

DEPARTMENT OF HOMELAND SECURITY SEAL
PROTECTION ACT OF 2022

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JULY 28, 2022.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. THOMPSON of Mississippi, from the Committee on Homeland
Security, submitted the following

R E P O R T

[To accompany H.R. 7778]

The Committee on Homeland Security, to whom was referred the bill (H.R. 7778) to amend the Homeland Security Act of 2002 to prohibit misuse of the Department of Homeland Security seal, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Department of Homeland Security Seal Protection Act of 2022”.

SEC. 2. PROHIBITION ON MISUSE OF THE DEPARTMENT OF HOMELAND SECURITY SEAL.

Subsection (a) of section 875 of the Homeland Security Act of 2002 (6 U.S.C. 455) is amended to read as follows:

“(a) SEAL.—

“(1) IN GENERAL.—The Department shall have a seal, the design of which shall be subject to the approval of the President.

“(2) PROTECTION OF SEAL.—Except with the written permission of the Secretary, no person may knowingly use the seal, or any colorable imitation thereof, of the Department in a manner reasonably calculated to convey the impression that the Department or any organizational component or element of the Department has approved, endorsed, or authorized such use.

“(3) CONSTRUCTION.—Nothing in this subsection may be construed to restrict the use of the seal of the Department by officers and employees of the Department in their course of their official duties.

“(4) EXISTING DESIGN.—Notwithstanding paragraph (1), nothing in this subsection renders unlawful the use of any seal of the Department the design of which was lawful as of the date of the enactment of this subsection.”.

PURPOSE AND SUMMARY

H.R. 7778, the “Department of Homeland Security Seal Protection Act of 2022,” prohibits the use of the Department of Homeland Security’s (DHS) seal or colorable imitation of the seal in a manner that gives the false impression that the Department or its components have authorized such use except with the written permission of the Secretary of Homeland Security. This bill specifies that DHS personnel are permitted to use the seal while conducting official duties. In addition, the bill includes a provision to protect current lawful users of existing seal designs at the time of enactment.

BACKGROUND AND NEED FOR LEGISLATION

On August 11, 2021, DHS submitted a legislative proposal to Congress to enhance the protection of DHS’s seal in response to challenges it has encountered when relying upon the general seal protection statute.

Since June 2003, DHS has maintained a seal to symbolize its mission; it is incorporated in DHS uniforms and equipment as well as the branding of DHS components. There are provisions of law that generally prohibit the misappropriation or exploitation of a Federal agency’s symbol.¹ However, the DHS seal lacks specific statutory protections like the seals of other Federal departments and agencies. Departments and agencies with specific protections include the Department of the Treasury, Department of Defense, Department of Veterans Affairs, National Security Agency, Central Intelligence Agency, U.S. Marshals Service, and U.S. Marine Corps.²

DHS has identified substantial misuse of its seal undermining the Department’s core values of integrity, vigilance, and respect. Individuals have used the seal to impersonate DHS officers and agents and engage in crimes, and businesses have used it to convey the impression that the Department endorses their products or services to seek material gain.³ The risks stemming from impersonation

¹Unauthorized use is a violation of 18 U.S.C. §§ 506, 701, and 1017.

²Examples of Federal departments and agencies whose seals are protected include: the Department of the Treasury (31 U.S.C. § 333); Department of Defense (32 C.F.R. § 212.6); Department of Veterans Affairs (38 C.F.R. § 1.9); National Security Agency (50 U.S.C. § 3613); Central Intelligence Agency (50 U.S.C. § 3513); U.S. Marshals Service (18 U.S.C. § 709); and U.S. Marine Corps (10 U.S.C. § 8921).

