with timelines, for the
 21 implementation of section 70116 of title 46, United
 22 States Code. The plan shall—

23 (A) provide an update on current efforts
 24 by the Department of Homeland Security could
 25 be incorporated into the certification process

outlined in section 70116 to ensure the physical screening or inspection of imported cargo;

(B) provide a preliminary assessment of resources necessary to evaluate and certify “Secure Systems of Transportation”, and the resources necessary to validate that “Secure Systems of Transportation” are operating in compliance with the certification requirements; and

(C) contain an analysis of the feasibility of establishing a user fee in order to be able to evaluate, certify, and validate “Secure Systems of Transportation”.

(2) RADIATION DETECTORS.—A report on progress in the installation of a system of radiation detection at all major United States seaports, along with a timeline and expected completion date for the system. In the report, the Secretary shall include a preliminary analysis of any issues related to the installation of the radiation detection equipment, as well as a cost estimate for completing installation of the system.

(3) NON-INTRUSIVE INSPECTION AT FOREIGN PORTS.—A report—

(A) on whether and to what extent foreign seaports have been willing to utilize screening

1 equipment at their ports to screen cargo, includ-
2 ing the number of cargo containers that have
3 been screened at foreign seaports, and the ports
4 where they were screened;

5 (B) indicating which foreign ports may be
6 willing to utilize their screening equipment for
7 cargo exported for import into the United
8 States, and a recommendation as to whether,
9 and to what extent, United States cargo screen-
10 ing equipment will be required to be purchased
11 and stationed at foreign seaports for inspection;
12 and

13 (C) indicating to what extent additional re-
14 sources and program changes will be necessary
15 to maximize scrutiny of cargo in foreign sea-
16 ports.

17 (4) COMPLIANCE WITH SECURITY STANDARD
18 PROGRAMS.—A plan to establish, validate, and en-
19 sure compliance with security standards that would
20 require ports, terminals, vessel operators, and ship-
21 pers to adhere to security standards established by
22 or consistent with the National Transportation Sys-
23 tem Security Plan. The plan shall indicate what re-
24 sources will be utilized, and how they would be uti-

1 lized, to ensure that companies operate in compli-
2 ance with security standards.

3 ~~(b) EVALUATION OF CARGO INSPECTION TARGETING~~
4 ~~SYSTEM FOR INTERNATIONAL INTERMODAL CARGO CON-~~
5 ~~TAINERS.—~~

6 ~~(1) IN GENERAL.—~~Within 6 months after the
7 date of enactment of this Act, and annually there-
8 after, the Inspector General of the Department of
9 Homeland Security shall evaluate the system used
10 by the Department to target international inter-
11 modal containers for inspection and report the re-
12 sults of the evaluation to the Senate Committee on
13 Commerce, Science, and Transportation and the
14 House of Representatives Committee on Transpor-
15 tation and Infrastructure. In conducting the evalua-
16 tion, the Inspector General shall assess—

17 ~~(A)~~ the effectiveness of the current track-
18 ing system to determine whether it is adequate
19 to prevent international intermodal containers
20 from being used for purposes of terrorism;

21 ~~(B)~~ the sources of information used by the
22 system to determine whether targeting informa-
23 tion is collected from the best and most credible
24 sources and evaluate data sources to determine
25 information gaps and weaknesses;

1 (C) the targeting system for reporting and
2 analyzing inspection statistics, as well as testing
3 effectiveness;

4 (D) the competence and training of em-
5 ployees operating the system to determine
6 whether they are sufficiently capable to detect
7 potential terrorist threats; and

8 (E) whether the system is an effective sys-
9 tem to detect potential acts of terrorism and
10 whether additional steps need to be taken in
11 order to remedy deficiencies in targeting inter-
12 national intermodal containers for inspection.

13 (2) INCREASE IN INSPECTIONS.—If the Inspec-
14 tor General determines in any of the reports re-
15 quired by paragraph (1) that the targeting system is
16 insufficiently effective as a means of detecting poten-
17 tial acts of terrorism utilizing international inter-
18 modal containers, then within 12 months after that
19 report, the Secretary of Homeland Security shall
20 double the number of containers subjected to intru-
21 sive or non-intrusive inspection at United States
22 ports or to be shipped to the United States at for-
23 eign seaports.

24 (c) REPORT AND PLAN FORMATS.—The Secretary
25 and the Inspector General may submit any plan or report

1 required by this section in both classified and redacted for-
 2 mats if the Secretary determines that it is appropriate or
 3 necessary.

4 **SEC. 5. JOINT OPERATIONS CENTER FOR PORT SECURITY.**

5 The Commandant of the United States Coast Guard
 6 shall report to Congress, within 180 days after the date
 7 of enactment of this Act, on the potential benefits of estab-
 8 lishing joint operational centers for port security at certain
 9 United States seaports. The report shall consider the 3
 10 Joint Operational Centers that have been established at
 11 Norfolk, Charleston, San Diego, and elsewhere and com-
 12 pare and contrast their composition and operational char-
 13 acteristics. The report shall consider—

14 (1) whether it would be beneficial to establish
 15 linkages to Federal maritime information systems
 16 established pursuant to section 70113 of title 46,
 17 United States Code;

18 (2) whether the operational centers could be
 19 beneficially utilized to track vessel movements under
 20 sections 70114 and 70115 of title 46, United States
 21 Code;

22 (3) whether the operational centers could be
 23 beneficial in the facilitation of intermodal cargo se-
 24 curity programs such as the “Secure Systems of
 25 Transportation Program”;

1 (4) the extent to which such operational centers
2 could be beneficial in the operation of maritime area
3 security plans and maritime area contingency re-
4 sponse plans and in coordinating the port security
5 activities of Federal, State, and local officials; and

6 (5) include recommendations for the number of
7 centers and their possible location, as well as pre-
8 liminary cost estimates for the operation of the cen-
9 ters.

10 **SEC. 6. MARITIME TRANSPORTATION SECURITY PLAN**
11 **GRANTS.**

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

14 “(a) IN GENERAL.—The Under Secretary of Home-
15 land Security for Border and Transportation Security
16 shall establish a grant program for making a fair and eq-
17 uitable allocation of funds to implement Area Maritime
18 Transportation Security Plans and to help fund compli-
19 ance with Federal security plans among port authorities,
20 facility operators, and State and local agencies required
21 to provide security services. Grants shall be made on the
22 basis of the need to address vulnerabilities in security sub-
23 ject to review and comment by the appropriate Federal
24 Maritime Security Coordinators and the Maritime Admin-
25 istration. The grant program shall take into account na-

1 tional economic and strategic defense concerns and shall
 2 be coordinated with the Director of the Office of Domestic
 3 Preparedness to ensure that the grant process is con-
 4 sistent with other Department of Homeland Security
 5 grant programs.”.

6 **SEC. 7. ASSISTANCE FOR FOREIGN PORTS.**

7 Section 70109 of title 46, United States Code, is
 8 amended—

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

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

13 “(c) **FOREIGN ASSISTANCE PROGRAMS.**—The Ad-
 14 ministrator of the Maritime Administration, in coordina-
 15 tion with the Secretary of State, shall identify foreign as-
 16 sistance programs that could facilitate implementation of
 17 port security antiterrorism measures in foreign countries.
 18 The Administrator and the Secretary shall establish a pro-
 19 gram to utilize those programs that are capable of imple-
 20 menting port security antiterrorism measures at ports in
 21 foreign countries that the Secretary finds, under section
 22 70108, to lack effective antiterrorism measures.”.

