

109TH CONGRESS
1ST SESSION

S. 1532

To amend title 18 of the United States Code to criminalize acts of agroterrorism, and to enhance the protection of the United States agricultural industry and food security through the increased prevention, detection, response and recovery planning.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2005

Mr. SPECTER (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend title 18 of the United States Code to criminalize acts of agroterrorism, and to enhance the protection of the United States agricultural industry and food security through the increased prevention, detection, response and recovery 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.**

4 This Act may be cited as the “Agroterrorism Preven-

5 tion Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the United States agriculture and food sys-
2 tems are vulnerable to biological agents that may be
3 used in acts of terrorism;

4 (2) the United States agriculture and food sys-
5 tem is an extensive, open, interconnected, diverse,
6 and complex structure providing potential targets for
7 terrorist attacks that could have catastrophic health
8 and economic impacts;

9 (3) the intentional use of agricultural disease
10 agents to attack United States agriculture threatens
11 an industry that accounts for approximately 13 per-
12 cent of the gross domestic product of the United
13 States, and accounts for 8 percent of the United
14 States export market;

15 (4) the economic impact of even a small-scale
16 agroterrorist attack affecting only a few farms with-
17 in a region could be measured in multi-millions of
18 dollars, including the costs of eradication, recovery,
19 market repercussions, production losses, and trade
20 implications;

21 (5) the agricultural and food industries are vul-
22 nerable to deliberate disruption through malicious
23 acts;

24 (6) risk factors affecting the spread of an agri-
25 cultural disease include—

1 (A) concentrated and intensive use of con-
2 temporary farming practices;

3 (B) the use of rapid transportation sys-
4 tems for delivery of agricultural commodities;

5 (C) the lack of farm and food production
6 security and surveillance; and

7 (D) the lack of ability to conduct rapid
8 diagnostics and forensics analysis;

9 (7) as with human health and bioterrorism pre-
10 paredness, enhancing current monitoring and re-
11 sponse mechanisms to deal with a deliberate act of
12 agricultural terrorism would strengthen the ability of
13 the United States to diagnose and respond quickly
14 to any agricultural disease or health crisis;

15 (8) activities to ensure the biosecurity of farms
16 are an important tool in preventing—

17 (A) the intentional introduction of an agri-
18 cultural disease; and

19 (B) the spread of an introduced agricul-
20 tural disease into an outbreak;

21 (9) in the event of an agricultural disease, the
22 Department of Agriculture and the Department of
23 State will need the support and resources of other
24 Federal, State, and local agencies and volunteer or-

1 organizations that carry out traditional emergency
2 management and response functions;

3 (10) State and local partners would need assist-
4 ance to implement their role in the response func-
5 tion;

6 (11) States and communities also require as-
7 sistance to prepare and plan for agricultural disas-
8 ters; and

9 (12) the Secretary of Agriculture, acting
10 through the Animal and Plant Health Inspection
11 Service, should incorporate the Incident Command
12 System in all agricultural disaster emergency re-
13 sponse plans.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) AGRICULTURE.—The term “agriculture” in-
17 cludes—

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

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

1 (C) forestry, wildlife science, fishery
2 science, aquaculture, floraculture, veterinary
3 medicine, and other environmental and natural
4 resource sciences.

5 (2) AGROTERRORISM.—The term
6 “agroterrorism” means the commission of an
7 agroterrorist act.

8 (3) AGROTERRORIST ACT.—The term
9 “agroterrorist act” means a criminal act consisting
10 of causing, financing, or attempting to cause dam-
11 age or harm to, or destruction or contamination of,
12 a crop, livestock, raw agricultural commodity, food
13 product, farm or ranch equipment, a material, any
14 other property associated with agriculture, or a per-
15 son engaged in agricultural activity, that is com-
16 mitted to—

17 (A) intimidate or coerce a civilian popu-
18 lation;

19 (B) influence the policy of a government
20 by intimidation or coercion; or

21 (C) disrupt interstate commerce or foreign
22 commerce of the United States agricultural in-
23 dustry.

24 (4) BIOSECURITY.—The term “biosecurity”—

1 (A) means protection from the risks posed
2 by biological, chemical, or radiological agents
3 to—

- 4 (i) plant or animal health;
- 5 (ii) the agricultural economy;
- 6 (iii) the environment; and
- 7 (iv) human health; and

8 (B) includes the exclusion, eradication, and
9 control of biological agents that cause agricul-
10 tural disease.

