

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 376

To improve intermodal shipping container transportation security.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2005

Mrs. HUTCHISON 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 improve intermodal shipping container transportation security.

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 “Intermodal Shipping  
5       Container Security Act”.

6       **SEC. 2. NATIONAL TRANSPORTATION SECURITY STRATEGY.**

7       In carrying out section 114(f) of title 49, United  
8       States Code, the Under Secretary of Homeland Security  
9       for Border and Transportation Security shall take into ac-  
10      count the National Maritime Transportation Security  
11      Plan prepared under section 70103 of title 46, United

1 States Code, by the Secretary of the department in which  
2 the Coast Guard is operating when the plan is prepared  
3 in order to ensure that the strategy for dealing with  
4 threats to transportation security developed under section  
5 114(f)(3) of title 49, United States Code, incorporates rel-  
6 evant aspects of the National Maritime Transportation Se-  
7 curity Plan and addresses all modes of commercial trans-  
8 portation to, from, and within the United States.

9 **SEC. 3. COMPREHENSIVE STRATEGIC PLAN FOR INTER-**  
10 **MODAL SHIPPING CONTAINER SECURITY.**

11 (a) STRATEGIC PLAN.—

12 (1) IN GENERAL.—Within 180 days after the  
13 date of enactment of this Act, the Secretary of  
14 Homeland Security shall submit to the Senate Com-  
15 mittee on Commerce, Science, and Transportation  
16 and the House of Representatives Committee on  
17 Transportation and Infrastructure a strategic plan  
18 for integrating security for all modes of transpor-  
19 tation by which intermodal shipping containers ar-  
20 rive, depart, or move in interstate commerce in the  
21 United States that—

22 (A) takes into account the security-related  
23 authorities and missions of all Federal, State,  
24 and local law enforcement agencies that relate  
25 to the movement of intermodal shipping con-

1           tainers via air, rail, maritime, or highway trans-  
2           portation in the United States; and

3           (B) establishes as a goal the creation of a  
4           comprehensive, integrated strategy for inter-  
5           modal shipping container security that encom-  
6           passes the authorities and missions of all those  
7           agencies and sets forth specific objectives,  
8           mechanisms, and a schedule for achieving that  
9           goal.

10          (2) UPDATES.—The Secretary shall revise the  
11          plan from time to time.

12          (b) IDENTIFICATION OF PROBLEM AREAS.—In devel-  
13          oping the strategic plan required by subsection (a), the  
14          Secretary shall consult with all Federal, State, and local  
15          government agencies responsible for security matters that  
16          affect or relate to the movement of intermodal shipping  
17          containers via air, rail, maritime, or highway transpor-  
18          tation in the United States in order to—

19                (1) identify changes, including legislative, regu-  
20                latory, jurisdictional, and organizational changes,  
21                necessary to improve coordination among those  
22                agencies;

23                (2) reduce overlapping capabilities and respon-  
24                sibilities; and

1           (3) streamline efforts to improve the security of  
2           such intermodal shipping containers.

3           (c) ESTABLISHMENT OF STEERING GROUP.—The  
4 Secretary shall establish, organize, and provide support  
5 for an advisory committee, to be known as the Senior  
6 Steering Group, of senior representatives of the agencies  
7 described in subsection (c). The Group shall meet from  
8 time to time, at the call of the Secretary or upon its own  
9 motion, for the purpose of developing solutions to jurisdic-  
10 tional and other conflicts among the represented agencies  
11 with respect to the security of intermodal shipping con-  
12 tainers, improving coordination and information-sharing  
13 among the represented agencies, and addressing such  
14 other, related matters, as the Secretary may request.

15           (d) ANNUAL REPORT.—The Secretary, after con-  
16 sulting the Senior Steering Group, shall submit an annual  
17 report to the Senate Committee on Commerce, Science,  
18 and Transportation and the House of Representatives  
19 Committee on Transportation and Infrastructure describ-  
20 ing the activities of the Senior Steering Group and the  
21 Secretary under this section, describing the progress made  
22 during the year toward achieving the objectives of the  
23 plan, and including any recommendations, including legis-  
24 lative recommendations, if appropriate for further im-  
25 provements in dealing with security-issues related to inter-

1 modal shipping containers and related transportation se-  
2 curity issues.