1 **SEC. 8. FEDERAL AND STATE COMMERCIAL MARITIME**
2 **TRANSPORTATION TRAINING.**

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

5 (1) by redesignating subsections (e) through (f)
6 as subsections (d) through (g), respectively; and

7 (2) by inserting after subsection (b) the fol-
8 lowing:

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

1 **SEC. 9. RESEARCH AND DEVELOPMENT.**

2 (a) IN GENERAL.—Section 70107 of title 46, United
3 States Code, is amended by striking subsection (i) and in-
4 serting the following:

5 “(i) RESEARCH AND DEVELOPMENT.—

6 “(1) IN GENERAL.—As part of the research and
7 development program within the Science and Tech-
8 nology directorate, the Secretary of Homeland Secu-
9 rity shall conduct investigations, fund pilot pro-
10 grams, award grants, and otherwise conduct re-
11 search and development across the various portfolios
12 focused on making United States ports safer and
13 more secure. Research conducted under this sub-
14 section may include—

15 “(A) methods or programs to increase the
16 ability to target for inspection vessels, cargo,
17 crewmembers, or passengers that will arrive or
18 have arrived at any port or place in the United
19 States;

20 “(B) equipment to detect accurately explo-
21 sives, chemical, or biological agents that could
22 be used to commit terrorist acts against the
23 United States;

24 “(C) equipment to detect accurately nu-
25 clear or radiological materials, including scin-
26 tillation-based detection equipment capable of

1 signalling the presence of nuclear or radio-
2 logical materials;

3 “(D) improved tags and seal designed for
4 use on shipping containers to track the trans-
5 portation of the merchandise in such con-
6 tainers, including ‘smart sensors’ that are able
7 to track a container throughout its entire sup-
8 ply chain, detect hazardous and radioactive ma-
9 terials within that container, and transmit that
10 information to the appropriate law enforcement
11 authorities;

12 “(E) tools, including the use of satellite
13 tracking systems, to increase the awareness of
14 maritime areas and to identify potential ter-
15 rorist threats that could have an impact on fa-
16 cilities, vessels, and infrastructure on or adja-
17 cent to navigable waterways, including under-
18 water access;

19 “(F) tools to mitigate the consequences of
20 a terrorist act on, adjacent to, or under navi-
21 gable waters of the United States, including
22 sensor equipment, and other tools to help co-
23 ordinate effective response to a terrorist action;
24 and

1 “(G) applications to apply existing tech-
2 nologies from other areas or industries to in-
3 crease overall port security.

4 “(2) IMPLEMENTATION OF TECHNOLOGY.—

5 “(A) IN GENERAL.—In conjunction with
6 ongoing efforts to improve security at United
7 States ports, the Director of the Science and
8 Technology Directorate, in consultation with
9 other Department of Homeland Security agen-
10 cies with responsibility for port security, may
11 conduct pilot projects at United States ports to
12 test the effectiveness and applicability of new
13 port security projects, including—

14 “(i) testing of new detection and
15 screening technologies;

16 “(ii) projects to protect United States
17 ports and infrastructure on or adjacent to
18 the navigable waters of the United States,
19 including underwater access; and

20 “(iii) tools for responding to a ter-
21 rorist threat or incident at United States
22 ports and infrastructure on or adjacent to
23 the navigable waters of the United States,
24 including underwater access.

1 “(B) AUTHORIZATION OF APPROPRIA-
 2 TIONS.—There are authorized to be appro-
 3 priated to the Secretary of Homeland Security
 4 \$35,000,000 for each of fiscal years 2005
 5 through 2009 to carry out pilot projects under
 6 subparagraph (A).—

7 “(3) ADMINISTRATIVE PROVISIONS.—

8 “(A) NO DUPLICATION OF EFFORT.—Be-
 9 fore making any grant, the Secretary of Home-
 10 land Security shall coordinate with other Fed-
 11 eral agencies to ensure the grant will not be
 12 used for research and development that is al-
 13 ready being conducted with Federal funding.—

14 “(B) ACCOUNTING.—The Secretary of
 15 Homeland Security shall by regulation establish
 16 accounting, reporting, and review procedures to
 17 ensure that funds made available under para-
 18 graph (1) are used for the purpose for which
 19 they were made available; that all expenditures
 20 are properly accounted for, and that amounts
 21 not used for such purposes and amounts not ex-
 22 pended are recovered.—

23 “(C) RECORDKEEPING.—Recipients of
 24 grants shall keep all records related to expendi-
 25 tures and obligations of funds provided under

1 paragraph (1) and make them available upon
 2 request to the Inspector General of the Depart-
 3 ment of Homeland Security and the Secretary
 4 of Homeland Security for audit and examina-
 5 tion.”.

6 (b) ANNUAL REPORT.—Within 30 days after the be-
 7 ginning of each fiscal year from fiscal year 2005 through
 8 fiscal year 2009, the Director of the Science and Tech-
 9 nology Directorate shall submit a report describing its re-
 10 search that can be applied to port security to the Senate
 11 Committee on Commerce, Science, and Transportation,
 12 the House of Representatives Committee on Science, and
 13 the House of Representatives Select Committee on Home-
 14 land Security. The report shall—

15 (1) describe any port security-related research,
 16 including grants and pilot projects, that were con-
 17 ducted in the preceding fiscal year;

18 (2) describe the amount of Department of
 19 Homeland Security resources dedicated to research
 20 that can be applied to port security;

21 (3) describe the steps taken to coordinate with
 22 other agencies within the Department to ensure that
 23 research efforts are coordinated with port security
 24 efforts;

1 (4) describe how the results of the Depart-
 2 ment's research, as well as port security related re-
 3 search of the Department of Defense, will be imple-
 4 mented in the field, including predicted timetables;

5 (5) lay out the plans for research in the current
 6 fiscal year; and

7 (6) include a description of the funding levels
 8 for the research in the preceding, current, and next
 9 fiscal years.

10 **SEC. 10. NUCLEAR FACILITIES IN MARITIME AREAS.**

11 (a) WATERWAYS.—Section 70103(b) is amended by
 12 adding at the end thereof the following:

13 “(5) WATERWAYS LOCATED NEAR NUCLEAR FACILI-
 14 TIES.—

15 “(A) IDENTIFICATION AND SECURITY EVALUA-
 16 TION.—The Secretary shall—

17 “(i) identify all nuclear facilities on, adja-
 18 cent to, or in close proximity to navigable wa-
 19 terways that might be damaged by a transpor-
 20 tation security incident;

21 “(ii) in coordination with the Secretary of
 22 Energy, evaluate the security plans of each
 23 such nuclear facility for its adequacy to protect
 24 the facility from damage or disruption from a
 25 transportation security incident originating in

the navigable waterway, including threats posed by navigation, underwater access, and the introduction of harmful substances into water coolant systems.

“(B) RECTIFICATION OF DEFICIENCIES.—The Secretary, in coordination with the Secretary of Energy, shall take such steps as may be necessary or appropriate to correct any deficiencies in security identified in the evaluations conducted under subparagraph (A).

“(C) REPORT.—As soon as practicable after completion of the evaluation under subparagraph (A), the Secretary shall transmit a report, in both classified and redacted format, to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Select Committee on Homeland Security—

“(i) describing the results of the identification and evaluation required by subparagraph (A);

“(ii) describing the actions taken under subparagraph (B); and

1 “(iii) evaluating the technology utilized in
2 the protection of nuclear facilities (including
3 any such technology under development).”.

