

112TH CONGRESS
2^D SESSION

H. R. 4251

AN ACT

To authorize, enhance, and reform certain port security programs through increased efficiency and risk-based coordination within the Department of Homeland Security, 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,*

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Securing Maritime Ac-
3 tivities through Risk-based Targeting for Port Security
4 Act” or the “SMART Port Security Act”.

5 SEC. 2. TABLE OF CONTENTS.

6 The table of contents for this Act is the following:

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1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
4 **TEES.**—The term “appropriate congressional com-
5 mittees” has the meaning given such term in section
6 2 of the Homeland Security Act of 2002 (6 U.S.C.
7 101).

8 (2) **DEPARTMENT.**—The term “Department”
9 means the Department of Homeland Security.

10 (3) **FUNCTION.**—The term “function” includes
11 authorities, powers, rights, privileges, immunities,
12 programs, projects, activities, duties, and respon-
13 sibilities.

14 (4) **LOCAL GOVERNMENT.**—The term “local
15 government” means—

16 (A) a county, municipality, city, town,
17 township, local public authority, school district,
18 special district, intrastate district, council of
19 governments (regardless of whether the council
20 of governments is incorporated as a nonprofit
21 corporation under State law), regional or inter-
22 state government entity, or agency or instru-
23 mentality of a local government;

24 (B) an Indian tribe or authorized tribal or-
25 ganization, or in Alaska a Native village or
26 Alaska Regional Native Corporation; and

1 (C) a rural community, unincorporated
2 town or village, or other public entity.

3 (5) PERSONNEL.—The term “personnel” means
4 officers and employees.

5 (6) SECRETARY.—The term “Secretary” means
6 the Secretary of Homeland Security.

7 (7) STATE.—The term “State” means any
8 State of the United States, the District of Columbia,
9 the Commonwealth of Puerto Rico, the United
10 States Virgin Islands, Guam, American Samoa, the
11 Commonwealth of the Northern Mariana Islands,
12 and any possession of the United States.

13 (8) TERRORISM.—The term “terrorism” has
14 the meaning given such term in section 2 of the
15 Homeland Security Act of 2002 (6 U.S.C. 101).

16 (9) UNITED STATES.—The term “United
17 States”, when used in a geographic sense, means
18 any State of the United States, the District of Co-
19 lumbia, the Commonwealth of Puerto Rico, the Vir-
20 gin Islands, Guam, American Samoa, the Common-
21 wealth of the Northern Mariana Islands, any posses-
22 sion of the United States, and any waters within the
23 jurisdiction of the United States.

1 **TITLE I—DEPARTMENT OF**
2 **HOMELAND SECURITY PORT**
3 **SECURITY PROGRAMS**

4 **SEC. 101. UPDATES OF MARITIME OPERATIONS COORDINA-**
5 **TION PLAN.**

6 (a) IN GENERAL.—Not later than July 1, 2014, the
7 Secretary shall submit to the appropriate congressional
8 committees a maritime operations coordination plan for
9 the coordination and cooperation of maritime operations
10 undertaken by the agencies within the Department. Such
11 plan shall update the maritime operations coordination
12 plan released by the Department in July 2011, and shall
13 address the following:

14 (1) Coordination of planning, integration of
15 maritime operations, and development of joint situa-
16 tional awareness of any office or agency of the De-
17 partment with responsibility for maritime homeland
18 security missions.

19 (2) Maintaining effective information sharing
20 and, as appropriate, intelligence integration, with
21 Federal, State, and local officials and the private
22 sector, regarding threats to maritime security.

23 (3) Leveraging existing departmental coordina-
24 tion mechanisms, including the Interagency Oper-
25 ational Centers, as authorized under section 70107A

1 of title 46, United States Code, the U.S. Customs
2 and Border Protection Air and Marine Operations
3 Center, the U.S. Customs and Border Protection
4 Operational Integration Center, and other regional
5 maritime operational command centers.

6 (4) Cooperation and coordination with other
7 agencies of the Federal Government, and State and
8 local agencies, in the maritime environment, in sup-
9 port of maritime homeland security missions.

10 (5) Work conducted within the context of other
11 national and Department maritime security strategic
12 guidance.

13 (b) **ADDITIONAL UPDATES.**—Not later than July 1,
14 2019, the Secretary, acting through the Department’s Of-
15 fice of Operations Coordination and Planning, shall sub-
16 mit to the appropriate congressional committees an addi-
17 tional update to the maritime operations coordination
18 plan.

19 **SEC. 102. U.S. CUSTOMS AND BORDER PROTECTION OFFICE**
20 **OF AIR AND MARINE ASSET DEPLOYMENT.**

21 (a) **IN GENERAL.**—Any new asset deployment by the
22 U.S. Customs and Border Protection’s Office of Air and
23 Marine, following the date of the enactment of this Act,
24 shall, to the greatest extent practicable, occur in accord-
25 ance with a risk-based assessment that considers mission

1 needs, performance results, threats, costs, and any other
2 relevant factors identified by the Secretary. Specific fac-
3 tors to be included in such assessment shall include, at
4 a minimum, the following:

5 (1) Mission requirements that prioritize the
6 operational needs of field commanders to secure the
7 United States border and ports.

