

108TH CONGRESS
1ST SESSION

S. 430

To amend the Homeland Security Act of 2002 to enhance agricultural biosecurity in the United States through increased prevention, preparation, and response planning.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2003

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Homeland Security Act of 2002 to enhance agricultural biosecurity in the United States through increased prevention, preparation, and response planning.

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 “Agriculture Security Preparedness Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Agricultural biosecurity.

“Subtitle J—Agricultural Biosecurity

“Sec. 899A. Definitions.

“CHAPTER 1—INTERAGENCY COORDINATION

“Sec. 899D. Agricultural disease liaisons.

“Sec. 899E. Transportation.

“Sec. 899F. Regional, State, and local preparation.

“Sec. 899G. Study on feasibility of establishing a national plant disease laboratory.

“CHAPTER 2—INTERNATIONAL ACTIVITIES

“Sec. 899J. International agricultural disease surveillance.

“Sec. 899K. Inspections of imported agricultural products.

“Sec. 899L. Bilateral mutual assistance agreements.

“CHAPTER 3—RESPONSE ACTIVITIES

“Sec. 899O. Study on feasibility of establishing a national agroterrorism and ecoterrorism incident clearinghouse.

“Sec. 899P. Review of legal authority.

“Sec. 899Q. Information sharing.

Sec. 4. Inclusion of agroterrorism in terrorist acts involving weapons of mass destruction.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the intentional use of agricultural disease
4 agents to attack United States agriculture threatens
5 an industry that accounts for approximately 13 per-
6 cent of the gross domestic product of the United
7 States;

8 (2) the economic impact of a worst-case agricul-
9 tural disease affecting multiple farms in multiple
10 States could be measured in billions of dollars, in-
11 cluding the costs of eradication, production losses,
12 and other market repercussions;

13 (3) agricultural diseases can be naturally occur-
14 ring (such as the outbreak of foot-and-mouth disease

1 in Great Britain during 2001) or intentionally cre-
2 ated by malicious actors;

3 (4) risk factors affecting the spread of a plant
4 or animal disease include—

5 (A) animal density;

6 (B) animal and plant concentration points
7 (such as auction markets, sale barns, and grain
8 lots);

9 (C) plant and animal movement;

10 (D) individuals moving on and off farms;

11 (E) wildlife; and

12 (F) weather conditions;

13 (5) the rapid and widespread movement of ani-
14 mals and crops is an integral part of United States
15 agriculture and the principle means by which an ag-
16 ricultural disease will spread if an agricultural dis-
17 ease occurs;

18 (6) response planning and mitigation requires
19 the coordination between the animal health and agri-
20 cultural community, transportation officials, and
21 representatives of the shipping and trucking indus-
22 try;

23 (7) the United States Department of Agri-
24 culture and State departments of agriculture have

1 responsibility for the protection of the agricultural
2 resources of the United States;

3 (8) in the event of an agricultural disease, the
4 Department of Agriculture and State departments of
5 agriculture will need the support and resources of
6 other Federal, State, and local agencies that carry
7 out traditional emergency management and response
8 functions;

9 (9) while the introduction of an infectious for-
10 eign animal disease (such as foot-and-mouth disease)
11 will be the primary threat addressed by an agricul-
12 tural security plan, the principles used to prevent,
13 detect, control, or eradicate such a disease will apply
14 to large-scale outbreaks of other diseases and other
15 agricultural diseases that affect agriculture;

16 (10) numerous Federal agencies have authori-
17 ties and responsibilities relating to public, animal,
18 and wildlife health, safety, and management;

19 (11) the highest priority of the United States,
20 in connection with agricultural diseases, is to pre-
21 vent the introduction of, detect, control, and eradi-
22 cate an agricultural disease as quickly as practicable
23 and return the United States to a disease-free sta-
24 tus;

1 (12)(A) the Incident Command System was
2 adopted by the National Fire Academy as the model
3 system of the Academy in 1987 and was later en-
4 dorsed by the International Association of Chiefs of
5 Police and the American Public Works Association;

6 (B) the Incident Command System is used by
7 many Federal agencies, such as the Environmental
8 Protection Agency and the United States Fire Ad-
9 ministration, while responding to emergencies; and

10 (C) the Secretary of Agriculture, acting through
11 the Animal and Plant Health Inspection Service,
12 should incorporate the Incident Command System in
13 all agricultural disaster emergency response plans;
14 and

15 (13) since agricultural diseases will continue to
16 be rare occurrences in the United States, the De-
17 partment of Agriculture and Federal, State, and
18 local partners will need to reinforce preparedness,
19 training, and response mechanisms—

20 (A) through an all-hazard approach to all
21 agricultural disaster emergencies; and

22 (B) by gaining field experience in foreign
23 countries where high-risk agricultural diseases
24 are endemic.

