

SECURE BORDER COMMUNICATIONS ACT

SEPTEMBER 25, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
submitted the following

R E P O R T

[To accompany H.R. 6742]

The Committee on Homeland Security, to whom was referred the bill (H.R. 6742) to amend the Homeland Security Act of 2002 to ensure that appropriate officers and agents of U.S. Customs and Border Protection are equipped with secure radios or other two-way communication devices, supported by system interoperability, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 6742, the Secure Border Communications Act, is to amend the Homeland Security Act of 2002 to require that the Secretary of Homeland Security ensure appropriate officers and agents of U.S. Customs and Border Protection (CBP) are equipped with secure radios or other two-way communication devices, supported by system interoperability.

The bill requires that CBP communication devices allow officers and agents to communicate between ports of entry and inspection stations, and with other Federal, State, Tribal, and local law enforcement entities operating in the same area of responsibility. In addition, the bill requires that Border Patrol Agents operating in remote mission critical locations and at border checkpoints be outfitted with multi- or dual-band encrypted portable radios. The radios and communication devices acquired by the Department of Homeland Security (DHS) shall have the option to connect to appropriate commercial mobile broadband networks when feasible. The Secretary may evaluate new or emerging communication technology to determine whether they are suitable for border security operational needs as well.

BACKGROUND AND NEED FOR LEGISLATION

Currently, many of the devices, radios, and communication networks used by CBP officers and agents are outdated and hinder interagency communication. Due to a lack of interoperability of CBP communication systems, officers and agents actively engaged in law enforcement activities may have incidents of reduced—or total lack of—communication. At times they must communicate indirectly with other law enforcement assets operating in the same area of responsibility. For instance, Border Patrol Agents patrolling on the ground often do not have direct radio contact with surveilling CBP air assets or to other agents working in the area. In addition, during interagency law enforcement operations, the lack of radio communication interoperability causes redundancies, as more personnel are needed to convey timely operational information.

HEARINGS

The Committee did not hold any hearing specifically on H.R. 6742, but the Subcommittee on Border and Maritime Security held hearings relevant to the bill.

On July 25, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “Deter, Detect, and Interdict: Technology’s Role in Securing the Border.” The Subcommittee received testimony from Mr. Dennis J. Michelini, Acting Executive Director of Operations, Air and Marine Operations, U.S. Customs and Border Protection; Mr. Todd C. Owens, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection; Mr. Scott A. Luck, Acting Deputy Chief, U.S. Border Patrol; and Ms. Rebecca Gambler, Director, Homeland Security and Justice, U.S. Government Accountability Office.

On January 9, 2018, the Subcommittee on Border and Maritime Security held a hearing entitled “On the Line: Border Security from an Agent and Officer Perspective.” The Subcommittee received tes-

timony from Mr. Brandon Judd, National President, National Border Patrol Council; Mr. Jon Anfinson, President, Local 2366—Del Rio, Texas, National Border Patrol Council; Ms. Rosemarie Pepperdine, Union Representative, Local 2544—Tucson, Arizona, National Border Patrol Council; and Mr. Anthony M. Reardon, National President, National Treasury Employees Union.

COMMITTEE CONSIDERATION

The Committee met on September 13, 2018, to consider H.R. 6742 and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by unanimous consent.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 6742.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 6742, the Secure Border Communications Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 6742 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

The objective of H.R. 6742 is to ensure that certain U.S. Customs and Border Protection officers and agents are equipped with secure radios or other two-way communication devices, supported by system interoperability.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 6742 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 6742 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 6742 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

This Act may be cited as the ‘Secure Border Communications Act’.

Sec. 2. Secure border communications

This section amends the Homeland Security Act of 2002 to require that certain U.S. Customs and Border Protection officers and

agents are equipped with secure radios or other two-way communication devices that enable communication between ports of entry and inspection stations, and with other Federal, State, Tribal, and local law enforcement agencies. In addition, each U.S. Border Patrol Agent patrolling in remote mission critical locations and at border checkpoints shall be equipped with a multi-or dual-band encrypted portable radio.

The Committee recognizes the developing role of broadband and the significant investments in land mobile radio (LMR) along the border to provide reliable communications. To ensure effective communication among agents and officers, this section directs DHS to acquire radios or other communication devices with the option to connect to commercial mobile broadband networks for deployment in areas where these networks enhance operations and are cost effective. The broadband capability requirement in this section can be fulfilled by having broadband capability built into a radio or other device.

