

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3846

To provide for the authorization of border, maritime, and transportation security responsibilities and functions in the Department of Homeland Security and the establishment of United States Customs and Border Protection, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2014

Mrs. MILLER of Michigan (for herself, Mr. McCAUL, and Ms. JACKSON LEE) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide for the authorization of border, maritime, and transportation security responsibilities and functions in the Department of Homeland Security and the establishment of United States Customs and Border Protection, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “United States Customs  
5       and Border Protection Authorization Act”.

1 **SEC. 2. ESTABLISHMENT OF UNITED STATES CUSTOMS AND**  
2 **BORDER PROTECTION.**

3 (a) IN GENERAL.—Section 411 of the Homeland Se-  
4 curity Act of 2002 (6 U.S.C. 211) is amended to read  
5 as follows:

6 **“SEC. 411. ESTABLISHMENT OF UNITED STATES CUSTOMS**  
7 **AND BORDER PROTECTION; COMMISSIONER,**  
8 **DEPUTY COMMISSIONER, AND OPERATIONAL**  
9 **OFFICES.**

10 “(a) IN GENERAL.—There is established in the De-  
11 partment an agency to be known as United States Cust-  
12 oms and Border Protection.

13 “(b) COMMISSIONER OF UNITED STATES CUSTOMS  
14 AND BORDER PROTECTION.—There shall be at the head  
15 of United States Customs and Border Protection a Com-  
16 missioner of United States Customs and Border Protec-  
17 tion (in this section referred to as the ‘Commissioner’),  
18 who shall be appointed by the President, by and with the  
19 advice and consent of the Senate.

20 “(c) DUTIES.—The Commissioner shall—

21 “(1) ensure the interdiction of persons and  
22 goods illegally entering or exiting the United States;

23 “(2) facilitate and expedite the flow of legiti-  
24 mate travelers and trade;

25 “(3) detect, respond, and interdict terrorists,  
26 drug traffickers, human traffickers, criminals, and

1 other persons who may undermine the security of  
2 the United States;

3 “(4) safeguard the borders of the United States  
4 to protect against the entry of dangerous goods  
5 while facilitating and expediting the flow of legiti-  
6 mate trade and travel;

7 “(5) oversee the functions of the Office of  
8 International Trade established under section 402 of  
9 the Security and Accountability for Every Port Act  
10 of 2006 (19 U.S.C. 2072; Public Law 109–347);

11 “(6) enforce and administer all customs laws of  
12 the United States;

13 “(7) develop and implement screening and tar-  
14 geting capabilities, including the screening, review-  
15 ing, identifying, and prioritizing of passengers and  
16 cargo across all international modes of transpor-  
17 tation, both inbound and outbound; and

18 “(8) carry out the duties and powers prescribed  
19 by law or delegated by the Secretary.

20 “(d) DEPUTY COMMISSIONER.—There shall be in  
21 United States Customs and Border Protection a Deputy  
22 Commissioner who shall assist the Commissioner in the  
23 management of United States Customs and Border Pro-  
24 tection.

1       “(e) OFFICE OF UNITED STATES BORDER PA-  
2 TROL.—

3               “(1) IN GENERAL.—There is established in  
4 United States Customs and Border Protection the  
5 Office of United States Border Patrol.

6               “(2) CHIEF.—There shall be at the head of the  
7 Office of United States Border Patrol a Chief, who  
8 shall be a uniformed law enforcement officer chosen  
9 from the ranks of the United States Border Patrol  
10 and who shall report to the Commissioner.

11              “(3) DUTIES.—The United States Border Pa-  
12 trol shall—

13                      “(A) serve as the law enforcement office of  
14 United States Customs and Border Protection  
15 with primary responsibility for interdicting per-  
16 sons attempting to illegally enter or exit the  
17 United States or goods being illegally imported  
18 to or exported from the United States at a  
19 place other than a designated port of entry;

20                      “(B) deter and prevent illegal entry of ter-  
21 rorists, terrorist weapons, persons, and contra-  
22 band; and

23                      “(C) carry out other duties and powers  
24 prescribed by the Commissioner.

