

108TH CONGRESS  
1ST SESSION

# S. 746

To prevent and respond to terrorism and crime at or through ports.

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IN THE SENATE OF THE UNITED STATES

MARCH 31, 2003

Mrs. FEINSTEIN (for herself and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To prevent and respond to terrorism and crime at or through ports.

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 “Anti-Terrorism and Port Security Act of 2003”.

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

Sec. 1. Short title; table of contents.

TITLE I—DETERRING AND PUNISHING TERRORISM AND CRIME  
AT UNITED STATES PORTS

Sec. 101. Destruction or interference with vessels or maritime facilities.

Sec. 102. Criminal sanctions for placement of destructive devices or substances  
in United States jurisdictional waters.

- Sec. 103. Piracy and privateering.
- Sec. 104. Use of a dangerous weapon or explosive on a passenger vessel.
- Sec. 105. Sanctions for failure to heave to and for obstruction of boarding and providing false information.
- Sec. 106. Criminal sanctions for violence against maritime navigation.
- Sec. 107. Criminal sanctions for malicious dumping.
- Sec. 108. Attorney general to coordinate port-related crime data collection.

TITLE II—PROTECTING UNITED STATES PORTS AGAINST  
TERRORISM AND CRIME

Subtitle A—General Provision

- Sec. 201. Definitions.

Subtitle B—Security Authority

- Sec. 211. Designated security authority.

Subtitle C—Securing the Supply Chain

- Sec. 221. Manifest requirements.
- Sec. 222. Penalties for inaccurate manifest.
- Sec. 223. Shipment profiling plan.
- Sec. 224. Inspection of merchandise at foreign facilities.

Subtitle D—Security of Seaports and Containers

- Sec. 231. Seaport security requirements.
- Sec. 232. Seaport security cards.
- Sec. 233. Securing sensitive information.
- Sec. 234. Container security.
- Sec. 235. Office and inspection facilities.
- Sec. 236. Security grants to seaports.

TITLE III—AUTHORIZATION

- Sec. 301. Authorization of appropriations.

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

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

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

1           **“CHAPTER 66—MARITIME VESSELS**

“Sec.

“1371. Jurisdiction and scope.

“1372. Destruction of vessel or maritime facility.

“1373. Imparting or conveying false information.

2           **“§ 1371 Jurisdiction and scope**

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

5                   “(1) the prohibited activity takes place within  
6 the United States, or in waters or submerged lands  
7 thereunder subject to the jurisdiction of the United  
8 States; or

9                   “(2) the prohibited activity takes place outside  
10 the United States, and—

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

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

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

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

20           **“§ 1372. Destruction of vessel or maritime facility**

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

23                   “(1) to willfully—

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

3           “(B) place or cause to be placed a destruc-  
4 tive device or destructive substance in, upon, or  
5 in proximity to, or otherwise make or cause to  
6 be made an unworkable or unusable or haz-  
7 ardous to work or use, any vessel (as defined in  
8 section 3 of title 1), or any part or other mate-  
9 rials used or intended to be used in connection  
10 with the operation of a vessel; or

11           “(C) set fire to, damage, destroy, disable,  
12 or displace a destructive device or destructive  
13 substance in, upon, or in proximity to, any mar-  
14itime facility, including any aid to navigation,  
15 lock, canal, or vessel traffic service facility or  
16 equipment, or interfere by force or violence with  
17 the operation of such maritime facility, if such  
18 action is likely to endanger the safety of any  
19 vessel in navigation;

20           “(D) set fire to, damage, destroy, disable,  
21 or place a destructive device or destructive sub-  
22 stance in, upon, or in proximity to any appli-  
23 ance, structure, property, machine, apparatus,  
24 or any facility or other material used or in-  
25 tended to be used in connection with the oper-

1           ation, maintenance, loading, unloading, or stor-  
2           age of any vessel or any passenger or cargo car-  
3           ried on, or intended to be carried on, any vessel;

4           “(E) perform an act of violence against or  
5           incapacitate an individual on a vessel, if such  
6           act of violence or incapacitation is likely to en-  
7           danger the safety of the vessel or those on  
8           board;

9           “(F) perform an act of violence against a  
10          person that causes or is likely to cause serious  
11          bodily injury in, upon, or in proximity to any  
12          appliance, structure, property, machine, appa-  
13          ratus, or any facility or other material used or  
14          intended to be used in connection with the oper-  
15          ation, maintenance, loading, unloading, or stor-  
16          age of any vessel or any passenger or cargo car-  
17          ried or intended to be carried on any vessel; or

18          “(G) communicate information, knowing  
19          the information to be false and under cir-  
20          cumstances in which such information may rea-  
21          sonably be believed, thereby endangering the  
22          safety of any vessel in navigation; or

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

25          “(b) PENALTY.—Any person who—

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

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

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

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

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

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

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

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

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

5           “(3) the term ‘high-level radioactive waste’ has  
6           the meaning as such term in section 2(12) of the  
7           Nuclear Waste Policy Act of 1982 (42 U.S.C.  
8           10101(12));

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

11          “(5) the term ‘spent nuclear fuel’ has the  
12          meaning as such term in section 2(23) of the Nu-  
13          clear Waste Policy Act of 1982 (42 U.S.C.  
14          10101(23)).

15       **“§ 1373. Imparting or conveying false information**

16          “(a) IN GENERAL.—Any person who imparts or con-  
17          veys, or causes to be imparted or conveyed, false informa-  
18          tion, knowing the information to be false, concerning an  
19          attempt or alleged attempt being made or to be made, to  
20          do any act that is an offense under this chapter or chapter  
21          2, 97, or 111, shall be subject to a civil penalty of not  
22          more than \$5,000, which shall be recoverable in a civil  
23          action brought in the name of the United States.

24          “(b) INCREASED PENALTY.—Any person who will-  
25          fully and maliciously, or with reckless disregard for the

1 safety of human life, imparts or conveys, or causes to be  
 2 imparted or conveyed, false information, knowing the in-  
 3 formation to be false, concerning an attempt or alleged  
 4 attempt being made by or to be made, to do any act that  
 5 is an offense under this chapter or chapter 2, 97, or 111,  
 6 shall be fined in accordance with this title or imprisoned  
 7 not more than 5 years, or both.”.

