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2D SESSION

# H. R. 4251

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IN THE SENATE OF THE UNITED STATES

JUNE 29, 2012

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

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## 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:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.

TITLE I—DEPARTMENT OF HOMELAND SECURITY PORT  
SECURITY PROGRAMS

- Sec. 101. Updates of maritime operations coordination plan.
- Sec. 102. U.S. Customs and Border Protection Office of Air and Marine Asset  
Deployment.
- Sec. 103. Cost-benefit analysis of co-locating operational entities.
- Sec. 104. Study of maritime security redundancies.
- Sec. 105. Acquisition and strategic sourcing of marine and aviation assets.
- Sec. 106. Port security grant program management.
- Sec. 107. Port security grant funding for mandated security personnel.
- Sec. 108. Interagency operational centers for port security.
- Sec. 109. Report on DHS aviation assets.
- Sec. 110. Small vessel threat analysis.
- Sec. 111. U.S. Customs and Border Protection workforce plan.
- Sec. 112. Integrated cross-border maritime operations between the United  
States and Canada.
- Sec. 113. Training and certification of training for port security.
- Sec. 114. Northern border unmanned aerial vehicle pilot project.
- Sec. 115. Recognition of port security assessments conducted by other entities.
- Sec. 116. Use of port security grant funds for replacement of security equip-  
ment or facilities.

TITLE II—MARITIME SUPPLY CHAIN SECURITY

- Sec. 201. Strategic plan to enhance the security of the international supply  
chain.
- Sec. 202. Customs-Trade Partnership Against Terrorism.
- Sec. 203. Recognition of other countries’ trusted shipper programs.
- Sec. 204. Pilot program for inclusion of non-asset based third party logistics  
providers in the Customs-Trade Partnership Against Ter-  
rorism.
- Sec. 205. Transportation Worker Identification Credential process reform.
- Sec. 206. Expiration of certain transportation worker identification credentials.
- Sec. 207. Securing the Transportation Worker Identification Credential against  
use by unauthorized aliens.
- Sec. 208. Report on Federal transportation security credentialing programs.

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           “(C) on the respective policy, regulatory,  
2           and legal considerations related to the Program;

3           “(D) on the use of force and maritime se-  
4           curity;

5           “(E) in operational procedures and protec-  
6           tion of information and other sensitive informa-  
7           tion; and

8           “(F) on preparedness and response to  
9           maritime terrorist incidents.

10          “(d) COORDINATION.—The Secretary, acting through  
11 the Commandant of the Coast Guard, shall coordinate the  
12 Program with other similar border security and  
13 antiterrorism programs within the Department.

14          “(e) MEMORANDA OF AGREEMENT.—The Secretary  
15 may enter into any memorandum of agreement necessary  
16 to carry out the Program.

17          “(f) AUTHORIZATION OF APPROPRIATIONS.—To  
18 carry out this section there is authorized to be appro-  
19 priated to the Secretary \$2,000,000 for each of fiscal  
20 years 2013 and 2014.”.

21          (b) CLERICAL AMENDMENT.—The table of contents  
22 in section 1(b) of such Act is amended by adding at the  
23 end of the items relating to such subtitle the following new  
24 item:

“Sec. 432. Integrated cross-border maritime operations between 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 make such training developed under this section available  
2 to law enforcement officers employed by a law enforcement  
3 agency, on either a reimbursable or a non-reimbursable  
4 basis, if the Commandant determines that—

5 “(1) a member of the Coast Guard is unable or  
6 unavailable to undertake tactical training the au-  
7 thorization of which had been previously approved,  
8 and no other member of the Coast Guard is reason-  
9 ably available to undertake such training;

10 “(2) the inability or unavailability of Coast  
11 Guard personnel to undertake such training creates  
12 training capacity within the training program; and

13 “(3) such training, if made available to such  
14 law enforcement officers, would contribute to  
15 achievement of the purposes of this section.”.

16 (d) CONFORMING AMENDMENT.—Chapter 701 of  
17 such title is amended—

18 (1) by striking the heading for subchapter II  
19 and inserting the following:

20 **“Subchapter II—Port Security Training and**  
21 **Certification”;**

22

23 and

24 (2) in the table of sections at the beginning of  
25 the chapter—



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:

KAREN L. HAAS,

*Clerk.*