25       “(f) OFFICE OF AIR AND MARINE OPERATIONS.—

1           “(1) IN GENERAL.—There is established in  
2 United States Customs and Border Protection an  
3 Office of Air and Marine Operations.

4           “(2) ASSISTANT COMMISSIONER.—There shall  
5 be at the head of the Office of Air and Marine Oper-  
6 ations an Assistant Commissioner, who shall report  
7 to the Commissioner.

8           “(3) DUTIES.—The Office of Air and Marine  
9 Operations shall—

10                   “(A) serve as the law enforcement office of  
11 United States Customs and Border Protection  
12 with primary responsibility to detect, interdict,  
13 and prevent acts of terrorism and the unlawful  
14 movement of people, illicit drugs, and other  
15 contraband across the borders of the United  
16 States in the air and maritime environment;

17                   “(B) oversee the acquisition, maintenance,  
18 and operational use of United States Customs  
19 and Border Protection integrated air and ma-  
20 rine forces;

21                   “(C) provide aviation and marine support  
22 for other Federal, State, and local law enforce-  
23 ment agency needs, as appropriate; and

24                   “(D) carry out other duties and powers  
25 prescribed by the Commissioner.

1 “(g) OFFICE OF FIELD OPERATIONS.—

2 “(1) IN GENERAL.—There is established in  
3 United States Customs and Border Protection an  
4 Office of Field Operations.

5 “(2) ASSISTANT COMMISSIONER.—There shall  
6 be at the head of the Office of Field Operations an  
7 Assistant Commissioner, who shall report to the  
8 Commissioner.

9 “(3) DUTIES.—The Office of Field Operations  
10 shall coordinate the enforcement activities of United  
11 States Customs and Border Protection at United  
12 States air, land, and sea ports of entry to—

13 “(A) deter and prevent terrorists and ter-  
14 rorist weapons from entering the United States  
15 at ports of entry;

16 “(B) conduct inspections at United States  
17 ports of entry to safeguard the United States  
18 from terrorism and illegal entry of persons;

19 “(C) prevent illicit drugs, agricultural  
20 pests, and contraband from entering the United  
21 States; and

22 “(D) carry out other duties and powers  
23 prescribed by the Commissioner.

24 “(h) OFFICE OF INTELLIGENCE AND INVESTIGATIVE  
25 LIAISON.—

1           “(1) IN GENERAL.—There is established in  
2 United States Customs and Border Protection an  
3 Office of Intelligence and Investigative Liaison.

4           “(2) ASSISTANT COMMISSIONER.—There shall  
5 be at the head of the Office of Intelligence and In-  
6 vestigative Liaison an Assistant Commissioner, who  
7 shall report to the Commissioner.

8           “(3) DUTIES.—The Office of Intelligence and  
9 Investigative Liaison shall—

10                   “(A) develop, provide, coordinate, and im-  
11                   plement intelligence capabilities into a cohesive  
12                   intelligence enterprise to support the execution  
13                   of the United States Customs and Border Pro-  
14                   tection duties and responsibilities;

15                   “(B) collect and analyze advance traveler  
16                   and cargo information;

17                   “(C) establish intelligence-sharing relation-  
18                   ships with Federal, State, local, and tribal  
19                   agencies and intelligence agencies; and

20                   “(D) carry out other duties and powers  
21                   prescribed by the Commissioner.

22           “(i) OFFICE OF INTERNATIONAL AFFAIRS.—

23                   “(1) IN GENERAL.—There is established in  
24 United States Customs and Border Protection an  
25 Office of International Affairs.

1           “(2) ASSISTANT COMMISSIONER.—There shall  
2 be at the head of the Office of International Affairs  
3 an Assistant Commissioner, who shall report to the  
4 Commissioner.