8 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 9 The table of chapters at the beginning of title 18, is  
 10 amended by inserting after the item relating to chapter  
 11 65 the following:

**“66. Maritime Vessels ..... 1371”.**

12 **SEC. 102. CRIMINAL SANCTIONS FOR PLACEMENT OF DE-**  
 13 **STRUCTIVE DEVICES OR SUBSTANCES IN**  
 14 **UNITED STATES JURISDICTIONAL WATERS.**

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

18 **“§2280A. Devices or substances in waters of the**  
 19 **United States likely to destroy or damage**  
 20 **ships**

21 “(a) IN GENERAL.—Any person who knowingly  
 22 places or causes to be placed in waters subject to the juris-  
 23 diction of the United States, by any means, a device or  
 24 substance that is likely to destroy or cause damage to a  
 25 ship or its cargo, or cause interference with the safe navi-



1 gation of vessels or interference with maritime commerce,  
 2 such as by damaging or destroying marine terminals, fa-  
 3 cilities, and any other maritime structure or entity used  
 4 in maritime commerce, with the intent of causing such de-  
 5 struction or damage—

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

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

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

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

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

18 **SEC. 103. PIRACY AND PRIVATEERING.**

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

21 **“CHAPTER 81—PIRACY AND**  
 22 **PRIVATEERING**

“Sec.  
 “1651. Piracy.

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

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

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

“1655. Privateering.

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

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

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

“1659. Attempts.

“1660. Accessories.

“1661. Inapplicability to United States Government activities.

1 **“§ 1651. Piracy**

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

5 **“§ 1652. Crimes against United States persons or**  
6 **property on board a ship or maritime**  
7 **structure**

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

1 **“§ 1653. Crimes against persons on board a ship or**  
2 **maritime structure within the territorial**  
3 **jurisdiction of the United States**

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

11 **“§ 1654. Crimes by United States citizens or resident**  
12 **aliens**

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

20 **“§ 1655. Privateering**

21 “(a) OFFENSE.—It shall be unlawful for any person  
22 to furnish, fit out, arm, or serve in a privateer or private  
23 vessel used to commit any illegal act of violence, detention,  
24 or depredation against an individual, or the property of  
25 that individual, or any vessel or maritime structure with-

1 out the express authority of the United States Government  
2 when—

3 “(1) the perpetrator of the act is a United  
4 States citizen or resident alien, or purports to act  
5 under authority of the United States;

6 “(2) the individual against whom the act is  
7 committed is a United States citizen or resident  
8 alien or the property, vessel, or maritime structure  
9 involved is owned, in whole or in part, by a United  
10 States citizen or resident alien; or

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

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

17 **“§ 1656. Theft or conversion of vessel, maritime struc-**  
18 **ture, cargo, or effects**

19 “(a) OFFENSE.—It shall be unlawful for any person  
20 who is a captain, officer, crewman, or passenger of a vessel  
21 or maritime structure to assist in the theft or conversion  
22 of such vessel or maritime structure, or its cargo or effects  
23 when—

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

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

7           “(3) some element of the theft or conversion is  
8 committed in waters subject to the jurisdiction of  
9 the United States.

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

13 **“§ 1657. Intentional wrecking or plunder of a vessel,**  
14 **maritime structure, cargo, or effects**

15          “(a) OFFENSE.—It shall be unlawful for any person  
16 to—

17           “(1) intentionally cause the wrecking of a vessel  
18 or maritime structure by act or omission, either di-  
19 rectly such as by intentional grounding, or indirectly  
20 by modification or destruction of any navigational  
21 marker or safety device;

22           “(2) intentionally plunder, steal, or destroy a  
23 vessel, maritime structure, cargo, or effects when  
24 such vessel or maritime structure is in distress,  
25 wrecked, lost, stranded, or cast away; or

1           “(3) intentionally obstruct or interfere with the  
2 rescue of a person on board a vessel or maritime  
3 structure in distress, wrecked, lost, stranded, or cast  
4 away, or the legal salvage of such a vessel, maritime  
5 structure, cargo, or effects, when—

6                   “(A) the perpetrator is a United States citi-  
7           zen or resident alien, or purports to act under  
8 authority of the United States;

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

12                   “(C) some element of the theft or conver-  
13 sion is committed in waters subject to the juris-  
14 diction of the United States.

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

18 **“§ 1658. Knowing receipt of an illegally acquired ves-**  
19 **sel, maritime structure, cargo, or effects**

20           “Any person who knowingly receives or acquires a  
21 vessel, maritime structure, cargo, or effects converted or  
22 obtained by action falling under any section of this chapter  
23 shall be fined in accordance with this title or imprisoned  
24 not more than 20 years, or both.

1 **“§ 1659. Attempts**

2 Any person who attempts any act which, if com-  
3 mitted, would constitute an offense under this chapter  
4 shall be fined in accordance with this title or imprisoned  
5 not more than 20 years, or both.

6 **“§ 1660. Accessories**

7 “(a) COMMISSION OF AN OFFENSE.—Any person who  
8 knowingly assists any person in the commission of an act  
9 that constitutes an offense under this chapter shall be  
10 fined in accordance with this title or imprisoned not more  
11 than 20 years, or both.

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

17 **“§ 1661. Inapplicability to United States Government**  
18 **activities**

19 “Nothing in this chapter shall apply to otherwise law-  
20 ful activities—

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

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

1 **SEC. 104. USE OF A DANGEROUS WEAPON OR EXPLOSIVE**  
2 **ON A PASSENGER VESSEL.**

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

6 **“§ 832. Use of a dangerous weapon or explosive on a**  
7 **passenger vessel**

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

10 “(1) commit an act, including the use of a dan-  
11 gerous weapon, explosive, or incendiary device, with  
12 the intent to cause death or serious bodily injury to  
13 a crew member or passenger of a passenger vessel  
14 or any other person while on board a passenger ves-  
15 sel; or

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

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

21 “(c) AGGRAVATED OFFENSE.—Any person who com-  
22 mits an offense described in subsection (a) in a cir-  
23 cumstance in which—

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



1           “(2) the offense has resulted in the death of  
2           any person;  
3 shall be guilty of an aggravated offense and shall be fined  
4 in accordance with this title or imprisoned for any term  
5 of years or for life.

