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H. R. 5131

IN THE SENATE OF THE UNITED STATES

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Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To improve the effectiveness of Federal efforts to identify and address homeland security risks to surface transportation, secure against vehicle-based attacks, and conduct a feasibility assessment of introducing new security technologies and measures, 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 “Surface Transpor-

5 tation Security Improvement Act of 2018”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
9 **TEES.**—The term “appropriate congressional com-

10 mittees” means the Committee on Homeland Secu-

11 rity of the House of Representatives and the Com-

12 mittee on Commerce, Science, and Transportation of

13 the Senate.

14 (2) **PUBLIC AND PRIVATE SECTOR STAKE-**
15 **HOLDERS.**—The term “public and private sector

16 stakeholders” has the meaning given such term in

17 section 114(u)(1)(C) of title 49, United States Code.

18 (3) **SURFACE TRANSPORTATION ASSET.**—The

19 term “surface transportation asset” includes facili-

20 ties, equipment, or systems used to provide transpor-

21 tation services by—

22 (A) a public transportation agency (as

23 such term is defined in section 1402(5) of the

24 Implementing Recommendations of the 9/11

1 Commission Act of 2007 (Public Law 110–53;
2 6 U.S.C. 1131(5));

3 (B) a railroad carrier (as such term is de-
4 fined in section 20102(3) of title 49, United
5 States Code);

6 (C) an owner or operator of—

7 (i) an entity offering scheduled, fixed-
8 route transportation services by over-the-
9 road bus (as such term is defined in sec-
10 tion 1501(4) of the Implementing Rec-
11 ommendations of the 9/11 Commission Act
12 of 2007 (Public Law 110–53; 6 U.S.C.
13 1151(4)); or

14 (ii) a bus terminal; or

15 (D) other transportation facilities, equip-
16 ment, or systems, as determined by the Sec-
17 retary.

18 **SEC. 3. NATIONAL STRATEGY FOR TRANSPORTATION SECU-**
19 **RITY REVIEW.**

20 Not later than 1 year after the date of the enactment
21 of this Act, the Comptroller General of the United States
22 shall evaluate the degree to which the 2016 Biennial Na-
23 tional Strategy for Transportation Security, as required
24 pursuant to section 114(s) of title 49, United States Code,
25 that was issued on August 11, 2016, by the Administrator

1 of the Transportation Security Administration, is reflected
2 in Federal transportation security programs, budgets, re-
3 search, staffing levels, and related efforts and, in carrying
4 out such evaluation, shall consider the degree to which—

5 (1) such strategy is sufficiently forward-looking
6 to guide future Federal efforts relating to transpor-
7 tation security;

8 (2) Federal transportation security programs,
9 budgets, research, staffing levels, and related efforts
10 for fiscal year 2018 and beyond are guided by such
11 strategy; and

12 (3) the annual progress reports submitted to
13 Congress pursuant to such section subsequent to the
14 issuance of such strategy provide information on the
15 degree to which such strategy guides Federal efforts
16 relating to transportation security.

17 **SEC. 4. RISK SCENARIOS.**

18 (a) IN GENERAL.—The Secretary of Homeland Secu-
19 rity shall annually develop, consistent with the transpor-
20 tation modal security plans required under section 114(s)
21 of title 49, United States Code, risk-based priorities based
22 on risk assessments conducted or received by the Sec-
23 retary across all transportation modes that consider
24 threats, vulnerabilities, and consequences.

1 (b) SCENARIOS.—The Secretary of Homeland Secu-
2 rity shall ensure that the risk-based priorities identified
3 pursuant to subsection (a) are informed by an analysis
4 of terrorist attack scenarios for each transportation mode,
5 including cyber attack scenarios and intelligence and open
6 source information about current and evolving threats.

7 (c) REPORT.—Not later than 120 days after each de-
8 velopment of risk-based priorities under subsection (a),
9 the Secretary of Homeland Security shall provide to the
10 appropriate congressional committees a report that in-
11 cludes the following:

12 (1) Copies of the risk assessments for each
13 transportation mode.

14 (2) A summary that ranks the risks within and
15 across modes.

16 (3) A description of the risk-based priorities for
17 securing the transportation sector that identifies and
18 prioritizes the greatest security needs of such trans-
19 portation sector, both across and within modes, in
20 the order that such priorities should be addressed.

21 (4) Information on the underlying methodolo-
22 gies used to assess risks across and within each
23 transportation mode and the basis for any assump-
24 tions regarding threats, vulnerabilities, and con-

1 sequences made in assessing and prioritizing risks
2 within each such mode and across modes.