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

17 **SEC. 4. AGROTERRORISM.**

18 Chapter 113B of title 18, United States Code, is
19 amended by adding at the end the following:

20 **“§ 2339D. Agroterrorism**

21 “(a) OFFENSE.—Any person who knowingly devel-
22 ops, produces, stockpiles, transfers, acquires, possesses, or
23 uses any biological agent, toxin, or delivery system in fur-
24 therance of or in the commission of an act causing damage
25 or harm to, or destruction or contamination of a crop, live-

1 stock, raw agricultural commodity, food product, farm or
2 ranch equipment, material, or any other property associ-
3 ated with agriculture, or a person engaged in agricultural
4 activity, that is committed to—

5 “(1) intimidate or coerce a civilian population;

6 “(2) influence the policy of a government by in-
7 timidation or coercion; and

8 “(3) disrupt interstate commerce or foreign
9 commerce of the United States agricultural industry,

10 shall be fined under this title or imprisoned for any terms
11 of years or for life.

12 “(b) ENHANCED PENALTY IF DEATH RESULTS.—If
13 a death results from a violation of subsection (a) and such
14 killing constitutes a murder (as defined in section
15 1111(a)), the person shall be punished by death, fined
16 under this title, or imprisoned for a term of 10 years to
17 life.”.

18 **SEC. 5. PREPAREDNESS.**

19 (a) FINDINGS.—The United States should protect the
20 agriculture and food system from terrorist attacks, major
21 disasters, and other emergencies by—

22 (1) identifying and prioritizing sector-critical in-
23 frastructure and key resources for establishing pro-
24 tection requirements;

1 (2) developing awareness and early warning ca-
2 pabilities to recognize threats;

3 (3) mitigating vulnerabilities at critical produc-
4 tion and processing nodes;

5 (4) enhancing screening procedures for domes-
6 tic and imported products, especially seed sources
7 and reproductive germplasm; and

8 (5) enhancing response and recovery proce-
9 dures.

10 (b) MONITORING AND SURVEILLANCE ENHANCE-
11 MENT.—The Secretary of Homeland Security, the Sec-
12 retary of the Interior, the Secretary of Agriculture, the
13 Secretary of Health and Human Services, the Adminis-
14 trator of the Environmental Protection Agency, and the
15 heads of other appropriate Federal departments and agen-
16 cies, shall build upon and expand current monitoring and
17 surveillance programs to—

18 (1) develop robust, comprehensive, and fully co-
19 ordinated surveillance and monitoring systems, in-
20 cluding international information, for animal dis-
21 ease, plant disease, wildlife disease, and food safety
22 that provides early detection and awareness of dis-
23 ease, pest, or poisonous agents;

24 (2) develop systems that confidentially track
25 specific animals, commodities, and food;

1 (3) develop nationwide laboratory networks for
2 food, veterinary, and plant health that—

3 (A) integrate existing Federal and State
4 laboratory resources;

5 (B) are interconnected;

6 (C) utilize standardized diagnostic proto-
7 cols and procedures; and

8 (D) are capable of providing forensic evi-
9 dence; and

10 (4) ensure that border inspectors and agents
11 are adequately trained in agricultural security as a
12 first line of defense.

13 (c) INTELLIGENCE ENHANCEMENT.—

14 (1) IN GENERAL.—The Attorney General, the
15 Secretary of Homeland Security, and the Director of
16 National Intelligence, in coordination with the Sec-
17 retary of Agriculture, the Secretary of Health and
18 Human Services, and the Administrator of the Envi-
19 ronmental Protection Agency, shall develop and en-
20 hance intelligence operations and analysis capabili-
21 ties focusing on the agriculture and food sectors of
22 the United States, including the collection and anal-
23 ysis of information concerning threats, delivery sys-
24 tems, and methods that could be directed against

1 such sectors, especially on seed production and re-
2 productive germplasm.

3 (2) STUDY AND REPORT.—The Secretary of
4 Homeland Security shall—

5 (A) assess the ability of the Department of
6 Homeland Security to coordinate activities to
7 effectively address plant and animal food secu-
8 rity of the United States agriculture industry;
9 and

10 (B) submit a report to Congress describing
11 the results of the assessment under subpara-
12 graph (A) not less than 120 days after the date
13 of enactment of this Act.