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

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

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

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

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

17           “(4) the term ‘passenger vessel’ has the same  
18 meaning given such term in section 2101(22) of title  
19 46; and

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

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

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

1 **SEC. 105. SANCTIONS FOR FAILURE TO HEAVE TO AND FOR**  
2 **OBSTRUCTION OF BOARDING AND PRO-**  
3 **VIDING FALSE INFORMATION.**

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

7 **“§ 2237. Sanctions for failure to heave to; sanctions**  
8 **for obstruction of boarding or providing**  
9 **false information**

10 “(a) FAILURE TO HEAVE TO.—It shall be unlawful  
11 for the master, operator, or person in charge of a vessel  
12 of the United States, or a vessel subject to the jurisdiction  
13 of the United States, to knowingly fail to obey an order  
14 to heave to on being ordered to do so by an authorized  
15 Federal law enforcement officer.

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

20 “(1) forcibly assault, resist, oppose, prevent,  
21 impede, intimidate, or interfere with a boarding or  
22 other law enforcement action authorized by any Fed-  
23 eral law, or to resist a lawful arrest; or

24 “(2) provide information to a Federal law en-  
25 forcement officer during a boarding of a vessel re-  
26 garding the vessel’s destination, origin, ownership,

1 registration, nationality, cargo, or crew that the per-  
2 son knows is false.

3 “(c) LIMITATIONS.—This section shall not limit the  
4 authority of—

5 “(1) an officer under section 581 of the Tariff  
6 Act of 1930 (19 U.S.C. 1581) or any other provision  
7 of law enforced or administered by the Secretary of  
8 the Treasury or the Under Secretary for Border and  
9 Transportation Security of the Department of  
10 Homeland Security; or

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

14 “(d) CONSENT OR OBJECTION TO ENFORCEMENT.—  
15 A foreign nation may consent or waive objection to the  
16 enforcement of United States law by the United States  
17 under this section by radio, telephone, or similar oral or  
18 electronic means, which consent or waiver may be proven  
19 by certification of the Secretary of State or the Secretary’s  
20 designee.

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

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

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

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

10           “(3) the term ‘Federal law enforcement officer’  
11           has the same meaning as such term in section  
12           115.”.

13           (b) **TECHNICAL AND CONFORMING AMENDMENT.**—  
14           The table of sections for chapter 109 of title 18, United  
15           States Code, is amended by adding at the end the fol-  
16           lowing:

                  “2237. Sanctions for failure to heave to; sanctions for obstruction of boarding  
                  or providing false information.”.

17           **SEC. 106. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST**  
18                                   **MARITIME NAVIGATION.**

19           Section 2280(a) of title 18, United States Code, is  
20           amended—

21                           (1) in paragraph (1)—

22                                   (A) by redesignating subparagraphs (F),  
23                                   (G), and (H) as (G), (H), and (I), respectively;

1 (B) by inserting after subparagraph (E)  
2 the following:

3 “(F) destroys, damages, alters, moves, or  
4 tampers with any aid to maritime navigation  
5 maintained by the Saint Lawrence Seaway De-  
6 velopment Corporation under the authority of  
7 section 4 of the Act of May 13, 1954, (33  
8 U.S.C. 984) or the Coast Guard pursuant to  
9 section 81 of title 14, or lawfully maintained by  
10 the Coast Guard pursuant to section 83 of title  
11 14, if such act endangers or is likely to endan-  
12 ger the safe navigation of a ship;” and

13 (C) in subparagraph (I), as so redesign-  
14 nated, by striking “through (G)” and inserting  
15 “through (H)”; and

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

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

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

22 **“§ 2282. Knowing discharge or release**

23 “(a) ENDANGERMENT OF HUMAN LIFE.—Any per-  
24 son who knowingly discharges or releases oil, a hazardous  
25 material, a noxious liquid substance, or any other sub-

1 stance into the navigable waters of the United States or  
2 the adjoining shoreline with the intent to endanger human  
3 life, health, or welfare—

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

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

9           “(b) ENDANGERMENT OF MARINE ENVIRONMENT.—  
10 Any person who knowingly discharges or releases oil, a  
11 hazardous material, a noxious liquid substance, or any  
12 other substance into the navigable waters of the United  
13 States or the adjacent shoreline with the intent to endan-  
14 ger the marine environment shall be fined in accordance  
15 with this title or imprisoned not more than 30 years, or  
16 both.

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

18           “(1) the term ‘discharge’ means any spilling,  
19           leaking, pumping, pouring, emitting, emptying, or  
20           dumping;

21           “(2) the term ‘hazardous material’ has the  
22           same meaning given such term in section 2101(14)  
23           of title 46;

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

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

10           “(5) the term ‘noxious liquid substance’ has the  
11 same meaning given such term in the MARPOL  
12 Protocol as defined in section 2(a)(3) of the Act to  
13 Prevent Pollution from Ships (33 U.S.C.  
14 1901(a)(3)).”.

15           (b) TECHNICAL AND CONFORMING AMENDMENT.—  
16 The table of sections for chapter 111 of title 18, United  
17 States Code, is amended by adding at the end the fol-  
18 lowing:

“2282. Knowing discharge or release.”.

19 **SEC. 108. ATTORNEY GENERAL TO COORDINATE PORT-RE-**  
20 **LATED CRIME DATA COLLECTION.**

21           (a) REGULATIONS.—The Attorney General shall  
22 issue regulations to—

23           (1) require the reporting by a carrier that is the  
24 victim of a cargo theft offense to the Attorney Gen-  
25 eral of information on the cargo theft offense (in-

1 cluding offenses occurring outside ports of entry and  
2 ports of shipment origination) that identifies the  
3 port of entry, the port where the shipment origi-  
4 nated, where the theft occurred, and any other infor-  
5 mation specified by the Attorney General;

6 (2) create a database to contain the reports de-  
7 scribed in paragraph (1) and integrate those reports,  
8 to the extent feasible, with other noncriminal justice  
9 and intelligence data, such as insurer bill of lading,  
10 cargo contents and value, point of origin, and lien  
11 holder filings; and

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

18 (b) MODIFICATION OF DATABASES.—

19 (1) IN GENERAL.—United States Government  
20 agencies with significant regulatory or law enforce-  
21 ment responsibilities at United States ports shall, to  
22 the extent feasible, modify their information data-  
23 bases to ensure the collection and retrievability of  
24 data relating to crime, terrorism, and related activi-  
25 ties at, or affecting, United States ports.