The Committee believes that communication devices that fall short of the capabilities outlined in this section pose an officer safety issue.

While acquiring communication devices, DHS may evaluate new or emerging communication technologies to determine their suitability for the unique missions of border security operations such as solutions that incorporate voice and data communications.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

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TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

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Subtitle B—U.S. Customs and Border Protection

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Sec. 420. Secure border communications.

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TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

* * * * *

Subtitle B—U.S. Customs and Border Protection

* * * * *

SEC. 420. SECURE BORDER COMMUNICATIONS.

(a) *IN GENERAL.*—The Secretary shall ensure that each U.S. Customs and Border Protection officer or agent, if appropriate, is equipped with a secure radio or other two-way communication device, supported by system interoperability, that allows each such officer or agent to communicate—

(1) between ports of entry and inspection stations; and

(2) with other Federal, State, Tribal, and local law enforcement entities.

(b) *U.S. BORDER PATROL AGENTS.*—The Secretary shall ensure that each U.S. Border Patrol agent assigned or required to patrol in remote mission critical locations, and at border checkpoints, has a multi- or dual-band encrypted portable radio.

(c) *COMMERCIAL MOBILE BROADBAND CONNECTIVITY.*—In carrying out subsection (b), the Secretary shall acquire radios or other devices with the option to connect to appropriate commercial mobile broadband networks for deployment in areas where such networks enhance operations and are cost effective.

(d) *EMERGING COMMUNICATIONS TECHNOLOGIES CONSIDERED.*—In carrying out this section, the Secretary may evaluate new or emerging communications technologies to determine their suitability for the unique conditions of border security operations.

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COMMITTEE CORRESPONDENCE

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

September 24, 2018

The Honorable Michael T. McCaul
Chairman
Committee on Homeland Security
176 Ford House Office Building
Washington, DC 20515

Dear Chairman McCaul,

I write to you regarding H.R. 6742, the "Secure Border Communications Act", on which the Committee on Ways and means was granted an additional referral.

As a result of your having consulted with us on provisions in H.R. 6742 that fall within the Rule X jurisdiction of the Committee on Ways and Means, I agree to waive formal consideration of this bill. The Committee on Ways and Means takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and the Committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues that fall within our jurisdiction. The Committee also reserves the right to seek appointment of an appropriate number of conferees to any House-Senate conference involving this or similar legislation, and requests your support for such request.

I would appreciate your response confirming this understanding with respect to H.R. 6742 and ask that a copy of our exchange of letters on this matter be included in the *Congressional Record* during consideration of the bill on the House floor.

Sincerely,



Kevin Brady
Chairman

cc: The Honorable Paul Ryan, Speaker
The Honorable Richard E. Neal
The Honorable Bennie G. Thompson
Thomas J. Wickham, Jr., Parliamentarian

MICHAEL T. McCAUL, TEXAS
CHAIRMAN



BENNIE G. THOMPSON, MISSISSIPPI
RANKING MEMBER

One Hundred Fifteenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515
September 25, 2018

The Honorable Kevin Brady
Chairman, Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515


Dear Chairman Brady,

Thank you for your letter regarding H.R.6742, the "Secure Border Communications Act." I appreciate your support in bringing this legislation before the House of Representatives, and accordingly, understand that the Committee on Ways and Means will not take further action on this bill.

The Committee on Homeland Security concurs with the mutual understanding that by foregoing consideration on this bill at this time, the Committee on Ways and Means does not waive any jurisdiction over the subject matter contained in this bill or similar legislation in the future. In addition, should a conference on this bill be necessary, I would support a request by the Committee on Ways and Means for conferees on those provisions within your jurisdiction.

I will insert copies of this exchange in the *Congressional Record* during consideration of this bill on the House floor. I thank you for your cooperation in this matter.

Sincerely,


MICHAEL T. McCAUL
Chairman

cc: The Honorable Paul D. Ryan, Speaker
The Honorable Bennie G. Thompson, Ranking Member, Committee on Homeland Security
The Honorable Richard Neal, Ranking Member, Committee on Ways and Means
Mr. Thomas J. Wickham, Parliamentarian