3 (d) CLASSIFICATION.—The information provided
4 under subsection (c) may be submitted in a classified for-
5 mat or unclassified format, as appropriate.

6 **SEC. 5. ASSESSMENTS AND SECURITY PLANS; FRONTLINE**
7 **EMPLOYEE SECURITY TRAINING.**

8 (a) REPORT.—Not later than 60 days after the date
9 of the enactment of this Act, the Secretary of Homeland
10 Security shall submit to the appropriate congressional
11 committees and the Inspector General of the Department
12 of Homeland Security a report on—

13 (1) the status of regulations requiring assess-
14 ments and security plans as specified in sections
15 1405, 1512, and 1531 of the Implementing Rec-
16 ommendations of the 9/11 Commission Act of 2007
17 (6 U.S.C. 1134, 1162, and 1181) that includes a
18 timeline for the issuance of a final rulemaking sub-
19 sequent to the December 16, 2016, publication in
20 the Federal Register of an advance notice of pro-
21 posed rulemaking; and

22 (2) the status of regulations for a security
23 training program to prepare transportation employ-
24 ees for potential security threats and conditions as
25 specified in sections 1408, 1517, and 1534 of the

1 Implementing Recommendations of the 9/11 Com-
2 mission Act of 2007 (6 U.S.C. 1137, 1167, and
3 1184) that includes a timeline for the issuance of a
4 final rulemaking subsequent to the December 16,
5 2016, publication in the Federal Register of a notice
6 of proposed rulemaking.

7 (b) INSPECTOR GENERAL REVIEW.—Not later than
8 120 days after submission of the report under subsection
9 (a), the Inspector General of the Department of Homeland
10 Security shall submit to the appropriate congressional
11 committees a review of such report that includes informa-
12 tion on—

13 (1) departmental efforts to finalize rulemaking;

14 and

15 (2) recommendations, as necessary, to ensure
16 implementation of the regulations referred to in such
17 subsection.

18 **SEC. 6. RESEARCH AND DEVELOPMENT.**

19 (a) EMERGING ISSUES.—Not later than 180 days
20 after the date of the enactment of this Act, the Secretary
21 of Homeland Security, acting through the Under Sec-
22 retary for Science and Technology of the Department of
23 Homeland Security and in coordination with the Adminis-
24 trator of the Transportation Security Administration,
25 shall submit to the appropriate congressional committees

1 a feasibility assessment of modifying the security of sur-
2 face transportation assets by—

3 (1) introducing next generation technologies to
4 be integrated into systems of surface transportation
5 assets to detect explosives, including through the de-
6 ployment of mobile explosives detection technologies
7 to conduct risk-based passenger and property
8 screening at such systems;

9 (2) providing surface transportation asset oper-
10 ators with access to the Transportation Security Ad-
11 ministration’s Secure Flight Program or a similar
12 passenger vetting system maintained by the Trans-
13 portation Security Administration;

14 (3) deploying a credential authentication tech-
15 nology or other means of identification document in-
16 spection to high-risk surface transportation assets to
17 assist operators conducting passenger vetting; and

18 (4) deploying scalable, cost-effective technology
19 solutions to detect chemical, biological, radiological,
20 nuclear, or explosive threats within high-risk surface
21 transportation assets that are capable of passive,
22 continuous, and real-time sensing and detection of,
23 and alerting passengers and operating personnel to,
24 the presence of such a threat.

1 (b) CONSIDERATIONS.—In carrying out the assess-
2 ment required under subsection (a), the Secretary of
3 Homeland Security, acting through the Under Secretary
4 for Science and Technology of the Department of Home-
5 land Security and in coordination with the Administrator
6 of the Transportation Security Administration, shall ad-
7 dress the technological, privacy, operational, passenger fa-
8 cilitation, and public acceptance considerations involved
9 with each security measure contemplated in such assess-
10 ment.

11 **SEC. 7. BEST PRACTICES TO SECURE AGAINST VEHICLE-**
12 **BASED ATTACKS.**

13 Not later than 180 days after the date of the enact-
14 ment of this Act, the Secretary of Homeland Security shall
15 disseminate best practices to public and private sector
16 stakeholders regarding how to enhance transportation se-
17 curity against the threat of a vehicle-based terrorist at-
18 tack.

19 **SEC. 8. SURFACE TRANSPORTATION STAKEHOLDER SUR-**
20 **VEY.**

21 (a) IN GENERAL.—Not later than 120 days after the
22 date of the enactment of this Act, the Secretary of Home-
23 land Security shall begin conducting a survey of public and
24 private stakeholders responsible for securing surface
25 transportation assets regarding resource challenges, in-

1 cluding the availability of Federal funding, associated with
2 securing such assets that provides an opportunity for re-
3 spondents to set forth information on specific unmet
4 needs.