4 (b) VESSELS.—Section 70103(c)(3) of title 46,
5 United States Code, is amended—

6 (1) by striking “and” after the semicolon in
7 subparagraph (F);

8 (2) by striking “facility.” in subparagraph (G)
9 and inserting “facility; and”; and

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

11 “(H) establish a requirement, coordinated with
12 the Department of Energy, for criminal background
13 checks of all United States and foreign seamen em-
14 ployed on vessels transporting nuclear materials in
15 the navigable waters of the United States.”.

16 **SEC. 11. TRANSPORTATION WORKER BACKGROUND INVES-**
17 **TIGATION PROGRAMS.**

18 Within 120 days after the date of enactment of this
19 Act, the Secretary of Homeland Security, after consulta-
20 tion with the Secretary of Transportation, shall transmit
21 a report to the Senate Committee on Commerce, Science,
22 and Transportation and the House of Representatives
23 Committee on Transportation and Infrastructure—

24 (1) making recommendations (including legisla-
25 tive recommendations, if appropriate or necessary)

for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities; and

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination.

SEC. 12. SECURITY SERVICE FEE.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, as amended by section 2, is further amended by adding at the end the following:

“§ 70121. Security service fee

“(a) IN GENERAL.—

“(1) SECURITY FEE.—Within 90 days after the date of enactment of the Maritime Transportation Security Act of 2004, the Secretary of Homeland Security shall assess and collect an international port security service fee on commercial maritime transportation entities that benefit from a secure system of international maritime transportation to

1 pay for the costs of providing port security services.

2 The amount of the fees assessed and collected under
3 this paragraph and paragraph (2) shall, in the ag-
4 gregate, be sufficient to provide the services and lev-
5 els of funding described in section 70122(c).

6 ~~“(2) INTERNATIONAL TRANSSHIPMENT SECUR-~~
7 ~~ITY FEE.—~~The Secretary shall also assess and col-
8 lect an international maritime transshipment secu-
9 rity user fee for providing security services for ship-
10 ments of cargo and transportation of passengers en-
11 tering the United States as part of an international
12 transportation movement by water through Cana-
13 dian or Mexican ports at the same rates as the fee
14 imposed under paragraph (1). The fee authorized by
15 this paragraph shall not be assessed or collected on
16 transshipments from—

17 (A) Canada after the date on which the
18 Secretary determines that an agreement be-
19 tween the United States and Canada, or

20 (B) Mexico after the date on which the
21 Secretary determines that an agreement be-
22 tween the United States and Mexico,

23 has entered into force that will provide equivalent se-
24 curity regimes and international maritime security

1 user fees of the United States and that country for
 2 transshipments between the countries.

3 ~~“(b) SCHEDULE OF FEES.—~~In imposing fees under
 4 subsection (a), the Secretary shall ensure that the fees are
 5 reasonably related to the costs of providing services ren-
 6 dered and the value of the benefit derived from the con-
 7 tinuation of secure international maritime transportation.

8 ~~“(c) IMPOSITION OF FEE.—~~

9 ~~“(1) IN GENERAL.—~~Notwithstanding section
 10 9701 of title 31 and the procedural requirements of
 11 section 553 of title 5, the Secretary shall impose the
 12 fees under subsection (a) through the publication of
 13 notice in the Federal Register and begin collection of
 14 the fee within 60 days of the date of enactment of
 15 the Maritime Transportation Security Act of 2004,
 16 or as soon as possible thereafter. No fee shall be as-
 17 sessed more than once, and no fee shall be assessed
 18 for international ferry voyages.

19 ~~“(2) MEANS OF COLLECTION.—~~The Secretary
 20 shall prescribe procedures to collect fees under this
 21 section. The Secretary may use a department, agen-
 22 cy, or instrumentality of the United States Govern-
 23 ment or of a State or local government to collect the
 24 fee and may reimburse the department, agency, or
 25 instrumentality a reasonable amount for its services.

1 ~~“(3) SUBSEQUENT MODIFICATION OF FEE.—~~

2 After imposing a fee under subsection (a), the Sec-
3 retary may modify, from time to time through publi-
4 cation of notice in the Federal Register, the imposi-
5 tion or collection of such fee, or both. The Secretary
6 shall evaluate the fee annually to determine whether
7 it is necessary and appropriate to pay the cost of ac-
8 tivities and services, and shall adjust the amount of
9 the fee accordingly.

10 ~~“(4) LIMITATION ON COLLECTION.—No fee~~
11 may be collected under this section except to the ex-
12 tent that the expenditure of the fee to pay the costs
13 of activities and services for which the fee is imposed
14 is provided for in advance in an appropriations Act.

15 ~~“(d) ADMINISTRATION OF FEES.—~~

16 ~~“(1) FEES PAYABLE TO SECRETARY.—All fees~~
17 imposed and amounts collected under this section
18 are payable to the Secretary.

19 ~~“(2) INFORMATION.—The Secretary may re-~~
20 quire the provision of such information as the Sec-
21 retary decides is necessary to verify that fees have
22 been collected and remitted at the proper times and
23 in the proper amounts.

1 “(e) RECEIPTS CREDITED AS OFFSETTING COLLEC-
 2 TIONS.—Notwithstanding section 3302 of title 31, any fee
 3 collected under this section—

4 “(1) shall be credited as offsetting collections to
 5 the account that finances the activities and services
 6 for which the fee is imposed;

7 “(2) shall be available for expenditure only to
 8 pay the costs of activities and services for which the
 9 fee is imposed; and

10 “(3) shall remain available until expended.

11 “(f) REFUNDS.—The Secretary may refund any fee
 12 paid by mistake or any amount paid in excess of that re-
 13 quired.

14 “(g) SUNSET.—The fees authorized by subsection (a)
 15 may not be assessed after September 31, 2009.”.

16 (b) CONFORMING AMENDMENT.—The chapter anal-
 17 ysis for chapter 701 of title 46, United States Code, as
 18 amended by section 2, is amended by adding at the end
 19 the following:

“70121. Security service fee.”.

20 **SEC. 13. PORT SECURITY CAPITAL FUND.**

21 (a) IN GENERAL.—Chapter 701 of title 46, United
 22 States Code, as amended by section 11, is further amend-
 23 ed by adding at the end the following:

1 **“§ 70122. Port security capital fund.**

2 “(a) IN GENERAL.—There is established within the
3 Department of Homeland Security a fund to be known
4 as the Port Security Capital Fund. There are appropriated
5 to the Fund such sums as may be derived from the fees
6 authorized by section 70121(a).

7 “(b) PURPOSE.—Amounts in the Fund shall be avail-
8 able to the Secretary of Homeland Security—

9 “(1) to provide financial assistance to port au-
10 thorities, facility operators, and State and local
11 agencies required to provide security services to de-
12 fray capital investment in transportation security at
13 port facilities in accordance with the provisions of
14 this chapter;

15 “(2) to provide financial assistance to those en-
16 tities required to provide security services to help en-
17 sure compliance with Federal area maritime security
18 plans; and

19 “(3) to help defray the costs of Federal port se-
20 curity programs.