3 (e) BIENNIAL EXPERT CRITIQUE.—

4 (1) EXPERT PANEL.—A panel of experts shall  
5 be convened once every 2 years by the Senate Com-  
6 mittee on Commerce, Science, and Transportation  
7 and the House of Representatives Committee on  
8 Transportation and Infrastructure to review plans  
9 submitted by the Secretary under subsection (a).

10 (2) MEMBERSHIP.—The panel shall consist  
11 of—

12 (A) 4 individuals selected by the chairman  
13 and ranking member of the Senate Committee  
14 on Commerce, Science, and Transportation and  
15 by the chairman and ranking member of House  
16 of Representatives Committee on Transpor-  
17 tation and Infrastructure, respectively; and

18 (B) 1 individual selected by the 4 individ-  
19 uals selected under subparagraph (A).

20 (3) QUALIFICATIONS.—Individuals selected  
21 under paragraph (2) shall be chosen from among in-  
22 dividuals with professional expertise and experience  
23 in security-related issues involving shipping or trans-  
24 portation and without regard to political affiliation.

1           (4) COMPENSATION AND EXPENSES.—An indi-  
2           vidual serving as a member of the panel shall not re-  
3           ceive any compensation or other benefits from the  
4           Federal Government for serving on the panel or be  
5           considered a Federal employee as a result of such  
6           service. Panel members shall be reimbursed by the  
7           Committees for expenses, including travel and lodg-  
8           ing, they incur while actively engaged in carrying  
9           out the functions of the panel.

10           (5) FUNCTION.—The panel shall review plans  
11           submitted by the Secretary under subsection (a),  
12           evaluate the strategy set forth in the plan, and make  
13           such recommendations to the Secretary for modi-  
14           fying or otherwise improving the strategy as may be  
15           appropriate.

16 **SEC. 4. SHIPPING CONTAINER INTEGRITY INITIATIVE.**

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

19           (1) by redesignating section 70117 as section  
20           70118; and

21           (2) by inserting after section 70116 the fol-  
22           lowing:

1 **“§ 70117. Enhanced container-related security meas-**  
2 **ures.**

3 “(a) TRACKING INTERMODAL CONTAINER SHIP-  
4 MENTS IN THE UNITED STATES.—The Secretary, in co-  
5 operation with the Under Secretary of Border and Trans-  
6 portation Security, shall develop a system to increase the  
7 number of intermodal shipping containers physically in-  
8 spected (including nonintrusive inspection by scanning  
9 technology), monitored, and tracked within the United  
10 States.

11 “(b) SMART BOX TECHNOLOGY.—Under regulations  
12 to be prescribed by the Secretary, beginning with calendar  
13 year 2007 no less than 50 percent of all ocean-borne ship-  
14 ping containers entering the United States during any cal-  
15 endar year shall incorporate ‘Smart Box’ or equivalent  
16 technology developed, approved, or certified by the Under  
17 Secretary of Homeland Security for Border and Transpor-  
18 tation Security.

19 “(c) DEVELOPMENT OF INTERNATIONAL STANDARD  
20 FOR SMART CONTAINERS.—The Secretary shall—

21 “(1) develop, and seek international acceptance  
22 of, a standard for ‘smart’ maritime shipping con-  
23 tainers that incorporate technology for tracking the  
24 location and assessing the integrity of those con-  
25 tainers as they move through the intermodal trans-  
26 portation system; and

1           “(2) implement an integrated tracking and  
2           technology system for such containers.