1 **SEC. 3. AGRICULTURAL BIOSECURITY.**

2 (a) IN GENERAL.—Title VIII of the Homeland Secu-
 3 rity Act of 2002 (Public Law 107–296; 116 Stat. 2220)
 4 is amended by adding at the end the following:

5 **“Subtitle J—Agricultural**
 6 **Biosecurity**

7 **“SEC. 899A. DEFINITIONS.**

8 “In this subtitle:

9 “(1) AGRICULTURAL DISEASE.—The term ‘agri-
 10 cultural disease’ means an outbreak of a plant or
 11 animal disease, or a pest infestation, that requires
 12 prompt action in order to prevent injury or damage
 13 to people, plants, livestock, property, the economy,
 14 or the environment.

15 “(2) AGRICULTURE.—The term ‘agriculture’ in-
 16 cludes—

17 “(A) the science and practice of activities
 18 relating to food, feed, and fiber production,
 19 processing, marketing, distribution, use, and
 20 trade;

21 “(B) family and consumer science, nutri-
 22 tion, food science and engineering, agricultural
 23 economics, and other social sciences; and

24 “(C) forestry, wildlife science, fishery
 25 science, aquaculture, floraculture, veterinary

1 medicine, and other environmental and natural
2 resource sciences.

3 “(3) AGROTERRORISM.—The term
4 ‘agroterrorism’ means the commission of an
5 agroterrorist act.

6 “(4) AGROTERRORIST ACT.—The term
7 ‘agroterrorist act’ means a criminal act consisting of
8 causing or attempting to cause damage or harm to,
9 or destruction or contamination of, a crop, livestock,
10 farm or ranch equipment, a material, any other
11 property associated with agriculture, or a person en-
12 gaged in agricultural activity, that is committed with
13 the intent—

14 “(A) to intimidate or coerce a civilian pop-
15 ulation; or

16 “(B) to influence the policy of a govern-
17 ment by intimidation or coercion.

18 “(5) BIOSECURITY.—

19 “(A) IN GENERAL.—The term ‘biosecurity’
20 means protection from the risks posed by bio-
21 logical, chemical, or radiological agents to—

22 “(i) plant or animal health;

23 “(ii) the agricultural economy;

24 “(iii) the environment; and

25 “(iv) human health.

1 “(B) INCLUSIONS.—The term ‘biosecurity’
 2 includes the exclusion, eradication, and control
 3 of biological agents that cause plant or animal
 4 diseases.

5 “(6) ECOTERRORISM.—The term ‘ecoterrorism’
 6 means the use of force or violence against a person
 7 or property to intimidate or coerce all or part of a
 8 government or the civilian population, in furtherance
 9 of a social goal in the name of an environmental
 10 cause.

11 **“CHAPTER 1—INTERAGENCY** 12 **COORDINATION**

13 **“SEC. 899D. AGRICULTURAL DISEASE LIAISONS.**

14 “(a) AGRICULTURAL DISEASE MANAGEMENT LIAI-
 15 SON.—The Secretary shall establish a senior level position
 16 within the Federal Emergency Management Agency to
 17 serve, as a primary responsibility, as a liaison for agricul-
 18 tural disease management between—

19 “(1) the Department; and

20 “(2)(A) the Federal Emergency Management
 21 Agency;

22 “(B) the Department of Agriculture;

23 “(C) other Federal agencies responsible for ag-
 24 riculture disease emergency response;

25 “(D) the emergency management community;

1 “(E) State emergency officials and agricultural
2 officials; and

3 “(F) affected industries.

4 “(b) ANIMAL HEALTH CARE LIAISON.—The Sec-
5 retary of Health and Human Services shall establish with-
6 in the Department of Health and Human Services a senior
7 level position to serve, as a primary responsibility, as a
8 liaison between—

9 “(1) the Department of Health and Human
10 Services; and

11 “(2)(A) the Department of Agriculture;

12 “(B) the animal health community;

13 “(C) the emergency management community;

14 and

15 “(D) affected industries.

16 **“SEC. 899E. TRANSPORTATION.**

17 “The Secretary of Transportation, in consultation
18 with the Secretary of Agriculture and the Secretary,
19 shall—

20 “(1) publish in the Federal Register proposed
21 guidelines for restrictions on interstate transpor-
22 tation of an agricultural commodity or product in re-
23 sponse to an agricultural disease;

24 “(2) provide for a comment period for the pro-
25 posed guidelines of not less than 90 days;

1 “(3) establish the final guidelines, taking into
 2 consideration any comments received under para-
 3 graph (2); and

4 “(4) provide the guidelines to officers and em-
 5 ployees of —

6 “(A) the Department of Agriculture;

7 “(B) the Department of Transportation;

8 and

9 “(C) the Department.