21 “(c) ALLOCATION OF FUNDS.—

22 “(1) FUNDS DERIVED FROM SECURITY FEES.—
23 From amounts in the Fund attributable to fees col-
24 lected under section 70121(a)(1) and (2)—

25 “(A) no less than \$400,000,000 (or such
26 amount as may be appropriate to reflect any

1 modification of the fees under section
2 70121(e)(3)) shall be made available each fiscal
3 year for grants under section 70107 to help en-
4 sure compliance with facility security plans or
5 to help implement Area Maritime Transpor-
6 tation Security Plans;

7 “(B) funds shall be made available to the
8 Coast Guard for the costs of implementing sec-
9 tions 70114 and 70115 fully by the end of fis-
10 cal year 2006;

11 “(C) funds shall be made available to the
12 Coast Guard for the costs of establishing com-
13 mand and control centers at United States
14 ports to help coordinate port security law en-
15 forcement activities and implementing Area
16 Maritime Security Plans, and may be trans-
17 ferred, as appropriate, to port authorities, facil-
18 ity operators, and State and local government
19 agencies to help them defray costs associated
20 with port security services;

21 “(D) funds shall be made available to the
22 Under Secretary of Homeland Security for Bor-
23 der and Transportation Security for the costs of
24 implementing cargo security programs, includ-

ing the costs of certifying secure systems of
transportation under section 70116;

“(E) funds shall be made available to the
Under Secretary of Homeland Security for Border and Transportation Security for the costs of acquiring and operating nonintrusive screening equipment at United States ports; and

“(F) funds shall be made available to the Transportation Security Administration for the costs of implementing of section 70113 and the collection of commercial maritime intelligence (including the collection of commercial maritime transportation information from the private sector); of which a portion shall be made available to the Coast Guard and the Customs Service only for the purpose of coordinating the system of collecting and analyzing information on vessels, crew, passengers, cargo, and intermodal shipments.

“(2) TRANSSHIPMENT FEES.—Amounts in the Fund attributable to fees collected under section 70121(a)(3), shall be made available to the Secretary to defray the costs of providing international maritime transshipment security at the United States borders with Canada and Mexico.

1 “(d) UTILIZATION REPORTS.—The Commandant of
 2 the Coast Guard and the Secretary of Homeland Security
 3 shall report annually to the Senate Committee on Com-
 4 merce, Science, and Transportation and the House of Rep-
 5 resentatives Committee on Transportation and Infrastruc-
 6 ture on utilization of amounts received from the Fund.

7 “(e) LETTERS OF INTENT.—The Secretary of Home-
 8 land Security, or his delegate, may execute letters of intent
 9 to commit funding to port sponsors from the Fund.”.

10 (f) CONFORMING AMENDMENT.—The chapter anal-
 11 ysis for chapter 701 of title 46, United States Code, as
 12 amended by section 11, is amended by adding at the end
 13 the following:

“70122. Port security capital fund.”.

14 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

17 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 18 *this Act is as follows:*

- Sec. 1. Short title; table of contents*
- Sec. 2. In rem liability; enforcement; pier and wharf security costs.*
- Sec. 3. Maritime information.*
- Sec. 4. Intermodal cargo security plan.*
- Sec. 5. Joint operations center for port security.*
- Sec. 6. Maritime transportation security plan grants.*
- Sec. 7. Assistance for foreign ports.*
- Sec. 8. Federal and State commercial maritime transportation training.*
- Sec. 9. Port security research and development.*
- Sec. 10. Nuclear facilities in maritime areas.*
- Sec. 11. Transportation worker background investigation programs.*
- Sec. 12. Report on cruise ship security.*
- Sec. 13. Report on design of maritime security grant programs.*

1 **SEC. 2. IN REM LIABILITY; ENFORCEMENT; PIER AND**
 2 **WHARF SECURITY COSTS.**

3 (a) *IN GENERAL.*—Chapter 701 of title 46, United
 4 States Code, is amended—

5 (1) *by redesignating section 70117 as 70120; and*

6 (2) *by inserting after section 70116 the fol-*
 7 *lowing:*

8 **“§ 70117. In rem liability for civil penalties and cer-**
 9 **tain costs**

10 “(a) *IN GENERAL.*—Any vessel subject to the provi-
 11 sions of this chapter, which is used in violation of this chap-
 12 ter or any regulations issued hereunder shall be liable in
 13 rem for any civil penalty assessed pursuant to section
 14 70120 and may be proceeded against in the United States
 15 district court for any district in which such vessel may be
 16 found.

17 “(b) *REIMBURSABLE COSTS.*—

18 “(1) *IN GENERAL.*—Any vessel subject to the pro-
 19 visions of this chapter shall be liable in rem for the
 20 reimbursable costs incurred by any valid claimant re-
 21 lated to implementation and enforcement of this chap-
 22 ter with respect to the vessel, including port authori-
 23 ties, facility or terminal operators, shipping agents,
 24 Federal, State, or local government agencies, and
 25 other persons to whom the management of the vessel
 26 at the port of supply is entrusted, and any fine or

1 *penalty relating to reporting requirements of the ves-*
 2 *sel or its cargo, crew, or passengers, and may be pro-*
 3 *ceeded against in the United States district court for*
 4 *any district in which such vessel may be found.*

5 “(2) *REIMBURSABLE COSTS DEFINED.*—*In this*
 6 *subsection the term ‘reimbursable costs’ means costs*
 7 *incurred by any service provider, including port au-*
 8 *thorities, facility or terminal operators, shipping*
 9 *agents, Federal, State, or local government agencies,*
 10 *or other person to whom the management of the vessel*
 11 *at the port of supply is entrusted, for—*

12 “(A) *vessel crew on board, or in transit to*
 13 *or from, the vessel under lawful order, including*
 14 *accommodation, detention, transportation, and*
 15 *medical expenses; and*

16 “(B) *required handling under lawful order*
 17 *of cargo or other items on board the vessel.*

18 **“§ 70118. *Enforcement by injunction or withholding of***
 19 ***clearance***

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

23 “(b) *WITHHOLDING OF CLEARANCE.*—

24 “(1) *If any owner, agent, master, officer, or per-*
 25 *son in charge of a vessel is liable for a penalty or fine*

1 under section 70120, or if reasonable cause exists to
 2 believe that the owner, agent, master, officer, or per-
 3 son in charge may be subject to a penalty under sec-
 4 tion 70120, the Secretary may, with respect to such
 5 vessel, refuse or revoke any clearance required by sec-
 6 tion 4197 of the Revised Statutes of the United States
 7 (46 U.S.C. App. 91).

8 “(2) Clearance refused or revoked under this sub-
 9 section may be granted upon filing of a bond or other
 10 surety satisfactory to the Secretary.

11 **“§ 70119. Security of piers and wharfs**

12 “(a) *IN GENERAL.*—Notwithstanding any other provi-
 13 sion of law, the Secretary shall require any uncleared, im-
 14 ported merchandise remaining on the wharf or pier onto
 15 which it was unladen for more than 5 calendar days to
 16 be removed from the wharf or pier and deposited in the
 17 public stores or a general order warehouse, where it shall
 18 be inspected for determination of contents, and thereafter
 19 a permit for its delivery may be granted.

20 “(b) *PENALTY.*—The Secretary may impose an admin-
 21 istrative penalty of \$5,000 for each bill of lading for general
 22 order merchandise remaining on a wharf or pier in viola-
 23 tion of subsection (a).”.