1           (2) DESIGNATION OF AGENCIES.—The Attorney  
2           General, after consultation with the Secretary of  
3           Homeland Security, shall designate the agencies re-  
4           ferred to in paragraph (1).

5           (c) OUTREACH PROGRAM.—The Attorney General, in  
6           consultation with the Secretary of Homeland Security, the  
7           National Maritime Security Advisory Committee estab-  
8           lished under section 70112 of title 46, United States Code,  
9           and the appropriate Federal and State agencies, shall es-  
10          tablish an outreach program—

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

15           (2) to work with local port security committees  
16          to disseminate cargo theft information to appro-  
17          priate law enforcement officials.

18          (d) ANNUAL REPORT.—The Attorney General shall  
19          report annually to the Committee on the Judiciary of the  
20          Senate and the House of Representatives on the imple-  
21          mentation of this section.

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

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

1 (A) in the first undesignated paragraph—

2 (i) by striking “Whoever embezzles”

3 and inserting the following:

4 “(a) OFFENSE; PENALTY.—Whoever—

5 “(1) embezzles”;

6 (ii) by striking “from any pipeline sys-

7 tem” and all that follows through “with in-

8 tent to convert to his own use”; and

9 (iii) by striking “or” at the end;

10 (B) in the second undesignated para-

11 graph—

12 (i) by striking “Whoever buys” and

13 inserting the following:

14 “(2) buys”; and

15 (ii) by striking “or” at the end;

16 (C) in the third undesignated paragraph—

17 (i) by striking “Whoever embezzles”

18 and inserting the following”

19 “(3) embezzles”; and

20 (ii) by striking “with intent to convert

21 to his own use”;

22 (D) in the fourth undesignated paragraph,

23 by striking “Whoever embezzles” and inserting

24 the following:

25 “(4) embezzles”;

1 (E) in the fifth undesignated paragraph,  
2 by striking “Shall in each case” and inserting  
3 the following:

4 “shall in each case”;

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

7 “(b) LOCATION OF OFFENSE.—The”;

8 (G) in the seventh undesignated para-  
9 graph, by striking “The” and inserting the fol-  
10 lowing”

11 “(c) SEPARATE OFFENSE.—The”;

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

14 “(d) PRIMA FACIE EVIDENCE.—To”;

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

17 “(e) PROSECUTION.—A”; and

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

19 “(f) CIVIL PENALTY.—

20 “(1) IN GENERAL.—Notwithstanding any other  
21 provision of law, and in addition to any penalties  
22 that may be available under any other provision of  
23 law, a person who is found by the Secretary of  
24 Homeland Security, after notice and an opportunity  
25 for a hearing, to have violated this section or a regu-

1 lation issued under this section shall be liable to the  
2 United States for a civil penalty not to exceed  
3 \$25,000 for each violation.

4 “(2) SEPARATE VIOLATIONS.—Each day of a  
5 continuing violation shall constitute a separate viola-  
6 tion.

7 “(3) AMOUNT OF PENALTY.—

8 “(A) IN GENERAL.—The amount of a civil  
9 penalty for a violation of this section or a regu-  
10 lation issued under this section shall be as-  
11 sessed by the Attorney General, or the designee  
12 of the Attorney General, by written notice.

13 “(B) CONSIDERATIONS.—In determining  
14 the amount of a civil penalty under this para-  
15 graph, the Attorney General shall take into ac-  
16 count—

17 “(i) the nature, circumstances, extent,  
18 and gravity of the prohibited act com-  
19 mitted; and

20 “(ii) with respect to the violator, the  
21 degree of culpability, any history of prior  
22 offenses, ability to pay, and such other  
23 matters as justice may require.

24 “(4) MODIFICATION OF PENALTY.—The Sec-  
25 retary of Homeland Security may compromise, mod-

1       ify, or remit, with or without conditions, any civil  
2       penalty that is subject to imposition or which has  
3       been imposed under this section.

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

9               “(g) DEFINITION.—For purposes of this section, the  
10      term ‘goods or chattels’ means to be moving as an inter-  
11      state or foreign shipment at all points between the point  
12      of origin and the final destination (as evidenced by the  
13      waybill or other shipping document of the shipment) re-  
14      gardless of any temporary stop while awaiting trans-  
15      shipment or otherwise.”.

16              (2) FEDERAL SENTENCING GUIDELINES.—Pur-  
17      suant to section 994 of title 28, United States Code,  
18      the United States Sentencing Commission shall re-  
19      view the Federal Sentencing Guidelines to determine  
20      whether sentencing enhancement is appropriate for  
21      any offense under section 659 of title 18, United  
22      States Code, as amended by this subsection.

23              (3) ANNUAL REPORT.—The Attorney General  
24      shall annually submit to Congress a report that shall  
25      include an evaluation of law enforcement activities

1 relating to the investigation and prosecution of of-  
2 fenses under section 659 of title 18, United States  
3 Code.

4 **TITLE II—PROTECTING UNITED**  
5 **STATES PORTS AGAINST TER-**  
6 **RORISM AND CRIME**

7 **Subtitle A—General Provision**

8 **SEC. 201. DEFINITIONS.**

9 In this title:

10 (1) AIRCRAFT.—The term “aircraft” has the  
11 meaning given that term in section 40102 of title  
12 49, United States Code.

13 (2) CAPTAIN-OF-THE-PORT.—The term “Cap-  
14 tain-of-the-Port”, with respect to a United States  
15 seaport, means the individual designated by the  
16 Commandant of the Coast Guard as the Captain-of-  
17 the-Port at that seaport.