8 (2) Other Department assets available to help
9 address any unmet border and port security mission
10 needs.

11 (3) Risk analysis showing positioning of the
12 asset at issue to respond to intelligence on emerging
13 terrorist and other threats.

14 (4) Cost-benefit analysis showing the relative
15 ability to use the asset at issue in the most cost-ef-
16 fective way to reduce risk and achieve mission suc-
17 cess.

18 (b) CONSIDERATIONS.—An assessment required
19 under subsection (a) shall consider applicable Federal
20 guidance, standards, and agency strategic and perform-
21 ance plans, including the following:

22 (1) The most recent Departmental Quadrennial
23 Homeland Security Review, and any follow-up guid-
24 ance related to such Review.

1 (2) The Department’s Annual Performance
2 Plans.

3 (3) Department policy guiding use of integrated
4 risk management in resource allocation decisions.

5 (4) Department and U.S. Customs and Border
6 Protection Strategic Plans and Resource Deploy-
7 ment Plans.

8 (5) Applicable aviation guidance from the De-
9 partment, including the DHS Aviation Concept of
10 Operations.

11 (6) Other strategic and acquisition guidance
12 promulgated by the Federal Government as the Sec-
13 retary determines appropriate.

14 (c) **AUDIT AND REPORT.**—The Inspector General of
15 the Department shall biennially audit the deployment of
16 new assets within U.S. Customs and Border Protection’s
17 Office of Air and Marine and submit to the appropriate
18 congressional committees a report on the compliance of
19 the Department with the requirements of this section.

20 **SEC. 103. COST-BENEFIT ANALYSIS OF CO-LOCATING OPER-**
21 **ATIONAL ENTITIES.**

22 (a) **IN GENERAL.**—For all locations in which U.S.
23 Customs and Border Protection’s Office of Air and Marine
24 operates that are within 25 miles of locations where any
25 other Department agency also operates air and marine as-

1 sets, the Secretary shall conduct a cost-benefit analysis to
2 consider the potential cost of and savings derived from co-
3 locating aviation and maritime operational assets of the
4 different agencies of the Department. In analyzing the po-
5 tential cost savings achieved by sharing aviation and mari-
6 time facilities, the study shall consider at a minimum the
7 following factors:

8 (1) Potential enhanced cooperation derived
9 from Department personnel being co-located.

10 (2) Potential cost of, and savings derived
11 through, shared maintenance and logistics facilities
12 and activities.

13 (3) Joint use of base and facility infrastructure,
14 such as runways, hangars, control towers, operations
15 centers, piers and docks, boathouses, and fuel de-
16 pots.

17 (4) Short term moving costs required in order
18 to co-locate facilities.

19 (5) Acquisition and infrastructure costs for en-
20 larging current facilities as needed.

21 (b) REPORT.—Not later than one year after the date
22 of the enactment of this Act, the Secretary shall submit
23 to the appropriate congressional committees a report sum-
24 marizing the results of the cost-benefit analysis required

1 under subsection (a) and any planned actions based upon
2 such results.

3 **SEC. 104. STUDY OF MARITIME SECURITY REDUNDANCIES.**

4 The Comptroller General of the United States shall
5 by not later than 1 year after the date of enactment of
6 this Act—

7 (1) conduct a review of port security and mari-
8 time law enforcement operations within the Depart-
9 ment to identify initiatives and programs with dupli-
10 cative, overlapping, or redundant goals and activi-
11 ties, including the cost of such duplication; and

12 (2) submit to the appropriate congressional
13 committees a report on the findings of the study, in-
14 cluding—

15 (A) recommendations for consolidation,
16 elimination, or increased cooperation to reduce
17 unnecessary duplication found in the study; and

18 (B) an analysis of personnel, maintenance,
19 and operational costs related to unnecessarily
20 duplicative, overlapping, or redundant goals and
21 activities found in the study.

22 **SEC. 105. ACQUISITION AND STRATEGIC SOURCING OF MA-**
23 **RINE AND AVIATION ASSETS.**

24 (a) IN GENERAL.—Before initiating the acquisition
25 of any new boat or aviation asset, the Secretary shall co-

1 ordinate across the agencies of the Department, as appro-
2 priate, to—

3 (1) identify common mission requirements be-
4 fore initiating a new acquisition program; and

5 (2) standardize, to the extent practicable,
6 equipment purchases, streamline the acquisition
7 process, and conduct best practices for strategic
8 sourcing to improve control, reduce cost, and facili-
9 tate oversight of asset purchases prior to issuing a
10 Request for Proposal.

11 (b) ESTABLISHMENT OF AVIATION AND MARITIME
12 COORDINATION MECHANISM.—Not later than 180 days
13 after the date of the enactment of this Act, the Secretary
14 shall establish a coordinating mechanism for aviation and
15 maritime issues, including issues related to the acquisi-
16 tion, administration, operations, maintenance, and joint
17 management across the Department, in order to decrease
18 procurement and operational costs and increase effi-
19 ciencies.