3           “(d) REPORT.—Within 1 year after the date of enact-  
4           ment of the Intermodal Shipping Container Security Act,  
5           the Secretary shall transmit to the Senate Committee on  
6           Commerce, Science, and Transportation and the House of  
7           Representatives Committee on Transportation and Infra-  
8           structure a report that contains—

9                   “(1) a cost analysis for implementing this sec-  
10           tion; and

11                   “(2) a strategy for implementing the system de-  
12           scribed in subsection (c)(3).”.

13           (b) CONFORMING AMENDMENT.—The chapter anal-  
14           ysis for chapter 701 of title 46, United States Code, is  
15           amended by striking the item relating to section 70117  
16           and inserting the following:

“70117. Enhanced container-related security measures.  
“70118. Civil penalties.”.

17 **SEC. 5. ADDITIONAL RECOMMENDATIONS.**

18           Within 180 days after the date of enactment of this  
19           Act, the Secretary of Homeland Security shall submit to  
20           the Senate Committee on Commerce, Science, and Trans-  
21           portation and the House of Representatives Committee on  
22           Transportation and Infrastructure a report that contains  
23           the following:

1           (1) Recommendations about what analysis must  
2 be performed and the cost to develop and field a  
3 cargo container tracking and monitoring system  
4 within the United States which tracks all aviation,  
5 rail, maritime, and highway cargo containers  
6 equipped with smart container technology.

7           (2) Recommendations on how the Department  
8 of Homeland Security could help support the deploy-  
9 ment of such a system.

10          (3) Recommendations as to how current efforts  
11 by the Department of Homeland Security and other  
12 Federal agencies could be incorporated into the  
13 physical screening or inspection of aviation, rail,  
14 maritime, and highway cargo containers within the  
15 United States.

16          (4) Recommendations about operating systems  
17 and standards for those operating systems, to sup-  
18 port the tracking of aviation, rail, maritime, and  
19 highway cargo containers within the United States  
20 that would include the location of regional, State,  
21 and local operations centers.

22          (5) A description of what contingency actions,  
23 measures, and mechanisms should be incorporated in  
24 the deployment of a nationwide aviation, rail, mari-  
25 time, and highway cargo containers tracking and

1 monitoring system which would allow the United  
2 States maximum flexibility in responding quickly  
3 and appropriately to increased terrorist threat levels  
4 at the local, State, or regional level.

5 (6) A description of what contingency actions,  
6 measures, and mechanisms must be incorporated in  
7 the deployment of such a system which would allow  
8 for the quick reconstitution of the system in the  
9 event of a catastrophic terrorist attack which af-  
10 fected part of the system.

11 (7) Recommendations on how to leverage exist-  
12 ing information and operating systems within State  
13 or Federal agencies to assist in the fielding of the  
14 system.

15 (8) Recommendations on co-locating local,  
16 State, and Federal agency personnel to streamline  
17 personnel requirements, minimize costs, and avoid  
18 redundancy.

19 (9) An initial assessment of the availability of  
20 private sector resources which could be utilized, and  
21 incentive systems developed, to support the fielding  
22 of the system, and the maintenance and improve-  
23 ment as technology or terrorist threat dictate.

24 (10) Recommendations on how this system that  
25 is focused on the continental United States would be

1 integrated into any existing or planned system, or  
2 process, which is designed to monitor the movement  
3 of cargo containers outside the continental United  
4 States.

5 **SEC. 6. IMPROVEMENTS TO CONTAINER TARGETING SYS-**  
6 **TEMS.**

7 (a) IN GENERAL.—Within 90 days after the date of  
8 enactment of this Act, the Secretary of Homeland Security  
9 shall submit a report to the Senate Committee on Com-  
10 merce, Science, and Transportation and the House of Rep-  
11 resentatives Committee on Transportation and Infrastruc-  
12 ture that provides a preliminary plan for strengthening the  
13 Bureau of Customs and Border Protection’s container tar-  
14 geting system. The plan shall identify the cost and feasi-  
15 bility of requiring additional non-manifest documentation  
16 for each container, including purchase orders, shipper’s  
17 letters of instruction, commercial invoices, letters of credit,  
18 or certificates of origin.