1 (b) *CONFORMING AMENDMENT FOR IN REM LIABILITY*
 2 *PROVISION IN CHAPTER 701.—Section 2 of the Act of June*
 3 *15, 1917 (50 U.S.C. 192) is amended—*

4 (1) *by striking “Act,” each place it appears in*
 5 *subsection (c) and inserting “title,”; and*

6 (2) *by adding at the end the following:*

7 “(d) *IN REM LIABILITY.—Any vessel subject to the pro-*
 8 *visions of this title that is used in violation of this title,*
 9 *or any regulations issued hereunder, shall be liable in rem*
 10 *for any civil penalty assessed pursuant to subsection (c)*
 11 *and may be proceeded against in the United States district*
 12 *court for any district in which such vessel may be found.*

13 “(e) *INJUNCTION.—The United States district courts*
 14 *shall have jurisdiction to restrain violations of this title or*
 15 *of regulations issued hereunder, for cause shown.*

16 “(f) *WITHHOLDING OF CLEARANCE.—*

17 (1) *If any owner, agent, master, officer, or per-*
 18 *son in charge of a vessel is liable for a penalty or fine*
 19 *under subsection (c), or if reasonable cause exists to*
 20 *believe that the owner, agent, master, officer, or per-*
 21 *son in charge may be subject to a penalty or fine*
 22 *under subsection (c), the Secretary may, with respect*
 23 *to such vessel, refuse or revoke any clearance required*
 24 *by section 4197 of the Revised Statutes of the United*
 25 *States (46 U.S.C. App. 91).*

1 “(2) Clearance refused or revoked under this sub-
 2 section may be granted upon filing of a bond or other
 3 surety satisfactory to the Secretary of the Department
 4 in which the Coast Guard is operating.”.

5 (c) *EMPTY CONTAINERS*.—Within 90 days after the
 6 date of enactment of this Act, the Secretary of Homeland
 7 Security shall review United States ports and transmit to
 8 the Senate Committee on Commerce, Science, and Trans-
 9 portation and the House of Representatives Committee on
 10 Transportation and Infrastructure a report on the practices
 11 and policies in place to secure shipment of empty con-
 12 tainers. The Secretary shall include in the report rec-
 13 ommendations with respect to whether additional regula-
 14 tions or legislation is necessary to ensure the safe and secure
 15 delivery of cargo and to prevent potential acts of terrorism
 16 involving such containers.

17 (d) *CLERICAL AMENDMENT*.—The chapter analysis for
 18 chapter 701 of title 46, United States Code, is amended by
 19 striking the last item and inserting the following:

 “70117. In rem liability for civil penalties and certain costs
 “70118. Enforcement by injunction or withholding of clearance
 “70119. Security of piers and wharfs
 “70120. Civil penalty”.

20 **SEC. 3. MARITIME INFORMATION.**

21 Within 90 days after the date of enactment of this Act,
 22 the Secretary of Homeland Security shall submit a report
 23 to the Senate Committee on Commerce, Science, and Trans-

1 *portation and the House of Representatives Committee on*
2 *Transportation and Infrastructure that provides a prelimi-*
3 *nary plan for the implementation of section 70113 of title*
4 *46, United States Code. The plan shall—*

5 *(1) identify Federal agencies with maritime in-*
6 *formation relating to vessels, crew, passengers, cargo,*
7 *and cargo shippers, those agencies' maritime informa-*
8 *tion collection and analysis activities, and the re-*
9 *sources devoted to those activities;*

10 *(2) establish a lead agency within the Depart-*
11 *ment of Homeland Security to coordinate the efforts*
12 *of other Department agencies in the collection of mar-*
13 *itime information and to identify and avoid un-*
14 *wanted redundancy in those efforts;*

15 *(3) establish a timeline for coordinating the ef-*
16 *forts of those Federal agencies in the collection of*
17 *maritime information;*

18 *(4) include recommendations on co-locating*
19 *agency personnel in order to maximize expertise,*
20 *minimize costs, and avoid redundancy in both the*
21 *collection and analysis of maritime information;*

22 *(5) establish a timeline for the incorporation of*
23 *information on vessel movements derived through the*
24 *implementation of sections 70114 and 70115 of title*
25 *46, United States Code;*

1 (6) include recommendations on how to leverage
2 information on commercial maritime information col-
3 lected by the Department of the Navy, and identify
4 any legal impediments that would prevent or reduce
5 the utilization of such information outside the De-
6 partment of the Navy;

7 (7) include recommendations on educating Fed-
8 eral officials on commercial maritime operations in
9 order to facilitate the identification of security risks
10 posed through commercial maritime transportation
11 operations;

12 (8) include recommendations on how private sec-
13 tor resources could be utilized to collect or analyze in-
14 formation, along with a preliminary assessment of the
15 availability and expertise of private sector resources;

16 (9) include recommendations on how to dissemi-
17 nate information collected and analyzed through Fed-
18 eral maritime security coordinator while considering
19 the need for nondisclosure of sensitive security infor-
20 mation and the maximizing of security through the
21 utilization of State, local, and private security per-
22 sonnel; and

23 (10) include recommendations on the need for
24 and how the Department could help support a mari-
25 time information sharing and analysis center for the

1 *purpose of collecting and disseminating real-time or*
 2 *near real-time information to and from public and*
 3 *private entities, along with recommendations on the*
 4 *appropriate levels of funding to help disseminate*
 5 *maritime security information to the private sector.*

6 **SEC. 4. INTERMODAL CARGO SECURITY PLAN.**

7 *(a) IN GENERAL.—In addition to the plan submitted*
 8 *under section 3, within 180 days after the date of enactment*
 9 *of this Act, the Secretary of Homeland Security shall sub-*
 10 *mit a report to the Senate Committee on Commerce,*
 11 *Science, and Transportation and the House of Representa-*
 12 *tives Committee on Transportation and Infrastructure con-*
 13 *taining the following:*

14 *(1) SECURE SYSTEMS OF TRANSPORTATION.—A*
 15 *plan, along with timelines, for the implementation of*
 16 *section 70116 of title 46, United States Code. The*
 17 *plan shall—*

18 *(A) provide an update on current efforts by*
 19 *the Department of Homeland Security to ensure*
 20 *the physical screening or inspection of imported*
 21 *cargo;*

22 *(B) provide a preliminary assessment of re-*
 23 *sources necessary to evaluate and certify secure*
 24 *systems of transportation, and the resources nec-*
 25 *essary to validate that the secure systems of*

1 *transportation are operating in compliance with*
 2 *the certification requirements;*

3 *(C) contain an analysis of the feasibility of*
 4 *establishing a user fee in order to be able to*
 5 *evaluate, certify, and validate secure systems of*
 6 *transportation;*

7 *(D) contain an analysis of the need and*
 8 *feasibility of establishing a system to inspect,*
 9 *monitor, and track intermodal shipping con-*
 10 *tainers within the United States; and*

11 *(E) contain an analysis of the need and fea-*
 12 *sibility for developing international standards*
 13 *for secure systems of transportation, including*
 14 *recommendations, that includes an examination*
 15 *of working with appropriate international orga-*
 16 *nizations to develop standards to enhance the*
 17 *physical security of shipping containers con-*
 18 *sistent with the provisions of section 70116 of*
 19 *title 46, United States Code.*

20 (2) *RADIATION DETECTORS.—A report on*
 21 *progress in the installation of a system of radiation*
 22 *detection at all major United States seaports, along*
 23 *with a timeline and expected completion date for the*
 24 *system. In the report, the Secretary shall include a*
 25 *preliminary analysis of any issues related to the in-*

1 *stallation or efficacy of the radiation detection equip-*
2 *ment, as well as a cost estimate for completing instal-*
3 *lation of the system.*