5 (b) REPORT.—Not later than 120 days after begin-
6 ning the survey required under subsection (a), the Sec-
7 retary of Homeland Security shall report to the appro-
8 priate congressional committees regarding the results of
9 such survey and the Department of Homeland Security’s
10 efforts to address any identified security vulnerabilities.

11 **SEC. 9. INNOVATIVE TECHNOLOGIES AND CAPABILITIES.**

12 (a) IN GENERAL.—The Administrator of the Trans-
13 portation Security Administration may establish a task
14 force to collaborate with public and private sector stake-
15 holders to identify and develop an innovative technology
16 or capability with the potential to enhance transportation
17 security, including by—

18 (1) conducting a field demonstration of such a
19 technology or capability in an operational environ-
20 ment;

21 (2) gathering performance data from such a
22 demonstration to inform the acquisition process; and

23 (3) to the extent practicable, providing funding
24 and promoting efforts to enable participation in a
25 demonstration by a small business that has an inno-

1 vative technology or capability but does not have
2 adequate resources to participate in a field dem-
3 onstration under paragraph (1).

4 (b) COMPOSITION.—The task force authorized under
5 subsection (a) shall be chaired by the Administrator of the
6 Transportation Security Administration’s designee and
7 comprised of representatives appointed by the Adminis-
8 trator, in consultation with the Chairperson of the Avia-
9 tion Security Advisory Committee (established pursuant to
10 section 44946 of title 49, United States Code).

11 (c) ACTIVITIES.—The chair of the task force shall—

12 (1) evaluate technologies and capabilities for
13 field demonstrations with potential to enhance sur-
14 face transportation security, in addition to tech-
15 nologies and capabilities with potential to enhance
16 aviation security;

17 (2) coordinate with the Science and Technology
18 Directorate of the Department of Homeland Secu-
19 rity to leverage such technologies and capabilities;
20 and

21 (3) submit to the Secretary of Homeland Secu-
22 rity an annual report regarding the task force’s ac-
23 tivities that identifies, for each such technology or
24 capability, what mode of transportation could be en-
25 hanced by the integration of such technology or ca-

1 pability into security operations and, as appropriate,
2 plans for deploying such technology or capability.

3 (d) **RULE OF CONSTRUCTION.**—Nothing in this sec-
4 tion shall require the Administrator of the Transportation
5 Security Administration to acquire an innovative tech-
6 nology or capability.

7 (e) **NON-APPLICABILITY OF FACA.**—The Federal
8 Advisory Committee Act (5 U.S.C. App.) shall not apply
9 to the task force.

10 **SEC. 10. SECURITY TECHNOLOGIES TIED TO FOREIGN**
11 **THREAT COUNTRIES.**

12 Not later than 180 days after the date of the enact-
13 ment of this Act, the Secretary of Homeland Security, act-
14 ing through the Under Secretary for Intelligence and
15 Analysis of the Department of Homeland Security, in con-
16 sultation with the Under Secretary for the National Pro-
17 tection and Programs Directorate of the Department,
18 shall submit to the appropriate congressional committees
19 an assessment of terrorist and other threats to the trans-
20 portation sector, including surface transportation assets,
21 posed by the use of security technologies, including soft-
22 ware and networked technologies, developed or manufac-
23 tured by firms that are owned or closely linked to the gov-
24 ernments of countries that are known to pose a cyber or
25 homeland security threat.

1 **SEC. 11. SURFACE TRANSPORTATION SECURITY INSPEC-**
2 **TORS.**

3 (a) STRATEGY.—Not later than 180 days after the
4 date of the enactment of this Act, the Administrator of
5 the Transportation Security Administration shall submit
6 to the appropriate congressional committees and the
7 Comptroller General of the United States a strategy to
8 guide operations of surface transportation security inspec-
9 tors that addresses the following:

10 (1) Any limitations in data systems for such in-
11 spectors, as identified by the Comptroller General.

12 (2) Alignment of operations with risk assess-
13 ment findings, including an approach to identifying
14 and prioritizing entities and locations for inspec-
15 tions.

16 (3) Measurable objectives for the surface trans-
17 portation security inspectors program.

18 (b) COMPTROLLER GENERAL REVIEW.—Not later
19 than 180 days after the submission of the strategy re-
20 quired under subsection (b), the Comptroller General of

1 the United States shall review such strategy and, as ap-
2 propriate, issue recommendations.

Passed the House of Representatives March 22,
2018.

Attest:

KAREN L. HAAS,

Clerk.