20 (c) SPECIAL RULE.—For the purposes of this section,
21 a boat shall be considered any vessel less than 65 feet in
22 length.

23 **SEC. 106. PORT SECURITY GRANT PROGRAM MANAGEMENT.**

24 (a) DETERMINATION OF APPLICATIONS.—Section
25 70107(g) of title 46, United States Code, is amended—

1 (1) by striking “Any entity” and inserting the
2 following:

3 “(1) IN GENERAL.—Any entity”; and

4 (2) by adding at the end the following:

5 “(2) DETERMINATION.—Notwithstanding any
6 other provision of law, the Secretary shall, not later
7 than 60 days after the date on which an applicant
8 submits a complete application for a grant under
9 this section, either approve or disapprove the appli-
10 cation.”.

11 (b) ADMINISTRATION OF COST SHARE DETERMINA-
12 TIONS.—Section 70107(c)(2) of title 46, United States
13 Code, is amended—

14 (1) by striking subparagraph (B) and inserting
15 the following:

16 “(B) HIGHER LEVEL OF SUPPORT RE-
17 QUIRED.—If the Secretary or the Secretary’s
18 designee determines that a proposed project
19 merits support and cannot be undertaken with-
20 out a higher rate of Federal support, then the
21 Secretary or the Secretary’s designee may ap-
22 prove grants under this section for that project
23 with a matching requirement other than that
24 specified in paragraph (1).”; and

1 (2) by inserting after subparagraph (C) the fol-
2 lowing:

3 “(D) COST SHARE DETERMINATIONS.—
4 Notwithstanding any other provision of law, not
5 later than 60 days after the date on which an
6 applicant submits a complete application for a
7 matching requirement waiver under this para-
8 graph the Secretary shall either approve or dis-
9 approve the application.”.

10 (c) ADMINISTRATION.—Section 70107(i) of title 46,
11 United States Code, is amended by adding after para-
12 graph (4) the following:

13 “(5) RELEASE OF FUNDS.—To the maximum
14 extent practicable, the Secretary shall complete all
15 necessary programmatic reviews and release grant
16 funds awarded under this section to the appropriate
17 entity not later than 180 days after the date on
18 which an applicant submits a complete application.

19 “(6) PERFORMANCE PERIOD.—The Secretary
20 shall utilize a period of performance of not less than
21 3 years for expenditure of grant funds awarded
22 under this section.

23 “(7) EXTENSION DETERMINATIONS.—Notwith-
24 standing any other provision of law, not later than
25 60 days after the date on which an applicant sub-

1 mits a complete application for an extension of the
2 period of performance for a grant, the Secretary
3 shall either approve or disapprove the application.”.

4 **SEC. 107. PORT SECURITY GRANT FUNDING FOR MAN-**
5 **DATED SECURITY PERSONNEL.**

6 Section 70107(b)(1) of title 46, United States Code,
7 is amended by striking the period and inserting the fol-
8 lowing: “, including overtime and backfill costs incurred
9 in support of other expenditures authorized under this
10 subsection, except that not more than 50 percent of
11 amounts received by a grantee under this section for a
12 fiscal year may be used under this paragraph.”.

13 **SEC. 108. INTERAGENCY OPERATIONAL CENTERS FOR**
14 **PORT SECURITY.**

15 (a) PARTICIPATING PERSONNEL.—Section
16 70107A(b)(1)(B) of title 46, United States Code, is
17 amended—

18 (1) by inserting “, not less than part-time rep-
19 resentation from U. S. Customs and Border Protec-
20 tion and U.S. Immigration and Customs Enforce-
21 ment,” after “the Coast Guard”; and

22 (2) by striking “the United States Customs and
23 Border Protection, the United States Immigration
24 and Customs Enforcement,”.

1 (b) ASSESSMENT.—Not later than one year after the
2 date of enactment of this Act the Secretary (as that term
3 is used in that section) shall transmit to the appropriate
4 congressional committees an assessment of—

5 (1) interagency operational centers under such
6 section and the implementation of the amendments
7 made by this section;

8 (2) participation in such centers and by Federal
9 agencies, State and local law enforcement agencies,
10 port security agencies, and other public and private
11 sector entities, including joint daily operational co-
12 ordination, training and certifying of non-Federal
13 law enforcement personnel, and joint training exer-
14 cises;

15 (3) deployment of interoperable communications
16 equipment under subsection (e) of such section, in-
17 cluding—

18 (A) an assessment of the cost-effectiveness
19 and utility of such equipment for Federal agen-
20 cies, State and local law enforcement agencies,
21 port security agencies, and other public and pri-
22 vate sector entities;

23 (B) data showing which Federal agencies,
24 State and local law enforcement agencies, port

1 security agencies, and other public and private
2 sector entities are utilizing such equipment;

3 (C) an explanation of the process in place
4 to obtain and incorporate feedback from Fed-
5 eral agencies, State and local law enforcement
6 agencies, port security agencies, and other pub-
7 lic and private sector entities that are utilizing
8 such equipment in order to better meet their
9 needs; and

10 (D) an updated deployment schedule and
11 life cycle cost estimate for the deployment of
12 such equipment; and

13 (4) mission execution and mission support ac-
14 tivities of such centers, including daily coordination
15 activities, information sharing, intelligence integra-
16 tion, and operational planning.