14 (d) VULNERABILITY ASSESSMENTS.—

15 (1) IN GENERAL.—The Secretary of Agri-
16 culture, the Secretary of Health and Human Serv-
17 ices, and the Secretary of Homeland Security shall
18 expand and continue vulnerability assessments of the
19 agriculture and food sectors.

20 (2) REQUIREMENTS; UPDATES.—The vulner-
21 ability assessments described in paragraph (1)—

22 (A) shall identify requirements of the Na-
23 tional Infrastructure Protection Plan developed
24 by the Secretary of Homeland Security; and

25 (B) shall be updated every 2 years.

1 (e) STATE PLANS.—

2 (1) DEVELOPMENT AND IMPLEMENTATION.—

3 The Secretary of Agriculture, in consultation with
4 the Director of the Federal Emergency Management
5 Agency, shall assist States and counties in devel-
6 oping and implementing State plans for the preven-
7 tion, response, and recovery from outbreaks of agri-
8 cultural diseases.

9 (2) MODEL.—Any plans developed under para-
10 graph (1) shall be modeled after the State Animal
11 Response Team.

12 (f) REGIONAL AND NATIONAL RESPONSE PLANS.—
13 The Secretary of Agriculture shall assist States in devel-
14 oping regional and national response plans to carry out
15 this section.

16 (g) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out this sec-
18 tion—

19 (1) \$12,000,000 for fiscal year 2006; and

20 (2) such sums as are necessary for each fiscal
21 year thereafter.

22 **SEC. 6. PUBLIC AWARENESS CAMPAIGN AND BIOSECURITY.**

23 (a) PUBLIC AWARENESS.—The Secretary of Agri-
24 culture, in coordination with Cooperative State Research
25 Education and Extension Service and the Natural Re-

1 sources Conservation Service, shall establish a public
2 awareness campaign for farmers, ranchers, and other agri-
3 cultural producers that emphasizes—

4 (1) the need for heightened biosecurity on
5 farms; and

6 (2) the reporting of agricultural disease anoma-
7 lies.

8 (b) ON-FARM BIOSECURITY.—Not later than 240
9 days after the date of enactment of this Act, the Secretary
10 of Agriculture, in consultation with associations of agricul-
11 tural producers and after considering research conducted
12 under the National Agricultural Research, Extension, and
13 Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.),
14 shall—

15 (1) develop guidelines to—

16 (A) improve the monitoring of vehicles and
17 materials entering or leaving farm or ranch op-
18 erations; and

19 (B) control human traffic entering or leav-
20 ing farm or ranch operations; and

21 (2) disseminate such guidelines to agricultural
22 producers through agricultural education seminars
23 and biosecurity training sessions.

24 (c) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to carry out this section—

3 (A) \$15,000,000 for fiscal year 2006; and

4 (B) such sums as may be necessary for fis-
5 cal year 2007 and each fiscal year thereafter.

6 (2) EDUCATION PROGRAM.—Of the amounts
7 made available pursuant to paragraph (1), the Sec-
8 retary of Agriculture may use such sums as are nec-
9 essary to establish in each State an education pro-
10 gram to distribute the biosecurity guidelines devel-
11 oped under subsection (b)(1).

12 **SEC. 7. RESPONSE AND RECOVERY.**

13 (a) DEVELOPMENT OF PROGRAM.—

14 (1) VETERINARY STOCKPILE AND PLANT DIS-
15 EASE RECOVERY SYSTEM.—The Secretary of Agri-
16 culture, through the Animal, Plant, Health, and In-
17 spection Service, in coordination with the Secretary
18 of Homeland Security, and in consultation with the
19 Secretary of Health and Human Services and the
20 Administrator of the Environmental Protection
21 Agency, shall work with States, units of local gov-
22 ernment, and the private sector to develop—

23 (A) a National Veterinary Stockpile—

24 (i) containing sufficient amounts of
25 animal vaccine, antiviral, and therapeutic

1 products to appropriately respond to the
2 most damaging animal diseases affecting
3 human health and the economy;