10 **“SEC. 899F. REGIONAL, STATE, AND LOCAL PREPARATION.**

11 “(a) ENVIRONMENTAL PROTECTION AGENCY.—The
 12 Administrator of the Environmental Protection Agency, in
 13 consultation with the Secretary of Agriculture, shall co-
 14 operate with regional, State, and local disaster prepared-
 15 ness officials to include consideration of potential environ-
 16 mental impacts of response activities in planning re-
 17 sponses to agricultural diseases.

18 “(b) DEPARTMENT OF AGRICULTURE.—The Sec-
 19 retary of Agriculture, in consultation with the Secretary,
 20 shall—

21 “(1) develop and implement information-shar-
 22 ing procedures to provide information to and share
 23 information among Federal, regional, State, and
 24 local officials regarding agricultural threats, risks,
 25 and vulnerabilities; and

1 “(2) cooperate with State agricultural officials,
 2 State and local emergency managers, representatives
 3 from State land grant colleges and research univer-
 4 sities, agricultural producers, and agricultural trade
 5 associations to establish local response plans for ag-
 6 ricultural diseases.

7 “(c) FEDERAL EMERGENCY MANAGEMENT AGEN-
 8 CY.—The Director of the Federal Emergency Manage-
 9 ment Agency, in consultation with the Secretary of Agri-
 10 culture, shall—

11 “(1) establish a task force, consisting of agri-
 12 cultural producers and State and local emergency re-
 13 sponse officials, to identify best practices for re-
 14 gional and State agricultural disease programs;

15 “(2) distribute to States and localities a report
 16 that describes the best practices; and

17 “(3) design and distribute packages containing
 18 exercises for training, based on the identified best
 19 practices, in the form of printed materials and elec-
 20 tronic media, for distribution to State and local
 21 emergency managers and State agricultural officials.

22 **“SEC. 899G. STUDY ON FEASIBILITY OF ESTABLISHING A**
 23 **NATIONAL PLANT DISEASE LABORATORY.**

24 “Not later than 270 days after the date of enactment
 25 of this subtitle, the Secretary of Agriculture shall submit

1 to the appropriate committees of Congress a report on the
 2 feasibility of establishing a national plant disease labora-
 3 tory, based on the model of the Centers for Disease Con-
 4 trol and Prevention, with the primary task of—

5 “(1) integrating and coordinating a nationwide
 6 system of independent plant disease diagnostic lab-
 7 oratories, including plant clinics maintained by land
 8 grant colleges and universities; and

9 “(2) increasing the capacity, technical infra-
 10 structure, and information-sharing capabilities of
 11 laboratories described in paragraph (1).

12 **“CHAPTER 2—INTERNATIONAL**

13 **ACTIVITIES**

14 **“SEC. 899J. INTERNATIONAL AGRICULTURAL DISEASE SUR-** 15 **VEILLANCE.**

16 “Not later than 1 year after the date of enactment
 17 of this subtitle, the Secretary of Agriculture, in consulta-
 18 tion with the Secretary of State and the Administrator
 19 of the United States Agency for International Develop-
 20 ment, shall submit to the appropriate committees of Con-
 21 gress a report on measures taken by the Secretary of Agri-
 22 culture—

23 “(1) to streamline the process of notification by
 24 the Secretary of Agriculture to Federal agencies in

1 the event of agricultural diseases in foreign coun-
 2 tries; and

3 “(2) to cooperate with representatives of foreign
 4 countries, international organizations, and industry
 5 to devise and implement methods of sharing infor-
 6 mation on international agricultural diseases and
 7 unusual agricultural activities.

8 **“SEC. 899K. INSPECTIONS OF IMPORTED AGRICULTURAL**
 9 **PRODUCTS.**

10 “The Secretary shall—

11 “(1) cooperate with the Secretary of Agri-
 12 culture and appropriate Federal intelligence officials
 13 to improve the ability of the Department of Agri-
 14 culture to identify agricultural commodities and
 15 products, livestock, and other goods imported from
 16 suspect locations recognized by the intelligence com-
 17 munity as having—

18 “(A) experienced agricultural terrorist ac-
 19 tivities or unusual agricultural diseases; or

20 “(B) harbored agroterrorists; and

21 “(2) use the information collected under para-
 22 graph (1) to establish inspection priorities.