17 **SEC. 109. REPORT ON DHS AVIATION ASSETS.**

18 (a) IN GENERAL.—Not later than one year after the
19 date of the enactment of this Act, the Comptroller General
20 of the United States shall submit to the appropriate con-
21 gressional committees a report that analyzes and com-
22 pares the costs, capabilities, and missions of different
23 aviation assets, including unmanned aerial vehicles, uti-
24 lized by the Department to assess the relative costs of un-
25 manned aerial vehicles as compared to manned aerial vehi-

1 cles, and any increased operational benefits offered by un-
2 manned aerial vehicles as compared to manned aviation
3 assets.

4 (b) REQUIRED DATA.—The report required under
5 subsection (a) shall include a detailed assessment of costs
6 for operating each type of asset described in such report,
7 including—

8 (1) fuel costs;

9 (2) crew and staffing costs;

10 (3) maintenance costs;

11 (4) communication and satellite bandwidth
12 costs;

13 (5) costs associated with the acquisition of each
14 type of such asset; and

15 (6) any other relevant costs necessary to pro-
16 vide a holistic analysis and to identify potential cost
17 savings.

18 **SEC. 110. SMALL VESSEL THREAT ANALYSIS.**

19 Not later than 1 year after the date of enactment
20 of this Act, the Secretary shall submit to the appropriate
21 congressional committees a report analyzing the threat of,
22 vulnerability to, and consequence of an act of terrorism
23 using a small vessel to attack United States vessels, ports,
24 or maritime interests.

1 **SEC. 111. U.S. CUSTOMS AND BORDER PROTECTION WORK-**
2 **FORCE PLAN.**

3 (a) IN GENERAL.—Not later than one year after the
4 date of the enactment of this Act, the Secretary shall sub-
5 mit to the appropriate congressional committees a plan for
6 optimizing staffing levels for U.S. Customs and Border
7 Protection personnel to carry out the mission of the De-
8 partment, including optimal levels of U.S. Customs and
9 Border Protection staffing required to conduct all border
10 security functions.

11 (b) CONSIDERATION OF PRIOR STAFFING RE-
12 SOURCES.—The staffing plan required under subsection
13 (a) shall consider previous staffing models prepared by the
14 Department and assessments of threat and vulnerabilities.

15 **SEC. 112. INTEGRATED CROSS-BORDER MARITIME OPER-**
16 **ATIONS BETWEEN THE UNITED STATES AND**
17 **CANADA.**

18 (a) IN GENERAL.—Subtitle C of title IV of the
19 Homeland Security Act of 2002 (6 U.S.C. 201 et seq.)
20 is amended by adding at the end the following:

21 **“SEC. 432. INTEGRATED CROSS-BORDER MARITIME OPER-**
22 **ATIONS BETWEEN THE UNITED STATES AND**
23 **CANADA.**

24 “(a) AUTHORIZATION.—The Secretary is authorized
25 to establish an Integrated Cross-Border Maritime Oper-
26 ations Program to coordinate maritime security operations

1 between the United States and Canada (in this section re-
2 ferred to as the ‘Program’).

3 “(b) PURPOSE.—The Secretary, acting through the
4 Commandant of the Coast Guard, shall administer the
5 Program in a manner that results in a cooperative ap-
6 proach between the United States and Canada to
7 strengthen border security and detect, prevent, suppress,
8 investigate, and respond to terrorism and violations of law
9 related to border security.

10 “(c) TRAINING.—The Secretary, acting through the
11 Commandant of the Coast Guard, in consultation with the
12 Secretary of State, may—

13 “(1) establish, as an element of the Program,
14 a training program to create designated maritime
15 law enforcement officers;

16 “(2) conduct training jointly with Canada, in-
17 cluding training—

18 “(A) on the detection and apprehension of
19 suspected terrorists and individuals attempting
20 to unlawfully cross or unlawfully use the inter-
21 national maritime border between the United
22 States and Canada, to enhance border security;

23 “(B) on the integration, analysis, and dis-
24 semination of port security information between
25 the United States and Canada;

1 **SEC. 113. TRAINING AND CERTIFICATION OF TRAINING FOR**
2 **PORT SECURITY.**

3 (a) USE OF PORT SECURITY GRANT FUNDS.—Sec-
4 tion 70107(b)(8) of title 46, United States Code, is
5 amended to read as follows:

6 “(8) The cost of training and certifying a law
7 enforcement officer employed by a law enforcement
8 agency under section 70132 of this title.”.

9 (b) MATCHING REQUIREMENT.—Section
10 70107(c)(2)(C) of such title is amended to read as follows:

11 “(C) TRAINING AND CERTIFICATION.—
12 There are no matching requirements for grants
13 under subsection (a) to train and certify law en-
14 forcement personnel under section 70132 of
15 this title.”.