5           “(3) DUTIES.—The Office of International Af-  
6 fairs shall—

7                   “(A) coordinate and support United States  
8 Customs and Border Protection’s foreign initia-  
9 tives, policies, programs, and activities;

10                   “(B) coordinate and support United States  
11 Customs and Border Protection’s personnel sta-  
12 tioned abroad;

13                   “(C) maintain partnerships and informa-  
14 tion sharing agreements with foreign govern-  
15 ments, international organizations, and United  
16 States agencies in support of United States  
17 Customs and Border Protection duties and re-  
18 sponsibilities;

19                   “(D) provide necessary capacity building,  
20 training, and assistance to foreign border con-  
21 trol agencies to strengthen global supply chain  
22 and travel security;

23                   “(E) coordinate mission support services to  
24 sustain United States Customs and Border Pro-  
25 tection’s global activities;



1           “(F) lead and coordinate United States  
2           Customs and Border Protection’s engagement  
3           in international negotiations, in collaboration  
4           with the Office of International Affairs of the  
5           Department; and

6           “(G) carry out other duties and powers  
7           prescribed by the Commissioner.

8           “(j) OTHER AUTHORITIES.—

9           “(1) IN GENERAL.—The Secretary may estab-  
10          lish such other Assistant Commissioners, agents, of-  
11          ficers, and other offices as the Secretary determines  
12          necessary to carry out the missions, duties, func-  
13          tions, and authorities of United States Customs and  
14          Border Protection.

15          “(2) NOTIFICATION.—If the Secretary exercises  
16          the authority provided pursuant to paragraph (1),  
17          the Secretary shall notify the appropriate congres-  
18          sional committees not later than 30 days before ex-  
19          ercising such authority.”.

20          (b) SPECIAL RULES.—

21                 (1) TREATMENT.—Section 411 of the Home-  
22          land Security Act of 2002, as amended by subsection  
23          (a) of this section, shall be treated as if included in  
24          such Act as of the date of the enactment of such  
25          Act, and, in addition to the functions, missions, du-

1 ties, and authorities specified in such amended sec-  
2 tion 411, United States Customs and Border Protec-  
3 tion shall continue to perform and carry out the  
4 functions, missions, duties, and authorities under  
5 section 411 of such Act as in existence on the day  
6 before such date of enactment.

7 (2) RULES OF CONSTRUCTION.—

8 (A) RULES AND REGULATIONS.—Notwith-  
9 standing paragraph (1), nothing in this Act  
10 may be construed as affecting in any manner  
11 any rule or regulation issued or promulgated  
12 pursuant to section 411 of the Homeland Secu-  
13 rity Act of 2002 as in existence on the day be-  
14 fore the date of the enactment of this Act, and  
15 any such rule or regulation shall continue to  
16 have full force and effect on and after such  
17 date.

18 (B) OTHER ACTIONS.—Notwithstanding  
19 paragraph (1), nothing in this Act may be con-  
20 strued as affecting in any manner any action,  
21 determination, policy, or decision pursuant to  
22 section 411 of the Homeland Security Act of  
23 2002 as in existence on the day before the date  
24 of the enactment of this Act, and any such ac-  
25 tion, determination, policy, or decision shall

1           continue to have full force and effect on and  
2           after such date.

3           (c) CONTINUATION IN OFFICE.—

4           (1) COMMISSIONER.—The individual serving as  
5           the Commissioner of Customs on the day before the  
6           date of the enactment of this Act may serve as the  
7           Commissioner of United States Customs and Border  
8           Protection on and after such date of enactment until  
9           a Commissioner of United States Customs and Bor-  
10          der Protection is appointed under section 411 of the  
11          Homeland Security Act of 2002, as amended by sub-  
12          section (a) of this section.

13          (2) OTHER POSITIONS.—The individuals serv-  
14          ing as Assistant Commissioners and other officers  
15          and officials under section 411 of the Homeland Se-  
16          curity Act of 2002 on the day before the date of the  
17          enactment of this Act may serve as the appropriate  
18          Assistant Commissioners and other officers and offi-  
19          cials under such section 411 as amended by sub-  
20          section (a) of this section unless the Commissioner  
21          of United States Customs and Border Protection de-  
22          termines that another individual should hold such  
23          position.