4 (3) *NON-INTRUSIVE INSPECTION AT FOREIGN*
5 *PORTS.—A report—*

6 (A) *on whether and to what extent foreign*
7 *seaports have been willing to utilize screening*
8 *equipment at their ports to screen cargo, includ-*
9 *ing the number of cargo containers that have*
10 *been screened at foreign seaports, and the ports*
11 *where they were screened;*

12 (B) *indicating which foreign ports may be*
13 *willing to utilize their screening equipment for*
14 *cargo exported for import into the United States,*
15 *and a recommendation as to whether, and to*
16 *what extent, United States cargo screening*
17 *equipment will be required to be purchased and*
18 *stationed at foreign seaports for inspection; and*

19 (C) *indicating ways to increase the effec-*
20 *tiveness of the targeting and screening activities*
21 *of United States Customs Service inspectors who*
22 *are stationed outside the United States and to*
23 *what extent additional resources and program*
24 *changes will be necessary to maximize scrutiny*

1 *of cargo in foreign seaports that is destined for*
 2 *the United States.*

3 (4) *COMPLIANCE WITH SECURITY STANDARD*
 4 *PROGRAMS.—A plan to establish, validate, and ensure*
 5 *compliance with security standards that would re-*
 6 *quire ports, terminals, vessel operators, and shippers*
 7 *to adhere to security standards established by or con-*
 8 *sistent with the National Transportation System Se-*
 9 *curity Plan. The plan shall indicate what resources*
 10 *will be utilized, and how they would be utilized, to*
 11 *ensure that companies operate in compliance with se-*
 12 *curity standards.*

13 (b) *INSPECTOR GENERAL IMPLEMENTATION RE-*
 14 *PORT.—One year after the date on which the plan described*
 15 *in subsection (a)(1) is submitted to the Committees, the In-*
 16 *spector General of the Department of Homeland Security*
 17 *shall transmit a report to those Committees evaluating the*
 18 *progress made by the Department in implementing the*
 19 *plan.*

20 (c) *EVALUATION OF CARGO INSPECTION TARGETING*
 21 *SYSTEM FOR INTERNATIONAL INTERMODAL CARGO CON-*
 22 *TAINERS.—*

23 (1) *IN GENERAL.—Within 6 months after the*
 24 *date of enactment of this Act, and annually there-*
 25 *after, the Inspector General of the Department of*

1 *Homeland Security shall evaluate the system used by*
2 *the Department to target international intermodal*
3 *containers for inspection and report the results of the*
4 *evaluation to the Senate Committee on Commerce,*
5 *Science, and Transportation and the House of Rep-*
6 *resentatives Committee on Transportation and Infra-*
7 *structure. In conducting the evaluation, the Inspector*
8 *General shall assess—*

9 *(A) the effectiveness of the current tracking*
10 *system to determine whether it is adequate to*
11 *prevent international intermodal containers*
12 *from being used for purposes of terrorism;*

13 *(B) the sources of information, and the*
14 *quality of the information at the time of report-*
15 *ing, used by the system to determine whether tar-*
16 *geting information is collected from the best and*
17 *most credible sources and evaluate data sources*
18 *to determine information gaps and weaknesses;*

19 *(C) the targeting system for reporting and*
20 *analyzing inspection statistics, as well as testing*
21 *effectiveness;*

22 *(D) the competence and training of employ-*
23 *ees operating the system to determine whether*
24 *they are sufficiently capable to detect potential*
25 *terrorist threats; and*

1 (E) *whether the system is an effective sys-*
 2 *tem to detect potential acts of terrorism and*
 3 *whether additional steps need to be taken in*
 4 *order to remedy deficiencies in targeting inter-*
 5 *national intermodal containers for inspection.*

6 (2) *INCREASE IN INSPECTIONS.—If the Inspector*
 7 *General determines in any of the reports required by*
 8 *paragraph (1) that the targeting system is insuffi-*
 9 *ciently effective as a means of detecting potential acts*
 10 *of terrorism utilizing international intermodal con-*
 11 *tainers, then within 12 months after that report, the*
 12 *Secretary of Homeland Security shall double the*
 13 *number of containers subjected to intrusive or non-in-*
 14 *trusive inspection at United States ports or to be*
 15 *shipped to the United States at foreign seaports.*

16 (d) *REPORT AND PLAN FORMATS.—The Secretary and*
 17 *the Inspector General may submit any plan or report re-*
 18 *quired by this section in both classified and redacted for-*
 19 *mats if the Secretary determines that it is appropriate or*
 20 *necessary.*

21 **SEC. 5. JOINT OPERATIONS CENTER FOR PORT SECURITY.**

22 *The Commandant of the United States Coast Guard*
 23 *shall report to Congress, within 180 days after the date of*
 24 *enactment of this Act, on the potential benefits of estab-*
 25 *lishing joint operational centers for port security at certain*

1 *United States seaports. The report shall consider the 3 Joint*
2 *Operational Centers that have been established at Norfolk,*
3 *Charleston, San Diego, and elsewhere and compare and*
4 *contrast their composition and operational characteristics.*
5 *The report shall consider—*

6 (1) *whether it would be beneficial to establish*
7 *linkages to Federal maritime information systems es-*
8 *tablished pursuant to section 70113 of title 46, United*
9 *States Code;*

10 (2) *whether the operational centers could be bene-*
11 *ficially utilized to track vessel movements under sec-*
12 *tions 70114 and 70115 of title 46, United States*
13 *Code;*

14 (3) *whether the operational centers could be bene-*
15 *ficial in the facilitation of intermodal cargo security*
16 *programs such as the secure systems of transportation*
17 *program;*

18 (4) *the extent to which such operational centers*
19 *could be beneficial in the operation of maritime area*
20 *security plans and maritime area contingency re-*
21 *sponse plans and in coordinating the port security*
22 *activities of Federal, State, and local officials; and*

23 (5) *include recommendations for the number of*
24 *centers and their possible location, as well as prelimi-*
25 *nary cost estimates for the operation of the centers.*

1 **SEC. 6. MARITIME TRANSPORTATION SECURITY PLAN**
 2 **GRANTS.**

3 *Section 70107(a) of title 46, United States Code, is*
 4 *amended to read as follows:*

5 “(a) *IN GENERAL.*—*The Under Secretary of Homeland*
 6 *Security for Border and Transportation Security shall es-*
 7 *tablish a grant program for making a fair and equitable*
 8 *allocation of funds to implement Area Maritime Transpor-*
 9 *tation Security Plans and to help fund compliance with*
 10 *Federal security plans among port authorities, facility op-*
 11 *erators, and State and local agencies required to provide*
 12 *security services. Grants shall be made on the basis of the*
 13 *need to address vulnerabilities in security subject to review*
 14 *and comment by the appropriate Federal Maritime Secu-*
 15 *rity Coordinators and the Maritime Administration. The*
 16 *grant program shall take into account national economic*
 17 *and strategic defense concerns and shall be coordinated with*
 18 *the Director of the Office of Domestic Preparedness to en-*
 19 *sure that the grant process is consistent with other Depart-*
 20 *ment of Homeland Security grant programs.”.*

21 **SEC. 7. ASSISTANCE FOR FOREIGN PORTS.**

22 *(a) IN GENERAL.*—*Section 70109 of title 46, United*
 23 *States Code, is amended—*