16 (c) CREDENTIALING STANDARDS, TRAINING, AND
17 CERTIFICATION.—Section 70132 of such title is amended
18 as follows:

19 (1) In the section heading, by striking “**for**
20 **State and local support for the enforce-**
21 **ment of security zones for the transpor-**
22 **tation of especially hazardous cargo**” and
23 inserting “**of maritime law enforcement**
24 **personnel**”.

25 (2) By amending subsection (a) to read as fol-
26 lows:

1 “(a) STANDARDS.—The Commandant of the Coast
2 Guard shall establish standards for training, qualification,
3 and certification of a law enforcement officer employed by
4 a law enforcement agency, to conduct or execute, pursuant
5 to a cooperative enforcement agreement, maritime secu-
6 rity, maritime law enforcement, and maritime surge ca-
7 pacity activities.”.

8 (3) In subsection (b)(1), by amending subpara-
9 graphs (A) and (B) to read as follows:

10 “(A) after notice and opportunity for pub-
11 lic comment, may develop and publish training
12 curricula for the standards established under
13 subsection (a); and

14 “(B) may—

15 “(i) test and deliver training for which
16 the curriculum is developed under subpara-
17 graph (A);

18 “(ii) enter into an agreement under
19 which any Federal, State, local, tribal, or
20 private sector entity may test and deliver
21 such training; and

22 “(iii) accept the results of training
23 conducted by any Federal, State, local,
24 tribal, or private sector entity under such
25 an agreement.”.

1 (4) By striking subsection (b)(2) and inserting
2 the following:

3 “(2) Any training developed under paragraph
4 (1) after the date of enactment of the SMART Port
5 Security Act shall be developed in consultation with
6 the Federal Law Enforcement Training Center.”.

7 (5) In subsection (b)(4)—

8 (A) by inserting after “any moneys,” the
9 following: “other than an allocation made under
10 the Dingell-Johnson Sport Fish Restoration Act
11 (16 U.S.C. 777 et seq.),”; and

12 (B) by striking “training of personnel to
13 assist in the enforcement of security zones and
14 limited access areas” and inserting “training
15 and certifying personnel under this section”.

16 (6) By striking subsection (c) and inserting the
17 following:

18 “(c) CERTIFICATION OF PERSONNEL.—The Com-
19 mandant of the Coast Guard may issue a certificate to
20 law enforcement officer employed by a law enforcement
21 agency, who has successfully completed training that the
22 Commandant has developed under this section.”.

23 (7) By adding at the end the following:

24 “(d) TACTICAL TRAINING FOR LAW ENFORCEMENT
25 PERSONNEL.—The Commandant of the Coast Guard may

1 (A) by striking the item relating to the
2 heading for subchapter II and inserting the fol-
3 lowing:

“SUBCHAPTER II—PORT SECURITY TRAINING AND CERTIFICATION”;

4 and

5 (B) by striking the item relating to section
6 70132 and inserting the following:

“70132. Credentialing standards, training, and certification of maritime law en-
forcement personnel.”.

7 (e) TECHNICAL CORRECTIONS.—Chapter 701 of such
8 title is amended—

9 (1) by moving sections 70122, 70123, 70124,
10 and 70125 so as to appear at the end of subchapter
11 I of such chapter;

12 (2) in the table of sections at the beginning of
13 the chapter, in the item relating to section 70107A,
14 by adding at the end a period; and

15 (3) by striking the heading for section 70124
16 and inserting the following:

17 **“§ 70124. Regulations”.**

18 **SEC. 114. NORTHERN BORDER UNMANNED AERIAL VEHI-**
19 **CLE PILOT PROJECT.**

20 (a) RESEARCH AND DEVELOPMENT.—The Secretary
21 shall research and develop technologies to allow routine
22 operation of medium-sized unmanned aerial vehicles, in-
23 cluding autonomously piloted drones, within the national

1 airspace for border and maritime security missions with-
2 out any degradation of existing levels of security-related
3 surveillance or of safety for all national airspace system
4 users.

5 (b) PILOT PROJECT.—No later than 180 days after
6 the date of enactment of this Act, the Secretary shall com-
7 mence a pilot project in segregated airspace along the
8 northern border to conduct experiments and collect data
9 in order to accelerate the safe integration of medium-sized
10 unmanned aircraft systems into the national airspace sys-
11 tem.

12 **SEC. 115. RECOGNITION OF PORT SECURITY ASSESSMENTS**
13 **CONDUCTED BY OTHER ENTITIES.**

14 Section 70108 of title 46, United States Code, is
15 amended by adding at the end the following new sub-
16 section:

17 “(f) RECOGNITION OF ASSESSMENT CONDUCTED BY
18 OTHER ENTITIES.—

19 “(1) CERTIFICATION AND TREATMENT OF AS-
20 SESSMENTS.—For the purposes of this section and
21 section 70109, the Secretary may treat an assess-
22 ment conducted by a foreign government or inter-
23 national organization as an assessment by the Sec-
24 retary required by subsection (a), if the Secretary

1 certifies that the assessment was conducted in ac-
2 cordance with subsection (b).