24          (d) REFERENCE.—

1           (1) TITLE 5.—Section 5314 of title 5, United  
2 States Code, is amended by striking “Commissioner  
3 of Customs, Department of Homeland Security” and  
4 inserting “Commissioner of United States Customs  
5 and Border Protection, Department of Homeland  
6 Security”.

7           (2) OTHER REFERENCES.—On and after the  
8 date of the enactment of this Act, any reference in  
9 law or regulations to the “Commissioner of Customs  
10 toms” or the “Commissioner of the Customs Service”  
11 shall be deemed to be a reference to the Commissioner  
12 of United States Customs and Border  
13 Protection.

14           (e) CLERICAL AMENDMENT.—The table of contents  
15 in section 1(b) of the Homeland Security Act of 2002 (6  
16 U.S.C. 101 et seq.) is amended by striking the item relating  
17 to section 411 and inserting the following new item:

“Sec. 411. Establishment of United States Customs and Border Protection;  
Commissioner, Deputy Commissioner, and operational offices.”.

18 **SEC. 3. REPEALS.**

19           Sections 416 and 418 of the Homeland Security Act  
20 of 2002 (6 U.S.C. 216 and 218), and the items relating  
21 to such sections in the table of contents in section 1(b)  
22 of such Act, are repealed.

1 **SEC. 4. CLERICAL AND CONFORMING AMENDMENTS.**

2 (a) IN GENERAL.—The Homeland Security Act of  
3 2002 (6 U.S.C. 101 et seq.) is amended—

4 (1) in title I—

5 (A) in section 102(f)(10) (6 U.S.C.  
6 112(f)(10)), by striking “the Directorate of  
7 Border and Transportation Security” and in-  
8 serting “Commissioner of United States Cus-  
9 toms and Border Protection”; and

10 (B) in section 103(a)(1) (6 U.S.C.  
11 113(a)(1))—

12 (i) in subparagraph (C), by striking  
13 “An Under Secretary for Border and  
14 Transportation Security.” and inserting  
15 “A Commissioner of United States Cus-  
16 toms and Border Protection.”; and

17 (ii) in subparagraph (G), by striking  
18 “A Director of the Office of Counter-  
19 narcotics Enforcement.” and inserting “A  
20 Director for United States Immigration  
21 and Customs Enforcement.”;

22 (2) in title IV—

23 (A) by striking the title heading and in-  
24 serting “**BORDER, MARITIME, AND**  
25 **TRANSPORTATION SECURITY**”; and

26 (B) in subtitle A—

1 (i) by striking the subtitle heading  
2 and inserting “**Border, Maritime, and**  
3 **Transportation Security Respon-**  
4 **sibilities and Functions**”; and

5 (ii) in section 402 (6 U.S.C. 202)—

6 (I) in the section heading, by  
7 striking “**RESPONSIBILITIES**” and  
8 inserting “**BORDER, MARITIME,**  
9 **AND TRANSPORTATION RESPON-**  
10 **SIBILITIES**”; and

11 (II) by striking “, acting through  
12 the Under Secretary for Border and  
13 Transportation Security,”;

14 (C) in subtitle B—

15 (i) by striking the subtitle heading  
16 and inserting “**United States Cus-**  
17 **toms and Border Protection**”;

18 (ii) in section 412(b) (6 U.S.C. 212),  
19 by striking “United States Customs Serv-  
20 ice” each place it appears and inserting  
21 “United States Customs and Border Pro-  
22 tection”;

23 (iii) in section 413 (6 U.S.C. 213), by  
24 striking “United States Customs Service”

1 and inserting “United States Customs and  
2 Border Protection”;

3 (iv) in section 414 (6 U.S.C. 214), by  
4 striking “United States Customs Service”  
5 and inserting “United States Customs and  
6 Border Protection”; and

7 (v) in section 415 (6 U.S.C. 215), by  
8 striking “United States Customs Service”  
9 each place it appears and inserting  
10 “United States Customs and Border Pro-  
11 tection”;