24 *(1) by striking “The Secretary,” in subsection*
 25 *(b) and inserting “The Administrator of the Maritime*
 26 *Administration,”; and*

1 (2) *by adding at the end the following:*

2 “(c) *FOREIGN ASSISTANCE PROGRAMS.—The Admin-*
 3 *istrator of the Maritime Administration, in coordination*
 4 *with the Secretary of State, shall identify foreign assistance*
 5 *programs that could facilitate implementation of port secu-*
 6 *rity antiterrorism measures in foreign countries. The Ad-*
 7 *ministrator and the Secretary shall establish a program to*
 8 *utilize those programs that are capable of implementing*
 9 *port security antiterrorism measures at ports in foreign*
 10 *countries that the Secretary finds, under section 70108, to*
 11 *lack effective antiterrorism measures.”.*

12 (b) *REPORT ON SECURITY AT PORTS IN THE CARIB-*
 13 *BEAN BASIN.—Not later than 60 days after the date of en-*
 14 *actment of this Act, the Secretary of Homeland Security*
 15 *shall submit to the Committee on Commerce, Science, and*
 16 *Transportation of the Senate and Committee on Transpor-*
 17 *tation and Infrastructure of the House of Representatives*
 18 *a report on the security of ports in the Caribbean Basin.*
 19 *The report shall include the following:*

20 (1) *An assessment of the effectiveness of the meas-*
 21 *ures employed to improve security at ports in the*
 22 *Caribbean Basin and recommendations for any addi-*
 23 *tional measures to improve such security.*

24 (2) *An estimate of the number of ports in the*
 25 *Caribbean Basin that will not be secured by July*

1 2004, and an estimate of the financial impact in the
 2 United States of any action taken pursuant to section
 3 70110 of title 46, United States Code, that affects
 4 trade between such ports and the United States.

5 (3) An assessment of the additional resources
 6 and program changes that are necessary to maximize
 7 security at ports in the Caribbean Basin.

8 **SEC. 8. FEDERAL AND STATE COMMERCIAL MARITIME**
 9 **TRANSPORTATION TRAINING.**

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

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

14 (2) by inserting after subsection (b) the fol-
 15 lowing:

16 “(c) **FEDERAL AND STATE COMMERCIAL MARITIME**
 17 **TRANSPORTATION TRAINING.**—The Secretary of Transpor-
 18 tation shall establish a curriculum, to be incorporated into
 19 the curriculum developed under subsection (a)(1), to educate
 20 and instruct Federal and State officials on commercial
 21 maritime and intermodal transportation. The curriculum
 22 shall be designed to familiarize those officials with commer-
 23 cial maritime transportation in order to facilitate perform-
 24 ance of their commercial maritime and intermodal trans-
 25 portation security responsibilities. In developing the stand-

ards for the curriculum, the Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.”.

SEC. 9. RESEARCH AND DEVELOPMENT.

(a) *IN GENERAL.*—Section 70107 of title 46, United States Code, is amended by striking subsection (i) and inserting the following:

“(i) *RESEARCH AND DEVELOPMENT.*—

“(1) *IN GENERAL.*—As part of the research and development program within the Science and Technology directorate, the Secretary of Homeland Security shall conduct investigations, fund pilot programs, award grants, and otherwise conduct research and development across the various portfolios focused on making United States ports safer and more secure. Research conducted under this subsection may include—

“(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or

1 *have arrived at any port or place in the United*
2 *States;*

3 *“(B) equipment to detect accurately explo-*
4 *sives, chemical, or biological agents that could be*
5 *used to commit terrorist acts against the United*
6 *States;*

7 *“(C) equipment to detect accurately nuclear*
8 *or radiological materials, including scintillation-*
9 *based detection equipment capable of signalling*
10 *the presence of nuclear or radiological materials;*

11 *“(D) improved tags and seals designed for*
12 *use on shipping containers to track the transpor-*
13 *tation of the merchandise in such containers, in-*
14 *cluding ‘smart sensors’ that are able to track a*
15 *container throughout its entire supply chain, de-*
16 *tect hazardous and radioactive materials within*
17 *that container, and transmit that information to*
18 *the appropriate law enforcement authorities;*

19 *“(E) tools, including the use of satellite*
20 *tracking systems, to increase the awareness of*
21 *maritime areas and to identify potential ter-*
22 *rorist threats that could have an impact on fa-*
23 *cilities, vessels, and infrastructure on or adjacent*
24 *to navigable waterways, including underwater*
25 *access;*

1 “(F) tools to mitigate the consequences of a
 2 terrorist act on, adjacent to, or under navigable
 3 waters of the United States, including sensor
 4 equipment, and other tools to help coordinate ef-
 5 fective response to a terrorist action;

6 “(G) applications to apply existing tech-
 7 nologies from other areas or industries to in-
 8 crease overall port security; and

9 “(H) improved container design, including
 10 blast-resistant containers.

11 “(2) IMPLEMENTATION OF TECHNOLOGY.—

12 “(A) IN GENERAL.—In conjunction with on-
 13 going efforts to improve security at United
 14 States ports, the Director of the Science and
 15 Technology Directorate, in consultation with
 16 other Department of Homeland Security agencies
 17 with responsibility for port security, may con-
 18 duct pilot projects at United States ports to test
 19 the effectiveness and applicability of new port se-
 20 curity projects, including—

21 “(i) testing of new detection and
 22 screening technologies;

23 “(ii) projects to protect United States
 24 ports and infrastructure on or adjacent to

1 *the navigable waters of the United States,*
 2 *including underwater access; and*

3 “(iii) *tools for responding to a terrorist*
 4 *threat or incident at United States ports*
 5 *and infrastructure on or adjacent to the*
 6 *navigable waters of the United States, in-*
 7 *cluding underwater access.*

8 “(B) *AUTHORIZATION OF APPROPRIA-*
 9 *TIONS.—There are authorized to be appropriated*
 10 *to the Secretary of Homeland Security*
 11 *\$35,000,000 for each of fiscal years 2005 through*
 12 *2009 to carry out pilot projects under subpara-*
 13 *graph (A).*

14 “(3) *ADMINISTRATIVE PROVISIONS.—*

15 “(A) *NO DUPLICATION OF EFFORT.—Before*
 16 *making any grant, the Secretary of Homeland*
 17 *Security shall coordinate with other Federal*
 18 *agencies to ensure the grant will not be used for*
 19 *research and development that is already being*
 20 *conducted with Federal funding.*

21 “(B) *ACCOUNTING.—The Secretary of*
 22 *Homeland Security shall by regulation establish*
 23 *accounting, reporting, and review procedures to*
 24 *ensure that funds made available under para-*
 25 *graph (1) are used for the purpose for which they*

1 *were made available, that all expenditures are*
 2 *properly accounted for, and that amounts not*
 3 *used for such purposes and amounts not ex-*
 4 *pended are recovered.*

5 “(C) *RECORDKEEPING.—Recipients of*
 6 *grants shall keep all records related to expendi-*
 7 *tures and obligations of funds provided under*
 8 *paragraph (1) and make them available upon re-*
 9 *quest to the Inspector General of the Department*
 10 *of Homeland Security and the Secretary of*
 11 *Homeland Security for audit and examination.”.*

12 (b) *ANNUAL REPORT.—Within 30 days after the begin-*
 13 *ning of each fiscal year from fiscal year 2005 through fiscal*
 14 *year 2009, the Director of the Science and Technology Di-*
 15 *rectorate shall submit a report describing its research that*
 16 *can be applied to port security to the Senate Committee*
 17 *on Commerce, Science, and Transportation, the House of*
 18 *Representatives Committee on Science, and the House of*
 19 *Representatives Select Committee on Homeland Security.*
 20 *The report shall—*