3 “(2) AUTHORIZATION TO ENTER INTO AGREE-
4 MENTS OR ARRANGEMENTS.—The Secretary may
5 enter into an agreement or arrangement with a for-
6 eign government or international organization, under
7 which—

8 “(A) such government or organization
9 may, on behalf of the Secretary, conduct an as-
10 sessment required under subsection (a), or
11 share with the Secretary information pertaining
12 to such assessments; and

13 “(B) the Secretary may, on behalf of such
14 foreign government or organization, conduct an
15 assessment described in subsection (a), or share
16 with such foreign government or organization
17 information pertaining to such assessments.

18 “(3) LIMITATIONS.—Nothing in this sub-
19 section—

20 “(A) requires the Secretary to recognize an
21 assessment that a foreign government or an
22 international organization conducts pursuant to
23 this subsection; or

1 “(B) limits the discretion or ability of the
2 Secretary to conduct an assessment under this
3 section.

4 “(4) NOTIFICATION.—Not later than 30 days
5 before entering into an agreement or arrangement
6 with a foreign government under paragraph (2), the
7 Secretary shall notify the appropriate congressional
8 committees of the proposed terms of such agreement
9 or arrangement.”.

10 **SEC. 116. USE OF PORT SECURITY GRANT FUNDS FOR RE-**
11 **PLACEMENT OF SECURITY EQUIPMENT OR**
12 **FACILITIES.**

13 Section 70107(b)(2) of title 46, United States Code,
14 is amended by inserting “(including replacement)” after
15 “acquisition”.

16 **TITLE II—MARITIME SUPPLY**
17 **CHAIN SECURITY**

18 **SEC. 201. STRATEGIC PLAN TO ENHANCE THE SECURITY OF**
19 **THE INTERNATIONAL SUPPLY CHAIN.**

20 Section 201 of the SAFE Port Act (6 U.S.C. 941)
21 is amended—

22 (1) by amending subsection (b) to read as fol-
23 lows:

1 “(b) REQUIREMENTS.—The strategic plan required
2 under subsection (a), and any updates to the strategic
3 plan required under subsection (g), shall—

4 “(1) identify and address gaps and unnecessary
5 redundancies or overlaps in the roles, responsibil-
6 ities, or authorities of the agencies responsible for
7 securing the supply chain, including—

8 “(A) any unnecessary redundancies or
9 overlaps in Federal transportation security
10 credentialing programs; and

11 “(B) any unnecessary redundancies or
12 overlaps in Federal trusted shipper or trusted
13 trader programs;

14 “(2) review ongoing efforts to align activities
15 throughout the Federal Government to—

16 “(A) improve coordination among the
17 agencies referred to in paragraph (1);

18 “(B) facilitate the efficient flow of legiti-
19 mate commerce;

20 “(C) enhance the security of the inter-
21 national supply chain; or

22 “(D) address any gaps or overlaps de-
23 scribed in paragraph (1);

24 “(3) identify further regulatory or organiza-
25 tional changes necessary to—

1 “(A) improve coordination among the
2 agencies referred to in paragraph (1);

3 “(B) facilitate the efficient flow of legiti-
4 mate commerce;

5 “(C) enhance the security of the inter-
6 national supply chain; or

7 “(D) address any gaps or overlaps de-
8 scribed in paragraph (1);

9 “(4) provide measurable goals, including objec-
10 tives, mechanisms, and a schedule, for furthering the
11 security of commercial operations from point of ori-
12 gin to point of destination;

13 “(5) build on available resources and consider
14 costs and benefits;

15 “(6) recommend additional incentives for vol-
16 untary measures taken by private sector entities to
17 enhance supply chain security, including additional
18 incentives for such entities participating in the Cus-
19 toms-Trade Partnership Against Terrorism in ac-
20 cordance with sections 214, 215, and 216;

21 “(7) consider the impact of supply chain secu-
22 rity requirements on small- and medium- sized com-
23 panies;

24 “(8) identify a framework for prudent and
25 measured response in the event of a transportation

1 security incident involving the international supply
2 chain;

3 “(9) provide updated protocols for the expedi-
4 tious resumption of the flow of trade in accordance
5 with section 202;

6 “(10) review and address implementation of les-
7 sons learned from recent exercises conducted under
8 sections 114 and 115, and other international supply
9 chain security, response, or recovery exercises that
10 the Department participates in, as appropriate;

11 “(11) consider the linkages between supply
12 chain security and security programs within other
13 systems of movement, including travel security and
14 terrorism finance programs;

15 “(12) be informed by technologies undergoing
16 research, development, testing, and evaluation by the
17 Department; and

18 “(13) expand upon and relate to existing strate-
19 gies and plans for securing supply chains, including
20 the National Response Plan, the National Maritime
21 Transportation Security Plan, the National Strategy
22 for Maritime Security, and the eight supporting
23 plans of such National Strategy for Maritime Secu-
24 rity, as required by Homeland Security Presidential
25 Directive 13.”;

1 (2) in subsection (g)—

2 (A) in the heading for paragraph (2), by
3 striking “FINAL” and inserting “UPDATED”;
4 and

5 (B) by adding at the end the following new
6 paragraphs:

7 “(3) FINAL REPORT.—Not later than two years
8 after the date on which the update of the strategic
9 plan is submitted under paragraph (2), the Sec-
10 retary shall submit to the appropriate congressional
11 committees a report that contains a further update
12 of the strategic plan.