12 (D) in subtitle C—

13 (i) by striking section 424 (6 U.S.C.  
14 234) and inserting the following new sec-  
15 tion:

16 **“SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY**  
17 **ADMINISTRATION AS A DISTINCT ENTITY.**

18 “Notwithstanding any other provision of this Act, the  
19 Transportation Security Administration shall be main-  
20 tained as a distinct entity within the Department.”; and

21 (ii) in section 430 (6 U.S.C. 238)—

22 (I) by amending subsection (a) to  
23 read as follows:

24 “(a) ESTABLISHMENT.—There is established in the  
25 Department an Office for Domestic Preparedness.”;

1 (II) in subsection (b), by striking  
2 the second sentence; and

3 (III) in subsection (c)(7), by  
4 striking “Directorate” and inserting  
5 “Department”; and

6 (E) in subtitle D—

7 (i) in section 441 (6 U.S.C. 251)—

8 (I) by striking the section head-  
9 ing and inserting “**TRANSFER OF**  
10 **FUNCTIONS**”; and

11 (II) by striking “Under Secretary  
12 for Border and Transportation Secu-  
13 rity” and inserting “Secretary”;

14 (ii) in section 443 (6 U.S.C. 253), by  
15 amending the section to read as follows:

16 **“SEC. 443. PROFESSIONAL RESPONSIBILITY AND QUALITY**  
17 **REVIEW.**

18 “The Secretary shall be responsible for—

19 “(1) conducting investigations on noncriminal  
20 allegations of misconduct, corruption, and fraud in-  
21 volving any employee of United States Immigration  
22 and Customs Enforcement and United States Cus-  
23 toms and Border Protection that are not subject to  
24 investigation by the Inspector General of the De-  
25 partment;



1           “(2) inspecting the training and operations of  
2           United States Immigration and Customs Enforce-  
3           ment and United States Customs and Border Pro-  
4           tection, and providing assessments of the quality of  
5           such training and operations;

6           “(3) providing analysis of the management of  
7           United States Immigration and Customs Enforce-  
8           ment and United States Customs and Border Pro-  
9           tection; and

10           “(4) monitoring contracts between the Depart-  
11           ment and the private sector that provide technology,  
12           equipment, or services relating to border security to  
13           ensure that proper procedures are being followed.”;  
14           and

15                                   (iii) in section 444 (6 U.S.C. 254), by  
16                                   amending the section to read as follows:

17       **“SEC. 444. EMPLOYEE DISCIPLINE.**

18           “The Secretary may, notwithstanding any other pro-  
19           vision of law, impose disciplinary action, including termi-  
20           nation of employment, pursuant to policies and procedures  
21           applicable to employees of the Federal Bureau of Inves-  
22           tigation, on any employee of United States Immigration  
23           and Customs Enforcement and United States Customs  
24           and Border Protection who willfully deceives Congress or  
25           agency leadership on any matter.”.

1 (b) CONFORMING AMENDMENTS.—Section 401 of the  
2 Homeland Security Act of 2002 (6 U.S.C. 201) is re-  
3 pealed.

4 (c) CLERICAL AMENDMENTS.—The table of contents  
5 in section 1(b) of the Homeland Security Act of 2002 is  
6 amended—

7 (1) by striking the item relating to title IV and  
8 inserting the following:

“TITLE IV—BORDER, MARITIME, AND TRANSPORTATION  
SECURITY”;

9 (2) by striking the item relating to subtitle A  
10 of title IV and inserting the following:

“Subtitle A—Border, Maritime, and Transportation Security Responsibilities  
and Functions”;

11 (3) by striking the item relating to section 401;

12 (4) by striking the item relating to subtitle B  
13 of title IV and inserting the following:

“Subtitle B—United States Customs and Border Protection”;

14 (5) by striking the item relating to section 441  
15 and inserting the following:

“Sec. 441. Transfer of functions.”;

16 and

17 (6) by striking the item relating to section 442  
18 and inserting the following:

“Sec. 442. United States Immigration and Customs Enforcement.”.

○