³Documents on file with the Committee (DHS Slides for Committee Staff Briefing on Mar. 23, 2022).

ators were demonstrated in April 2022, when Federal prosecutors charged two individuals of allegedly impersonating undercover DHS agents to gain the trust of officers within the U.S. Secret Service. According to court records, “the men were not merely playing dress-up” but “engaged in conduct that represented a serious threat to the community, compromised the operations of a federal law enforcement agency, and created a potential risk to national security.”⁴

Businesses misrepresenting endorsement or approval by DHS of products and services include a tornado shelter manufacturer using the seal to endorse its products, a third-party website using the seal to advertise medical examinations, and online retailers selling face masks displaying the seal during the COVID–19 pandemic.⁵

HEARINGS

For the purposes of clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, no hearings were used to develop H.R. 7778.

COMMITTEE CONSIDERATION

The Committee met on May 19, 2022, a quorum being present, to consider H.R. 7778 and ordered the measure to be favorably reported to the House, as amended, by voice vote.

COMMITTEE VOTES

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

No recorded votes were considered during consideration of H.R. 7778.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

⁴Spencer S. Hsu, Peter Humm, and Matt Zapotosky, “Men posing as DHS employees created potential national security risk, prosecutors say,” *Washington Post*, (Apr. 8, 2022), available at <https://www.washingtonpost.com/dc-md-va/2022/04/08/men-impersonating-federal-officers-detention/>.

⁵Documents on file with the Committee, *supra*, at note 3.

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.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 7778 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 7778 is to enhance the protection of DHS's seal by allowing the Department to prevent or pursue action against individuals, organizations, or businesses that use the seal to misrepresent endorsement or approval by DHS and harm the public

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

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

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 H.R. 7778 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 section states that the Act may be cited as the "Department of Homeland Security Seal Protection Act of 2022".

Sec. 2. Prohibition on misuse of the Department of Homeland Security seal

This section provides that DHS shall have a seal subject to approval of the President of the United States.

This section states that no individual may knowingly use the Department's seal, or colorable imitation, to convey the Department or its components have approved, endorsed, or authorized such use without written consent from the Secretary of Homeland Security.

This section also states that this Act does not restrict the use of the seal by officers and employees during official duties and provides a clause to protect lawful users of designs in existence at the time of enactment of this Act.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

HOMELAND SECURITY ACT OF 2002

* * * * *

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

* * * * *

Subtitle H—Miscellaneous Provisions

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SEC. 875. MISCELLANEOUS AUTHORITIES.

[(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.]

(a) SEAL.—

(1) *IN GENERAL.*—*The Department shall have a seal, the design of which shall be subject to the approval of the President.*

(2) *PROTECTION OF SEAL.*—*Except with the written permission of the Secretary, no person may knowingly use the seal, or any colorable imitation thereof, of the Department in a manner reasonably calculated to convey the impression that the Department or any organizational component or element of the Department has approved, endorsed, or authorized such use.*

(3) *CONSTRUCTION.*—*Nothing in this subsection may be construed to restrict the use of the seal of the Department by officers and employees of the Department in their course of their official duties.*

(4) *EXISTING DESIGN.*—*Notwithstanding paragraph (1), nothing in this subsection renders unlawful the use of any seal of the Department the design of which was lawful as of the date of the enactment of this subsection.*

(b) **PARTICIPATION OF MEMBERS OF THE ARMED FORCES.**—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to

the Department of Transportation under section 324 of title 49, United States Code.

(c) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

(d) INVESTIGATION OF CERTAIN VIOLENT ACTS, SHOOTINGS, AND MASS KILLINGS.—

(1) IN GENERAL.—At the request of an appropriate law enforcement official of a State or political subdivision, the Secretary, through deployment of the Secret Service or United States Immigration and Customs Enforcement, may assist in the investigation of violent acts and shootings occurring in a place of public use, and in the investigation of mass killings and attempted mass killings. Any assistance provided by the Secretary under this subsection shall be presumed to be within the scope of Federal office or employment.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term “mass killings” means 3 or more killings in a single incident; and

(B) the term “place of public use” has the meaning given that term under section 2332f(e)(6) of title 18, United States Code.

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