13 “(4) IMPLEMENTATION PLAN.—Not later than
14 one year after the date on which the final update of
15 the strategic plan is submitted under paragraph (3),
16 the Secretary shall submit to the appropriate con-
17 gressional committees an implementation plan for
18 carrying out the strategic plan.”; and

19 (3) by adding at the end the following new sub-
20 section:

21 “(h) THREAT ASSESSMENT.—In developing the re-
22 ports and implementation plan required under subsection
23 (g), the Secretary shall take into account an assessment
24 of the current threats to the global supply chain.”.

1 **SEC. 202. CUSTOMS-TRADE PARTNERSHIP AGAINST TER-**
2 **RORISM.**

3 (a) UNANNOUNCED INSPECTIONS.—Section 217(a)
4 of the SAFE Port Act (6 U.S.C. 967(a)) is amended—

5 (1) by striking “If at any time” and inserting
6 the following:

7 “(1) FAILURE TO MEET REQUIREMENTS.—If at
8 any time”; and

9 (2) by inserting after paragraph (1), as redesign-
10 nated, the following new paragraph:

11 “(2) UNANNOUNCED INSPECTIONS.—The Sec-
12 retary, acting through the Commissioner, may con-
13 duct an unannounced inspection of a C-TPAT par-
14 ticipant’s security measures and supply chain secu-
15 rity practices if the Commissioner determines, based
16 on previously identified deficiencies in security meas-
17 ures and supply chain security practices of the C-
18 TPAT participant, that there is a likelihood that
19 such an inspection would assist in confirming the se-
20 curity measures in place and further the validation
21 process.”.

22 (b) PRIVATE SECTOR INFORMATION SHARING ON SE-
23 CURITY AND TERRORISM THREATS.—Subsection (d) of
24 section 216 of the SAFE Port Act (6 U.S.C. 966) is
25 amended to read as follows:

1 “(d) PRIVATE SECTOR INFORMATION SHARING ON
2 SECURITY AND TERRORISM THREATS.—

3 “(1) IN GENERAL.—The Secretary shall pro-
4 mote information sharing, as appropriate, between
5 and among the Department and C-TPAT partici-
6 pants and other private entities regarding—

7 “(A) potential vulnerabilities, attacks, and
8 exploitations of the international supply chain;
9 and

10 “(B) means and methods of preventing, re-
11 sponding to, and mitigating consequences from
12 the vulnerabilities, attacks, and exploitations
13 described in subparagraph (A).

14 “(2) CONTENTS.—The information sharing re-
15 quired under paragraph (1) may include—

16 “(A) the creation of classified and unclas-
17 sified means of accessing information that may
18 be used by appropriately cleared personnel and
19 that will provide, as appropriate, ongoing situa-
20 tional awareness of the security of the inter-
21 national supply chain; and

22 “(B) the creation of guidelines to establish
23 a mechanism by which owners and operators of
24 international supply chain infrastructure may
25 report actual or potential security breaches.”.

1 **SEC. 203. RECOGNITION OF OTHER COUNTRIES' TRUSTED**
2 **SHIPPER PROGRAMS.**

3 Section 218 of the SAFE Port Act (6 U.S.C. 968)
4 is amended by adding at the end the following new sub-
5 section:

6 “(j) RECOGNITION OF OTHER COUNTRIES' TRUSTED
7 SHIPPER PROGRAMS.—Not later than 30 days before
8 signing an arrangement between the United States and
9 a foreign government providing for mutual recognition of
10 supply chain security practices which might result in the
11 utilization of benefits described in section 214, 215, or
12 216, the Secretary shall—

13 “(1) notify the appropriate congressional com-
14 mittees of the proposed terms of such arrangement;
15 and

16 “(2) determine, in consultation with the Com-
17 missioner, that the foreign government's supply
18 chain security program provides comparable security
19 as that provided by C-TPAT.”.

20 **SEC. 204. PILOT PROGRAM FOR INCLUSION OF NON-ASSET**
21 **BASED THIRD PARTY LOGISTICS PROVIDERS**
22 **IN THE CUSTOMS-TRADE PARTNERSHIP**
23 **AGAINST TERRORISM.**

24 (a) IN GENERAL.—Not later than 180 days after the
25 date of the enactment of this Act, the Secretary shall de-
26 velop a pilot program to determine whether allowing non-

1 asset based third party logistics providers that arrange
2 international transportation of freight to participate in the
3 Customs-Trade Partnership Against Terrorism program,
4 as described in section 211 of the SAFE Port Act (6
5 U.S.C. 961), would enhance port security, combat ter-
6 rorism, prevent supply chain security breaches, or meet
7 the goals of the Customs-Trade Partnership Against Ter-
8 rorism established pursuant to section 211 of the SAFE
9 Port Act (6 U.S.C. 961).