4 (ii) that will be capable of deployment
5 within 24 hours of an outbreak; and

6 (iii) that leverages the mechanisms
7 and infrastructure that have been devel-
8 oped for the management, storage, and
9 distribution of the Strategic National
10 Stockpile;

11 (B) a National Plant Disease Recovery
12 System—

13 (i) capable of responding to a high-
14 consequence plant disease with pest control
15 measures, and the use of resistant seed va-
16 rieties within a single growing season to
17 sustain a reasonable level of production for
18 economically important crops;

19 (ii) that utilizes the genetic resources
20 contained in the U.S. National Plant
21 Germplasm System and the scientific capa-
22 bilities of the Federal-State-industry agri-
23 cultural research and extension system;
24 and

1 (iii) that includes emergency planning
2 for the use of resistant seed varieties and
3 pesticide control measures to prevent, slow,
4 or stop the spread of a high-consequence
5 plant disease, such as wheat smut and soy-
6 bean rust.

7 (2) NATIONAL BIODEFENSE LABORATORIES.—
8 The Secretary of Homeland Security, in coordination
9 with the Secretary of Agriculture, the Secretary of
10 Defense, the Secretary of Health and Human Serv-
11 ices, the Secretary of the Interior and the Adminis-
12 trator of the Environmental Protection Agency, shall
13 submit a report to Congress that—

14 (A) describes the feasibility and need for
15 modernizing or replacing current federal BL3
16 and BL4 laboratories responsible for research,
17 technology development, diagnostic, and foren-
18 sic activities on plant and animal diseases, in-
19 cluding zoonotic animal diseases that are a
20 threat to United States agriculture; and

21 (B) contains an assessment of the capa-
22 bility of States to diagnose and conduct ne-
23 cropsy as first responders to animal diseases
24 that threaten United States agriculture.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated to carry out this sec-
 3 tion—

4 (1) \$10,000,000 for fiscal year 2006; and

5 (2) such sums as may be necessary for fiscal
 6 year 2007 and each fiscal year thereafter.

7 **SEC. 8. ELECTION OF ARBITRATION.**

8 (a) IN GENERAL.—Chapter 1 of title 9, United
 9 States Code, is amended by adding at the end the fol-
 10 lowing:

11 **“SEC. 17. LIVESTOCK AND POULTRY CONTRACTS.**

12 “(a) DEFINITIONS.—In this section:

13 “(1) LIVESTOCK.—The term ‘livestock’ has the
 14 meaning given the term in section 2(a) of the Pack-
 15 ers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

16 “(2) LIVESTOCK OR POULTRY CONTRACT.—The
 17 term ‘livestock or poultry contract’ means any
 18 growout contract, marketing agreement, or other ar-
 19 rangement under which a livestock or poultry grower
 20 raises and cares for livestock or poultry.

21 “(3) LIVESTOCK OR POULTRY GROWER.—The
 22 term ‘livestock or poultry grower’ means any person
 23 engaged in the business of raising and caring for
 24 livestock or poultry in accordance with a livestock or

1 poultry contract, whether the livestock or poultry is
 2 owned by the person or by another person.

3 “(4) POULTRY.—The term ‘poultry’ has the
 4 meaning given the term in section 2(a) of the Pack-
 5 ers and Stockyards Act, 1921 (7 U.S.C. 182(a)).

6 “(b) CONSENT TO ARBITRATION.—If a livestock or
 7 poultry contract provides for the use of arbitration to re-
 8 solve a controversy under the livestock or poultry contract,
 9 arbitration may be used to settle the controversy only if,
 10 after the controversy arises, both parties consent in writ-
 11 ing to use arbitration to settle the controversy.

12 “(c) EXPLANATION OF BASIS FOR AWARDS.—If arbi-
 13 tration is elected to settle a dispute under a livestock or
 14 poultry contract, the arbitrator shall provide to the parties
 15 to the contract a written explanation of the factual and
 16 legal basis for the award.”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 18 The table of sections for chapter 1 of title 9, United States
 19 Code, is amended by adding at the end the following:

“Sec. 17. Livestock and poultry contracts.”.

20 (c) EFFECTIVE DATE.—The amendment made by
 21 subsection (a) shall apply to a contract entered into,
 22 amended, altered, modified, renewed, or extended after the
 23 date of enactment of this Act.

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