19 (b) REDUCTION OF MANIFEST REVISION WINDOW.—  
20 Within 60 days after the date of enactment of this Act,  
21 the Secretary of Homeland Security shall issue regulations  
22 under which the time period for revisions to a container  
23 cargo manifest submitted to the Bureau of Customs and  
24 Border Protection shall be reduced from 60 days to 45  
25 days after arrival at a United States port.

1           (c) SUPPLY CHAIN INFORMATION.—Within 180 days  
2 after the date of enactment of this Act, the Secretary of  
3 Homeland Security shall develop a system to share threat  
4 and vulnerability information with all of the industries in  
5 the supply chain that will allow ports, carriers, and ship-  
6 pers to report on security lapses in the supply chain and  
7 have access to unclassified maritime threat and security  
8 information such as piracy incidents.

9   **SEC. 7. INCREASE IN NUMBER OF CUSTOMS INSPECTORS**  
10                           **ASSIGNED OVERSEAS.**

11           (a) IN GENERAL.—The Secretary of Homeland Secu-  
12 rity shall substantially increase the number of United  
13 States Customs Service inspectors assigned to duty out-  
14 side the United States under the Container Security Ini-  
15 tiative of the United States Customs Service with respon-  
16 sibility for inspecting intermodal shipping containers being  
17 shipped to the United States.

18           (b) STAFFING CRITERIA.—In carrying out subsection  
19 (a) the Secretary of Homeland Security shall determine  
20 the appropriate level for assignment and density of cus-  
21 toms inspectors at selected international port facilities by  
22 a threat, vulnerability, and risk analysis which, at a min-  
23 imum, considers—

24                   (1) the volume of containers shipped;

1           (2) the ability of the host government to assist  
2           in both manning and providing equipment and re-  
3           sources;

4           (3) terrorist intelligence known of importer ven-  
5           dors, suppliers or manufactures; and

6           (4) other criteria as determined in consult with  
7           experts in the shipping industry, terrorism, and  
8           shipping container security.

9           (c) **MINIMUM NUMBER.**—The total number of cus-  
10          toms inspectors assigned to international port facilities  
11          shall not be less than the number determined as a result  
12          of the threat, vulnerability, and risk assessment analysis  
13          which is validated by the Administrator of the Transpor-  
14          tation Security Administration within 180 days after the  
15          date of enactment of this Act.

16          (d) **PLAN.**—The Secretary shall submit a plan to the  
17          Senate Committee on Commerce, Science, and Transpor-  
18          tation and the House of Representatives Committee on  
19          Transportation and Infrastructure, with timelines, for  
20          phasing inspectors into selected port facilities within 180  
21          days after the enactment of this Act.

22          **SEC. 8. RANDOM INSPECTION OF CONTAINERS.**

23          (a) **IN GENERAL.**—The Under Secretary of Home-  
24          land Security for Border and Transportation Security  
25          shall develop and implement a plan for random inspection

1 of shipping containers in addition to any targeted or pre-  
2 shipment inspection of such containers required by law or  
3 regulation or conducted under any other program con-  
4 ducted by the Under Secretary.

5 (b) CIVIL PENALTY FOR ERRONEOUS MANIFEST.—

6 (1) IN GENERAL.—Except as provided in para-  
7 graph (2), if the Under Secretary determines on the  
8 basis of an inspection conducted under subsection  
9 (a) that there is a discrepancy between the contents  
10 of a shipping container and the manifest for that  
11 container, the Under Secretary may impose a civil  
12 penalty of not more than \$1,000 for the discrepancy.

13 (2) MANIFEST DISCREPANCY REPORTING.—The  
14 Under Secretary may not impose a civil penalty  
15 under paragraph (1) if a manifest discrepancy re-  
16 port is filed with respect to the discrepancy within  
17 the time limits established by Customs Directive No.  
18 3240–067A (or any subsequently issued directive  
19 governing the matters therein) for filing a manifest  
20 discrepancy report.

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