1 **“SEC. 899L. BILATERAL MUTUAL ASSISTANCE AGREE-**
 2 **MENTS.**

3 “The Secretary of State, in coordination with the
 4 Secretary of Agriculture and the Secretary, shall—

5 “(1) enter into mutual assistance agreements
 6 with other countries for assistance in the event of an
 7 agricultural disease—

8 “(A) to provide training to veterinarians
 9 and agriculture specialists of the United States
 10 in the identification, diagnosis, and control of
 11 foreign agricultural diseases;

12 “(B) to provide resources and personnel to
 13 foreign governments with limited resources to
 14 respond to agricultural diseases; and

15 “(C) to participate in bilateral training
 16 programs and exercises; and

17 “(2) provide funding for personnel to partici-
 18 pate in related exchange and training programs.

19 **“CHAPTER 3—RESPONSE ACTIVITIES**

20 **“SEC. 899O. STUDY ON FEASIBILITY OF ESTABLISHING A**
 21 **NATIONAL AGROTERRORISM AND**
 22 **ECOTERRORISM INCIDENT CLEARINGHOUSE.**

23 “Not later than 240 days after the date of enactment
 24 of this subtitle, the Attorney General, in conjunction with
 25 the Secretary of Agriculture, shall submit to the appro-
 26 priate committees of Congress a report on the feasibility

1 and estimated cost of establishing and maintaining a na-
 2 tional agroterrorism incident clearinghouse to gather in-
 3 formation for use in coordinating and assisting investiga-
 4 tions on incidents of—

5 “(1) agroterrorism committed against or di-
 6 rected at—

7 “(A) any plant or animal enterprise; or

8 “(B) any person, because of any actual or
 9 perceived connection of the person with, or sup-
 10 port by the person of, agriculture; and

11 “(2) ecoterrorism.

12 **“SEC. 899P. REVIEW OF LEGAL AUTHORITY.**

13 “(a) IN GENERAL.—The Attorney General, in con-
 14 sultation with the Secretary of Agriculture, shall conduct
 15 a review of State and local laws relating to agroterrorism
 16 and biosecurity to determine—

17 “(1) the extent to which those laws facilitate or
 18 impede the implementation of current or proposed
 19 response plans with respect to agricultural diseases;

20 “(2) whether an injunction issued by a State
 21 court could—

22 “(A) delay the implementation of a Fed-
 23 eral response plan; or

24 “(B) affect the extent to which an agricul-
 25 tural disease spreads; and

1 “(3) the types and extent of legal evidence that
 2 may be required by State courts before a response
 3 plan may be implemented.

4 “(b) REPORT.—Not later than 1 year after the date
 5 of enactment of this subtitle, the Attorney General shall
 6 submit to the appropriate committees of Congress a report
 7 that describes the results of the review conducted under
 8 subsection (a) (including any recommendations of the At-
 9 torney General).

10 **“SEC. 899Q. INFORMATION SHARING.**

11 “The Secretary of Agriculture, in cooperation with
 12 the Attorney General, shall develop and implement a sys-
 13 tem to share information during all stages of an
 14 agroterrorist act.”.

15 (b) CONFORMING AMENDMENT.—The table of con-
 16 tents in section 1(b) of the Homeland Security Act of
 17 2002 (Public Law 107–296; 116 Stat. 2135) is amended
 18 by adding at the end of the items relating to title VIII
 19 the following:

“Subtitle J—Agricultural Biosecurity

“Sec. 899A. Definitions.

“CHAPTER 1—INTERAGENCY COORDINATION

“Sec. 899D. Agricultural disease liaisons.

“Sec. 899E. Transportation.

“Sec. 899F. Regional, State, and local preparation.

“Sec. 899G. Study on feasibility of establishing a national plant disease
 laboratory.

“CHAPTER 2—INTERNATIONAL ACTIVITIES

“Sec. 899J. International agricultural disease surveillance.

“Sec. 899K. Inspections of imported agricultural products.

“Sec. 899L. Bilateral mutual assistance agreements

“CHAPTER 3—LEGAL DEFINITIONS AND RESPONSE ACTIVITIES

“Sec. 899O. Study on feasibility of establishing a national agroterrorism and ecoterrorism incident clearinghouse.

“Sec. 899P. Review of legal authority.

“Sec. 899Q. Information sharing.”.

1 **SEC. 4. INCLUSION OF AGROTERRORISM IN TERRORIST**
 2 **ACTS INVOLVING WEAPONS OF MASS DE-**
 3 **STRUCTION.**

4 Section 2332a(a) of title 18, United States Code, is
 5 amended—

6 (1) in paragraph (2), by striking “or” at the
 7 end;

8 (2) in paragraph (3), by striking the comma at
 9 the end and inserting “; or”; and

10 (3) by inserting after paragraph (3) the fol-
 11 lowing:

12 “(4) against private property, including prop-
 13 erty used for agricultural or livestock operations;”.

○