18 (3) COMMON CARRIER.—The term “common  
19 carrier” means any person that holds itself out to  
20 the general public as a provider for hire of a trans-  
21 portation by water, land, or air of merchandise,  
22 whether or not the person actually operates the ves-  
23 sel, vehicle, or aircraft by which the transportation  
24 is provided, between a port or place and a port or  
25 place in the United States.

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

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

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

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

14          (8) OCEAN TRANSPORTATION INTERMEDIARY.—  
15 The term “ocean transportation intermediary” has  
16 the meaning given that term in section 515.2 of title  
17 46, Code of Federal Regulations (as in effect on  
18 January 1, 2003).

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

22          (10) SHIPPER.—The term “shipper” means—  
23               (A) a cargo owner;  
24               (B) the person for whose account ocean  
25 transportation is provided;

1 (C) the person to whom delivery of mer-  
2 chandise is to be made; or

3 (D) a common carrier that accepts respon-  
4 sibility for payment of all charges applicable  
5 under a tariff or service contract.

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

11 (12) VEHICLE.—The term “vehicle” has the  
12 meaning given that term in section 401 of the Tariff  
13 Act of 1930 (19 U.S.C. 1401).

14 (13) VESSEL.—The term “vessel” has the  
15 meaning given that term in section 401 of the Tariff  
16 Act of 1930 (19 U.S.C. 1401).

## 17 **Subtitle B—Security Authority**

### 18 **SEC. 211. DESIGNATED SECURITY AUTHORITY.**

19 The Captain-of-the-Port of each United States sea-  
20 port shall be the primary authority responsible for security  
21 at the United States seaport and shall—

22 (1) coordinate security at such seaport; and

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



## 1     **Subtitle C—Securing the Supply** 2                                   **Chain**

### 3     **SEC. 221. MANIFEST REQUIREMENTS.**

4             Section 431(b) of the Tariff Act of 1930 (19 U.S.C.  
5 1431(b)) is amended—

6                     (1) by striking “Any manifest” and inserting  
7             the following:

8                     “(1) IN GENERAL.—Any manifest”; and

9                     (2) by adding at the end the following new  
10             paragraph:

11                     “(2) REQUIRED INFORMATION.—

12                     “(A) REQUIREMENT.—In addition to any  
13             other requirement under this section, the pilot,  
14             master, operator, or owner (or the authorized  
15             agent of such operator or owner) of every vessel  
16             required to make entry or obtain clearance  
17             under the laws of the United States shall trans-  
18             mit electronically the cargo manifest informa-  
19             tion described in subparagraph (B) in such  
20             manner and form as the Secretary shall pre-  
21             scribe. The Secretary shall ensure the electronic  
22             information is maintained securely, and is avail-  
23             able only to individuals with Federal Govern-  
24             ment security responsibilities.

1           “(B) CONTENT.—The cargo manifest re-  
2           quired by subparagraph (A) shall consist of the  
3           following information:

4                   “(i) The port of arrival and departure.

5                   “(ii) The carrier code assigned to the  
6           shipper.

7                   “(iii) The flight, voyage, or trip num-  
8           ber.

9                   “(iv) The dates of scheduled arrival  
10          and departure.

11                  “(v) A request for a permit to proceed  
12          to the destination, if such permit is re-  
13          quired.

14                  “(vi) The numbers and quantities  
15          from the carrier’s master airway bill, bills  
16          of lading, or ocean bills of lading.

17                  “(vii) The first port of lading of the  
18          cargo and the city in which the carrier  
19          took receipt of the cargo.

20                  “(viii) A description and weight of the  
21          cargo (including the Harmonized Tariff  
22          Schedule of the United States number  
23          under which the cargo is classified) or, for  
24          a sealed container, the shipper’s declared  
25          description and weight of the cargo.

1           “(ix) The shipper’s name and address,  
2           or an identification number, from all air-  
3           way bills and bills of lading.

4           “(x) The consignee’s name and ad-  
5           dress, or an identification number, from all  
6           airway bills and bills of lading.

7           “(xi) Notice of any discrepancy be-  
8           tween actual boarded quantities and air-  
9           way bill or bill of lading quantities, except  
10          that a carrier is not required by this clause  
11          to verify boarded quantities of cargo in  
12          sealed containers.

13          “(xii) Transfer or transit information  
14          for the cargo while it has been under the  
15          control of the carrier.

16          “(xiii) The location of the warehouse  
17          or other facility where the cargo was stored  
18          while under the control of the carrier.

19          “(xiv) The name and address, or iden-  
20          tification number of the carrier’s customer  
21          including the forwarder, nonvessel oper-  
22          ating common carrier, and consolidator.

23          “(xv) The conveyance name, national  
24          flag, and tail number, vessel number, or  
25          train number.

1           “(xvi) The country of origin and ulti-  
2           mate destination.

3           “(xvii) The carrier’s reference num-  
4           ber, including the booking or bill number.

5           “(xviii) The shipper’s commercial in-  
6           voice number and purchase order number.

7           “(xix) Information regarding any haz-  
8           ardous material contained in the cargo.

9           “(xx) License information including  
10          the license code, license number, or exemp-  
11          tion code.

12          “(xxi) The container number for con-  
13          tainerized shipments.

14          “(xxii) Certification of the empty con-  
15          dition of any empty containers.

16          “(xxiii) Any additional information  
17          that the Secretary, in consultation with the  
18          Secretary of Homeland Security, by regula-  
19          tion determines is reasonably necessary to  
20          ensure aviation, maritime, and surface  
21          transportation safety pursuant to the laws  
22          enforced and administered by the Sec-  
23          retary or the Under Secretary for Border  
24          and Transportation Security of the De-  
25          partment of Homeland Security.”.

1 **SEC. 222. PENALTIES FOR INACCURATE MANIFEST.**

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

4 (1) in subsection (a)(1)—

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

7 (B) by striking “\$10,000” and inserting  
8 “\$50,000”; and

9 (2) by adding at the end the following new sub-  
10 section:

11 “(c) CRIMINAL PENALTIES.—Any person who ships  
12 or prepares for shipment any merchandise bound for the  
13 United States who intentionally provides inaccurate or  
14 false information, whether inside or outside the United  
15 States, with respect to such merchandise for the purpose  
16 of introducing such merchandise into the United States  
17 in violation of the laws of the United States, shall be lia-  
18 ble, upon conviction of a violation of this subsection, for  
19 a fine of not more than \$50,000 or imprisonment for 1  
20 year, or both; except that if the importation of such mer-  
21 chandise into the United States is prohibited, such person  
22 shall be liable for an additional fine of not more than  
23 \$50,000 or imprisonment for not more than 5 years, or  
24 both.”.