10 (b) REQUIREMENTS.—

11 (1) VOLUNTARY PARTICIPATION.—Participation
12 by non-asset based third party logistics providers
13 that arrange international transportation of freight
14 taking part in the pilot program shall be voluntary.

15 (2) MINIMUM NUMBER.—The Secretary shall
16 ensure that not fewer than five non-asset based third
17 party logistics providers that arrange international
18 transportation of freight take part in the pilot pro-
19 gram.

20 (3) DURATION.—The pilot program shall be
21 conducted for a minimum duration of one year.

22 (c) REPORT.—Not later than 180 days after the con-
23 clusion of the pilot program, the Secretary shall submit
24 to the appropriate congressional committees a report on
25 the findings and any recommendations of the pilot pro-

1 gram concerning the participation in the Customs-Trade
2 Partnership Against Terrorism of non-asset based third
3 party logistics providers that arrange international trans-
4 portation of freight to combat terrorism and prevent sup-
5 ply chain security breaches.

6 **SEC. 205. TRANSPORTATION WORKER IDENTIFICATION**
7 **CREDENTIAL PROCESS REFORM.**

8 (a) SENSE OF CONGRESS.—To avoid further impos-
9 ing unnecessary and costly regulatory burdens on United
10 States workers and businesses, it is the sense of Congress
11 that it is urgent that the Transportation Worker Identi-
12 fication Credential (in this section referred to as the
13 “TWIC”) application process be reformed by not later
14 than the end of 2012, when hundreds of thousands of cur-
15 rent TWIC holders will begin to face the requirement to
16 renew their TWICs.

17 (b) TWIC APPLICATION REFORM.—Not later than
18 270 days after the date of the enactment of this Act, the
19 Secretary shall reform the process for the enrollment, acti-
20 vation, issuance, and renewal of a TWIC to require, in
21 total, not more than one in-person visit to a designated
22 enrollment center except in cases in which there are ex-
23 tenuating circumstances, as determined by the Secretary,
24 requiring more than one such in-person visit.

1 **SEC. 206. EXPIRATION OF CERTAIN TRANSPORTATION**
2 **WORKER IDENTIFICATION CREDENTIALS.**

3 (a) IN GENERAL.—A valid Transportation Worker
4 Identification Credential required under part 101.514 of
5 title 33, Code of Federal Regulations, that was issued be-
6 fore the date of enactment of this Act shall not expire be-
7 fore the earlier of—

8 (1) the deadline for full implementation of a
9 final rule issued by the Secretary for electronic read-
10 ers designed to work with Transportation Worker
11 Identification Credentials as an access control and
12 security measure issued pursuant to the advanced
13 notice of proposed rulemaking published March 27,
14 2009 (74 Fed. Reg. 58), as established by the final
15 rule; or

16 (2) June 30, 2014.

17 (b) REVOCATION AUTHORITY NOT AFFECTED.—This
18 section shall not be construed to affect the authority of
19 the Secretary to revoke a Transportation Worker Identi-
20 fication Credential—

21 (1) based on information that the holder is not
22 qualified to hold such credential; or

23 (2) if the credential is lost, damaged, or stolen.

1 **SEC. 207. SECURING THE TRANSPORTATION WORKER IDEN-**
2 **TIFICATION CREDENTIAL AGAINST USE BY**
3 **UNAUTHORIZED ALIENS.**

4 (a) PROCESS.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of this Act, the Sec-
7 retary shall establish a process to ensure, to the
8 maximum extent practicable, that an individual who
9 is not lawfully present in the United States cannot
10 obtain or continue to use a Transportation Worker
11 Identification Credential (in this section referred to
12 as the “TWIC”).

13 (2) COMPONENTS.—In establishing the process
14 under subsection (a), the Secretary shall—

15 (A) publish a list of documents that will
16 identify non-United States citizen TWIC appli-
17 cants and verify their immigration statuses by
18 requiring each such applicants to produce a
19 document or documents that demonstrate—

20 (i) identity; and

21 (ii) proof of lawful presence in the
22 United States; and

23 (B) establish training requirements to en-
24 sure that trusted agents at TWIC enrollment
25 centers receive training to identify fraudulent
26 documents.

1 (b) EXPIRATION OF TWICs.—A TWIC expires on
2 the date of its expiration, or in the date on which the indi-
3 vidual to whom such a TWIC is issued is no longer law-
4 fully present in the United States, whichever is earlier.

5 **SEC. 208. REPORT ON FEDERAL TRANSPORTATION SECUR-**
6 **RITY CREDENTIALING PROGRAMS.**

7 Not later than 180 days after the date of the enact-
8 ment of this Act, the Secretary shall submit to the appro-
9 priate congressional committees a report that identifies
10 unnecessary redundancies or overlaps in Federal transpor-
11 tation security credentialing programs, including rec-
12 ommendations to reduce or eliminate such redundancies
13 or overlaps.

Passed the House of Representatives June 28, 2012.

Attest:

Clerk.

112TH CONGRESS
2^D SESSION

H. R. 4251

AN ACT

To authorize, enhance, and reform certain port security programs through increased efficiency and risk-based coordination within the Department of Homeland Security, and for other purposes.