21 (1) *describe any port security-related research,*
 22 *including grants and pilot projects, that were con-*
 23 *ducted in the preceding fiscal year;*

1 (2) *describe the amount of Department of Home-*
 2 *land Security resources dedicated to research that can*
 3 *be applied to port security;*

4 (3) *describe the steps taken to coordinate with*
 5 *other agencies within the Department to ensure that*
 6 *research efforts are coordinated with port security ef-*
 7 *forts;*

8 (4) *describe how the results of the Department's*
 9 *research, as well as port security related research of*
 10 *the Department of Defense, will be implemented in*
 11 *the field, including predicted timetables;*

12 (5) *lay out the plans for research in the current*
 13 *fiscal year; and*

14 (6) *include a description of the funding levels for*
 15 *the research in the preceding, current, and next fiscal*
 16 *years.*

17 **SEC. 10. NUCLEAR FACILITIES IN MARITIME AREAS.**

18 (a) *WATERWAYS.*—Section 70103(b) *is amended by*
 19 *adding at the end thereof the following:*

20 “(5) *WATERWAYS LOCATED NEAR NUCLEAR FACILI-*
 21 *TIES.*—

22 “(A) *IDENTIFICATION AND SECURITY EVALUA-*
 23 *TION.*—*The Secretary shall—*

24 “(i) *identify all nuclear facilities on, adja-*
 25 *cent to, or in close proximity to navigable water-*

1 ways that might be damaged by a transportation
2 security incident; and

3 “(ii) in coordination with the Secretary of
4 Energy, evaluate the security plans of each such
5 nuclear facility for its adequacy to protect the
6 facility from damage or disruption from a trans-
7 portation security incident originating in the
8 navigable waterway, including threats posed by
9 navigation, underwater access, and the introduc-
10 tion of harmful substances into water coolant
11 systems.

12 “(B) RECTIFICATION OF DEFICIENCIES.—The
13 Secretary, in coordination with the Secretary of En-
14 ergy, shall take such steps as may be necessary or ap-
15 propriate to correct any deficiencies in security iden-
16 tified in the evaluations conducted under subpara-
17 graph (A).

18 “(C) REPORT.—As soon as practicable after
19 completion of the evaluation under subparagraph (A),
20 the Secretary shall transmit a report, in both classi-
21 fied and redacted format, to the Senate Committee on
22 Commerce, Science, and Transportation, the House of
23 Representatives Committee on Transportation and
24 Infrastructure, and the House of Representatives Se-
25 lect Committee on Homeland Security—

1 “(i) describing the results of the identifica-
 2 tion and evaluation required by subparagraph
 3 (A);

4 “(ii) describing the actions taken under sub-
 5 paragraph (B); and

6 “(iii) evaluating the technology utilized in
 7 the protection of nuclear facilities (including any
 8 such technology under development).”.

9 (b) *VESSELS*.—Section 70103(c)(3) of title 46, *United*
 10 *States Code*, is amended—

11 (1) by striking “and” after the semicolon in sub-
 12 paragraph (F);

13 (2) by striking “facility.” in subparagraph (G)
 14 and inserting “facility; and”; and

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

16 “(H) establish a requirement, coordinated with
 17 the Department of Energy, for criminal background
 18 checks of all United States and foreign seamen em-
 19 ployed on vessels transporting nuclear materials in
 20 the navigable waters of the United States.”.

21 **SEC. 11. TRANSPORTATION WORKER BACKGROUND INVES-**
 22 **TIGATION PROGRAMS.**

23 *Within 120 days after the date of enactment of this*
 24 *Act, the Secretary of Homeland Security, after consultation*
 25 *with the Secretary of Transportation, shall transmit a re-*

1 port to the Senate Committee on Commerce, Science, and
2 Transportation and the House of Representatives Com-
3 mittee on Transportation and Infrastructure—

4 (1) making recommendations (including legisla-
5 tive recommendations, if appropriate or necessary)
6 for harmonizing, combining, or coordinating require-
7 ments, procedures, and programs for conducting back-
8 ground checks under section 70105 of title 46, United
9 States Code, section 5103a(c) of title 49, United
10 States Code, section 44936 of title 49, United States
11 Code, and other provisions of Federal law or regula-
12 tions requiring background checks for individuals en-
13 gaged in transportation or transportation-related ac-
14 tivities;

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

18 (3) setting forth a plan with a detailed timeline
19 for the implementation of the Transportation Worker
20 Identification Credential in seaports;

21 (4) making recommendations for a waiver and
22 appeals process for issuing a transportation security
23 card to an individual found otherwise ineligible for
24 such a card under section 70105(c)(2) and (3) of title
25 46, United States Code, along with recommendations

1 on the appropriate level of funding for such a process;
 2 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 offi-
 7 cials responsible for maintaining access control while
 8 also protecting workers' privacy.

9 **SEC. 12. 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 (a)
 18 shall include an assessment of security measures employed
 19 by the cruise line industry, including the following:

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

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

24 (3) The costs incurred by the cruise line industry
 25 to carry out the measures required by the Maritime

1 *Transportation Security Act of 2002 (Public Law*
2 *107–295; 116 Stat. 2064) and the amendments made*
3 *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 with*
7 *such methods.*

8 (5) *An assessment of security measures taken by*
9 *the Secretary of Homeland Security to increase the*
10 *security of the cruise line industry and the costs in-*
11 *curring 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 ca-*
14 *nine units at ports used by cruise ships and an as-*
15 *essment of the cost of such deployment.*

16 (7) *A summary of the fees paid by passengers of*
17 *cruise ships that are used for inspections and the fea-*
18 *sibility of creating a dedicated passenger vessel secu-*
19 *rity 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. 13. REPORT ON DESIGN OF MARITIME SECURITY**
 6 **GRANT PROGRAMS.**

7 *Within 90 days after the date of enactment of this Act,*
 8 *the Secretary of Homeland Security shall transmit a report*
 9 *to the Senate Committee on Commerce, Science, and Trans-*
 10 *portation and the House of Representatives Committee on*
 11 *Transportation and Infrastructure on the design of mari-*
 12 *time security grant programs that includes recommenda-*
 13 *tions on—*

14 *(1) whether the grant programs should be discre-*
 15 *tionary or formula based and why;*

16 *(2) requirements for ensuring that Federal funds*
 17 *will not be substituted for grantee funds;*

18 *(3) targeting requirements to ensure that funding*
 19 *is directed in a manner that reflects a national, risk-*
 20 *based perspective on priority needs, the fiscal capac-*
 21 *ity of recipients to fund the improvements without*
 22 *grant funds, and an explicit analysis of the impact*
 23 *of minimum funding to small ports that could affect*
 24 *funding available for the most strategic or economi-*
 25 *cally important ports; and*

1 (4) *matching requirements to ensure that Federal*
2 *funds provide an incentive to grantees for the invest-*
3 *ment of their own funds in the improvements fi-*
4 *nanced in part by Federal funds.*

Calendar No. 530

108TH CONGRESS
2D Session

S. 2279

[Report No. 108-274]

A BILL

To amend title 46, United States Code, with respect to maritime transportation security, and for other purposes.

MAY 20, 2004

Reported with an amendment in the nature of a substitute