25 (b) PENALTIES FOR VIOLATIONS OF THE ARRIVAL,  
26 REPORTING, ENTRY, AND CLEARANCE REQUIREMENTS.—

1 Subsections (b) and (c) of section 436 of Tariff Act of  
2 1930 (19 U.S.C. 1436) are amended to read as follows:

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

10 “(c) CRIMINAL PENALTY.—In addition to being liable  
11 for a civil penalty under subsection (b), any master, per-  
12 son in charge of a vessel, vehicle, or aircraft pilot who in-  
13 tentiously commits or causes another to commit any vio-  
14 lation listed in subsection (a) shall be liable, upon convic-  
15 tion, for a fine of not more than \$50,000 or imprisonment  
16 for 1 year, or both; except that if the conveyance has, or  
17 is discovered to have had, on board any merchandise  
18 (other than sea stores or the equivalent for conveyances  
19 other than vessels) the importation of which into the  
20 United States is prohibited, such individual shall be liable  
21 for an additional fine of not more than \$50,000 or impris-  
22 onment for not more than 5 years, or both.”.

23 **SEC. 223. SHIPMENT PROFILING PLAN.**

24 (a) IN GENERAL.—The Secretary of Homeland Secu-  
25 rity shall develop a shipment profiling plan to track con-

1 tainers and shipments of merchandise to be imported into  
2 the United States. The tracking system shall be designed  
3 to identify any shipment that is a threat to the security  
4 of the United States before such shipment enters the  
5 United States.

6 (b) INFORMATION REQUIREMENTS.—

7 (1) CONTENT.—The shipment profiling plan re-  
8 quired by subsection (a) shall at a minimum—

9 (A) require common carriers, shippers, and  
10 ocean transportation intermediaries to provide  
11 appropriate information regarding each ship-  
12 ment of merchandise, including the information  
13 required under section 431(b) of the Tariff Act  
14 of 1930 (19 U.S.C. 1431(b)) to the Secretary  
15 of Homeland Security; and

16 (B) require shippers to use a standard  
17 international bill of lading for each shipment  
18 that includes—

19 (i) the weight of the cargo;

20 (ii) the value of the cargo;

21 (iii) the vessel name;

22 (iv) the voyage number;

23 (v) a description of each container;

24 (vi) a description of the nature, type,

25 and contents of the shipment;

- 1 (vii) the code number from the Har-  
2 monized Tariff Schedule;
- 3 (viii) the port of destination;
- 4 (ix) the final destination of the cargo;
- 5 (x) the means of conveyance of the  
6 cargo;
- 7 (xi) the origin of the cargo;
- 8 (xii) the name of the precarriage de-  
9 liverer or agent;
- 10 (xiii) the port at which the cargo was  
11 loaded;
- 12 (xiv) the name of the formatting  
13 agent;
- 14 (xv) the bill of lading number;
- 15 (xvi) the name of the shipper;
- 16 (xvii) the name of the consignee;
- 17 (xviii) the universal transaction num-  
18 ber or carrier code assigned to the shipper  
19 by the Secretary;
- 20 (xix) the information contained in the  
21 continuous synopsis record for the vessel  
22 transporting the shipment; and
- 23 (xx) any additional information that  
24 the Secretary by regulation determines is



1           reasonably necessary to ensure seaport  
2           safety.

3           (2) CONTINUOUS SYNOPSIS RECORD DE-  
4           FINED.—In this subsection, the term “continuous  
5           synopsis record” means the continuous synopsis  
6           record required by regulation 5 of chapter XI-1 of  
7           the Annex to the International Convention of the  
8           Safety of Life at Sea, 1974.

9           (3) EFFECTIVE DATE.—The requirement im-  
10          posed under clause (xix) of paragraph (1)(B) shall  
11          take effect on July 1, 2004.

12          (c) CREATION OF PROFILE.—The Secretary of  
13          Homeland Security shall combine the information de-  
14          scribed in subsection (b) with other law enforcement and  
15          national security information that the Secretary deter-  
16          mines useful to assist in locating containers and shipments  
17          that could pose a threat to the security of the United  
18          States and to create a profile of every container and every  
19          shipment within the container that will enter the United  
20          States.

21          (d) CARGO SCREENING.—

22                 (1) IN GENERAL.—Officers of the Directorate  
23                 shall review the profile of a shipment that a shipper  
24                 desires to transport into the United States to deter-  
25                 mine whether the shipment or the container in which

1 it is carried should be subjected to additional inspec-  
2 tion by the Directorate. In making such a deter-  
3 mination, an officer shall consider, in addition to  
4 any other relevant factors—

5 (A) whether the shipper has regularly  
6 shipped cargo to the United States in the past;  
7 and

8 (B) the specificity of the description of the  
9 shipment's contents.

10 (2) NOTIFICATION.—The Secretary of Home-  
11 land Security shall transmit to the shipper and the  
12 person in charge of the vessel, aircraft, or vehicle on  
13 which a shipment is located a notification of whether  
14 the shipment is to be subjected to additional inspec-  
15 tion as described in paragraph (1).

16 (e) CONSISTENCY WITH THE NATIONAL CUSTOMS  
17 AUTOMATION PROGRAM.—The Secretary of Homeland Se-  
18 curity, in consultation with the Secretary of the Treasury,  
19 shall ensure that the National Customs Automation Pro-  
20 gram established pursuant to section 411 of the Tariff Act  
21 of 1930 (19 U.S.C. 1411) is compatible with the shipment  
22 profile plan developed under this section.

1 **SEC. 224. INSPECTION OF MERCHANDISE AT FOREIGN FA-**  
2 **CILITIES.**

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

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

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

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

20 **Subtitle D—Security of Seaports**  
21 **and Containers**

22 **SEC. 231. SEAPORT SECURITY REQUIREMENTS.**

23 (a) REQUIREMENT.—Not later than 180 days after  
24 the date of enactment of this Act, the Secretary of Home-  
25 land Security shall issue final regulations setting forth  
26 minimum security requirements, including security per-

1 formance standards for United States seaports. The regu-  
2 lations shall—

3 (1) limit private vehicle access to the terminal  
4 area of a United States seaport to vehicles that are  
5 registered at such seaport and display a seaport reg-  
6 istration pass;

7 (2) prohibit individuals, other than law enforce-  
8 ment officers, from carrying firearms or explosives  
9 inside a United States seaport without written au-  
10 thORIZATION from the Captain-of-the-Port;

11 (3) prohibit individuals from physically access-  
12 ing the terminal area of a United States seaport  
13 without a seaport specific access pass;

14 (4) require that officers of the Directorate, and  
15 other appropriate law enforcement officers, at  
16 United States seaports be provided with, and utilize,  
17 personal radiation detection pagers to increase the  
18 ability of such officers to accurately detect radio-  
19 active materials that could be used to commit ter-  
20 rorist acts in the United States;

21 (5) require that the terminal area of each  
22 United States seaport be equipped with—

23 (A) a secure perimeter;

24 (B) monitored or locked access points; and

25 (C) sufficient lighting; and

1           (6) include any additional security requirement  
2           that the Secretary determines is reasonably nec-  
3           essary to ensure seaport security.

4           (b) LIMITATION.—Except as provided in subsection  
5 (c), any United States seaport that does not meet the min-  
6 imum security requirements described in subsection (a) is  
7 prohibited from—

8           (1) handling, storing, stowing, loading, dis-  
9           charging, or transporting dangerous cargo; and

10           (2) transferring passengers to or from a pas-  
11 senger vessel that—

12                   (A) weighs more than 100 gross tons;

13                   (B) carries more than 12 passengers for  
14 hire; and

15                   (C) has a planned voyage of more than 24  
16 hours, part of which is on the high seas.

17           (c) EXCEPTION.—The Secretary of Homeland Secu-  
18 rity may waive 1 or more of the minimum requirements  
19 described in subsection (a) for a United States seaport if  
20 the Secretary determines that it is not appropriate for  
21 such seaport to implement the requirement.

22 **SEC. 232. SEAPORT SECURITY CARDS.**

23           Section 70105 of title 46, United States Code, is  
24 amended—

1           (1) by striking subsection (a) and inserting the  
2 following:

3           “(a) PROHIBITION.—(1) Unless the requirements of  
4 paragraph (2) are met, the Secretary shall prescribe regu-  
5 lations to prohibit—

6           “(A) an individual from entering an area of a  
7 vessel or facility that is designated as a secure area  
8 by the Secretary for purposes of a security plan for  
9 the vessel or facility that is approved by the Sec-  
10 retary under section 70103 of this title; and

11           “(B) an individual who is regularly employed at  
12 a United States seaport or who is employed by a  
13 common carrier that transports merchandise to or  
14 from a United States seaport from entering a  
15 United States seaport.

16           “(2) The prohibition imposed under paragraph (1)  
17 may not apply to—

18           “(A) an individual who—

19           “(i) holds a transportation security card  
20 issued under this section; and

21           “(ii) is authorized to be in area in accord-  
22 ance with the plan if the individual is attempt-  
23 ing to enter an area of a vessel or facility that  
24 is designated as a secure area by the Secretary  
25 for purposes of a security plan for the vessel or

1 facility approved by the Secretary under section  
2 70103 of this title; or

3 “(B) an individual who is accompanied by an-  
4 other individual who may access the secure area or  
5 United States seaport in accordance with this sec-  
6 tion.

7 “(3) A person may not admit an individual into a  
8 United States seaport or a secure area unless the indi-  
9 vidual is in compliance with this subsection.”;

10 (2) in paragraph (2) of subsection (b)—

11 (A) in subparagraph (E), by striking  
12 “and”;

13 (B) by redesignating subparagraph (F) as  
14 subparagraph (G); and

15 (C) by inserting after subparagraph (E)  
16 the following new subparagraph:

17 “(F) an individual who is regularly employed at  
18 a United States seaport or who is employed by a  
19 common carrier that transports merchandise to or  
20 from a United States seaport; and”;

21 (3) in paragraph (1) of subsection (c)—

22 (A) in subparagraph (C), by striking “or”;

23 (B) in subparagraph (D), by striking the  
24 period at the end and inserting a semicolon and  
25 “or”; and

1 (C) at the end, by inserting the following  
2 new subparagraph:

3 “(E) has not provided sufficient information to  
4 allow the Secretary to make the determinations de-  
5 scribed in subparagraph (A), (B), (C), or (D).”;

6 (4) by striking subsection (f); and

7 (5) by inserting after subsection (e) the fol-  
8 lowing new subsections:

9 “(f) DATA ON CARDS.—A transportation security  
10 card issued under this section shall—

11 “(1) be tamper resistant; and

12 “(2) contain—

13 “(A) the number of the individual’s com-  
14 mercial driver’s license issued under chapter  
15 313 of title 49, if any;

16 “(B) the State-issued vehicle registration  
17 number of any vehicle that the individual de-  
18 sires to bring into the United States seaport, if  
19 any;

20 “(C) the work permit number issued to the  
21 individual, if any;

22 “(D) a unique biometric identifier to iden-  
23 tify the license holder; and

24 “(E) a safety rating assigned to the indi-  
25 vidual by the Secretary of Homeland Security.



1 “(g) DEFINITIONS.—In this section:

2 “(1) ALIEN.—The term ‘alien’ has the meaning  
3 given the term in section 101(a)(3) of the Immigra-  
4 tion and Nationality Act (8 U.S.C. 1101(a)(3)).

5 “(2) UNITED STATES SEAPORT.—The term  
6 ‘United States seaport’ means a place in the United  
7 States on a waterway with shoreside facilities for the  
8 intermodal transfer of cargo containers that are  
9 used in international trade.”.

10 **SEC. 233. SECURING SENSITIVE INFORMATION.**

11 (a) REQUIREMENT.—Not later than 90 days after the  
12 date of enactment of this Act, the Captain-of-the-Port of  
13 each United States seaport shall secure and protect all  
14 sensitive information, including information that is cur-  
15 rently available to the public, related to the seaport.

16 (b) SENSITIVE INFORMATION.—In this section, the  
17 term “sensitive information” means—

18 (1) maps of the seaport;

19 (2) blueprints of structures located within the  
20 seaport; and

21 (3) any other information related to the secu-  
22 rity of the seaport that the Captain-of-the-Port de-  
23 termines is appropriate to secure and protect.

24 **SEC. 234. CONTAINER SECURITY.**

25 (a) CONTAINER SEALS.—

1           (1) APPROVAL.—Not later than 90 days after  
2 the date of enactment of this Act, the Secretary of  
3 Homeland Security shall approve minimum stand-  
4 ards for high security container seals that—

5           (A) meet or exceed the American Society  
6 for Testing Materials Level D seals;

7           (B) permit each seal to have a unique  
8 identification number; and

9           (C) contain an electronic tag that can be  
10 read electronically at a seaport.

11          (2) REQUIREMENT FOR USE.—Within 180 days  
12 after the date of enactment of this Act, the Sec-  
13 retary of Homeland Security shall deny entry of a  
14 vessel into the United States if the containers car-  
15 ried by the vessel are not sealed with a high security  
16 container seal approved under paragraph (1).

17          (b) IDENTIFICATION NUMBER.—

18           (1) REQUIREMENT.—A shipment that is  
19 shipped to or from the United States either directly  
20 or via a foreign port shall have a designated uni-  
21 versal transaction number.

22           (2) TRACKING.—The person responsible for the  
23 security of a container shall record the universal  
24 transaction number assigned to the shipment under  
25 paragraph (1), as well as any seal identification

1 number on the container, at every port of entry and  
2 point at which the container is transferred from one  
3 conveyance to another conveyance.

4 (c) PILOT PROGRAM.—

5 (1) GRANTS.—The Secretary of Homeland Se-  
6 curity is authorized to award grants to eligible enti-  
7 ties to develop an improved seal for cargo containers  
8 that—

9 (A) permit the immediate detection of tam-  
10 pering with the seal;

11 (B) permit the immediate detection of tam-  
12 pering with the walls, ceiling, or floor of a con-  
13 tainer that indicates a person is attempting to  
14 improperly access the container; and

15 (C) transmit information regarding tam-  
16 pering with the seal, walls, ceiling, or floor of  
17 the container in real time to the appropriate au-  
18 thorities at a remote location.

19 (2) APPLICATION.—Each eligible entity seeking  
20 a grant under this subsection shall submit an appli-  
21 cation to the Secretary at such time, in such man-  
22 ner, and accompanied by such information as the  
23 Secretary may reasonably require.

24 (3) ELIGIBLE ENTITY.—In this subsection, the  
25 term “eligible entity” means any national laboratory,

1 nonprofit private organization, institution of higher  
2 education, or other entity that the Secretary deter-  
3 mines is eligible to receive a grant authorized by  
4 paragraph (1).

5 (d) EMPTY CONTAINERS.—

6 (1) CERTIFICATION.—The Secretary of Home-  
7 land Security shall prescribe in regulations require-  
8 ments for certification of empty containers that are  
9 to be shipped to or from the United States either di-  
10 rectly or via a foreign port. Such regulations shall  
11 require that an empty container—

12 (A) be inspected and certified as empty  
13 prior to being loaded onto a vessel for transpor-  
14 tation to a United States seaport; and

15 (B) be sealed with a high security con-  
16 tainer seal approved under subsection (a)(1) to  
17 enhance the security of United States seaports.

18 **SEC. 235. OFFICE AND INSPECTION FACILITIES.**

19 (a) OPERATIONAL SPACE IN SEAPORTS.—Each enti-  
20 ty that owns or operates a United States seaport that re-  
21 ceives cargo from a foreign country, whether govern-  
22 mental, quasi-governmental, or private, shall provide to  
23 the Directorate permanent office and inspection space  
24 within the seaport that is sufficient for the Directorate

1 officers at the seaport to carry out their responsibilities.

2 Such office and inspection space—

3 (1) shall be provided at no cost to the Direc-  
4 torate; and

5 (2) may be located outside the terminal area of  
6 the seaport.

7 (b) INSPECTION TECHNOLOGY.—The Secretary of  
8 Homeland Security shall maintain permanent inspection  
9 facilities that utilize available inspection technology in the  
10 space provided at each seaport pursuant to subsection (a).

11 **SEC. 236. SECURITY GRANTS TO SEAPORTS.**

12 (a) CRITERIA FOR AWARDING GRANTS.—Notwith-  
13 standing any other provision of law, the Secretary of  
14 Homeland Security shall use the proportion of the contain-  
15 erized imports that are received at a United States seaport  
16 as a factor to be considered when determining whether to  
17 select that seaport for award of a competitive grant for  
18 security.

19 (b) DEFINITIONS.—In this section:

20 (1) CONTAINERIZED IMPORTS.—The term “con-  
21 tainerized imports” means the number of twenty-  
22 foot equivalent units of containerized imports that  
23 enter the United States annually through a United  
24 States seaport as estimated by the Bureau of Trans-

1 portation Statistics of the Department of Transpor-  
2 tation.

3 (2) COMPETITIVE GRANT FOR SECURITY.—The  
4 term “competitive grant for security” means a grant  
5 of Federal financial assistance that the Secretary of  
6 Homeland Security is authorized to award to a  
7 United States seaport for the purpose of enhancing  
8 security at the seaport, including a grant of funds  
9 appropriated under the heading “Maritime and  
10 Land Security” in title I of division I of the Consoli-  
11 dated Appropriations Resolution, 2003 (Public Law  
12 108–7).

### 13 **TITLE III—AUTHORIZATION**

#### 14 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

15 There are authorized to be appropriated to the Attor-  
16 ney General and the Secretary of Homeland Security such  
17 sums as are necessary to carry out this Act. Sums author-  
18 ized to be appropriated under this section are authorized  
19 to remain available until expended.

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