

107TH CONGRESS
1ST SESSION

S. 1587

To provide improved port and maritime security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 30, 2001

Mr. KERRY (for himself, Mr. BREAUX, and Mr. HOLLINGS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide improved port and maritime 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Port Threat and Secu-
5 rity Act”.

6 **SEC. 2. IMPROVED REPORTING ON FOREIGN-FLAG VESSELS**

7 **ENTERING UNITED STATES PORTS.**

8 Within 6 months after the date of enactment of this
9 Act and every year thereafter, the Secretary of Transpor-
10 tation, in consultation with the Secretary of State, shall

1 provide a report to the Committees on Commerce, Science,
2 and Transportation and Foreign Relations of the Senate,
3 and the Committees on Transportation and Infrastructure
4 and International Relations of the House of Representa-
5 tives that lists the following information:

6 (1) A list of all nations whose flag vessels have
7 entered United States ports in the previous year.

8 (2) Of the nations on that list, a separate list
9 of those nations—

10 (A) whose registered flag vessels appear as
11 Priority III or higher on the Boarding Priority
12 Matrix maintained by the Coast Guard;

13 (B) that have presented, or whose flag ves-
14 sels have presented, false, intentionally incom-
15 plete, or fraudulent information to the United
16 States concerning passenger or cargo manifests,
17 crew identity or qualifications, or registration or
18 classification of their flag vessels;

19 (C) whose vessel registration or classifica-
20 tion procedures have been found by the Sec-
21 retary to be insufficient or do not exercise ade-
22 quate control over safety and security concerns;
23 or

1 (D) whose laws or regulations are not suf-
2 ficient to allow tracking of ownership and reg-
3 istration histories of registered flag vessels.

4 (3) Actions taken by the United States, whether
5 through domestic action or international negotiation,
6 including agreements at the International Maritime
7 Organization under section 902 of the International
8 Maritime and Port Security Act (46 U.S.C. App.
9 1801), to improve transparency and security of ves-
10 sel registration procedures in nations on the list
11 under paragraph (2).

12 (4) Recommendations for legislative or other
13 actions needed to improve security of United States
14 ports against potential threats posed by flag vessels
15 of nations named in paragraph (2).

16 **SEC. 3. SEA MARSHAL PROGRAM.**

17 (a) ESTABLISHMENT.—Within 6 months after the
18 date of enactment of this Act, the Secretary of Transpor-
19 tation shall establish a program to place sea marshals on
20 vessels entering United States Ports identified in sub-
21 section (c).

22 (b) CONSULTATION.—In establishing this program,
23 the Secretary shall consult with representatives from the
24 port security task force and local port security committees.

1 (c) SEA MARSHAL PORTS.—The Secretary shall iden-
2 tify United States ports for inclusion in the sea marshal
3 program based on criteria that include the following:

4 (1) The presence of port facilities that handle
5 materials that are hazardous or flammable in quan-
6 tities that make them potential targets of attack.

7 (2) The proximity of these facilities to residen-
8 tial or other densely populated areas.

9 (3) The proximity of sea lanes or navigational
10 channels to hazardous areas that would pose a dan-
11 ger to citizens in the event of a loss of navigational
12 control by the ship's master.

13 (4) Any other criterion deemed necessary by the
14 Secretary.

15 (d) SEA MARSHAL QUALIFICATIONS.—The Secretary
16 shall establish appropriate qualifications or standards for
17 sea marshals. The Secretary may use, or require use of,
18 Federal, State, or local personnel as sea marshals.

19 (e) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Secretary of
21 Transportation such sums as may be necessary to carry
22 out the requirements of this section for each of the fiscal
23 years 2002 through 2006.

24 (f) REPORT.—Within 3 years after the date of enact-
25 ment of this Act, the Secretary shall report to the Com-

1 mittee on Commerce, Science, and Transportation of the
 2 Senate, and Committee on Transportation and Infrastruc-
 3 ture of the House of Representatives on the success of
 4 the program in protecting the ports listed under (c), and
 5 submit any recommendations.

6 **SEC. 4. SEA PILOT COMMUNICATION AND WARNING SYS-**
 7 **TEM.**

8 Within 6 months after the date of enactment of this
 9 Act, the Secretary of Transportation shall provide a secure
 10 report to the Committee on Commerce, Science, and
 11 Transportation of the Senate, and Committee on Trans-
 12 portation and Infrastructure of the House of Representa-
 13 tives on the potential for increasing the capabilities of sea
 14 pilots to provide information on maritime domain aware-
 15 ness. The report should specifically address necessary im-
 16 provements to both reporting procedures and equipment
 17 that could allow pilots to be integrated more effectively
 18 in an maritime domain awareness program.

19 **SEC. 5. SECURITY STANDARDS AT FOREIGN SEAPORTS.**

20 (a) ASSESSMENT.—

21 (1) IN GENERAL.—The Secretary shall assess
 22 the effectiveness of the security measures main-
 23 tained at—

24 (A) each foreign seaport—

25 (i) served by United States vessels;

1 (ii) from which foreign vessels serve
2 the United States; or

3 (iii) that poses a high risk of intro-
4 ducing danger to international sea travel;
5 and

6 (B) other foreign seaports the Secretary
7 considers appropriate.

8 (2) INTERNATIONAL COOPERATION AND STAND-
9 ARDS.—The Secretary of Transportation shall con-
10 duct an assessment under paragraph (1) of this
11 subsection—

12 (A) in consultation with appropriate port
13 authorities of the government of a foreign coun-
14 try concerned and United States vessel opera-
15 tors serving the foreign seaport for which the
16 Secretary is conducting the assessment;

17 (B) to establish the extent to which a for-
18 eign seaport effectively maintains and carries
19 out security measures; and

20 (C) by using a standard that will result in
21 an analysis of the security measures at the sea-
22 port based at least on the standards and rec-
23 ommended practices of the International Mari-
24 time Organization in effect on the date of the
25 assessment.

1 (3) REPORT.—Each report to Congress re-
2 quired under section 2 shall contain a summary of
3 the assessments conducted under this subsection.

4 (b) INTERVAL.—The Secretary of Transportation
5 shall conduct assessments under subsection (a) of this sec-
6 tion of at least 25 foreign seaports annually until all sea-
7 ports identified in subsection (a)(1) are completed. The
8 first 25 of these assessments shall be conducted within
9 18 months after the date of enactment of this Act.

10 (c) CONSULTATION.—In carrying out subsection (a)
11 of this section, the Secretary of Transportation shall con-
12 sult with the Secretary of State—

13 (1) on the terrorist threat that exists in each
14 country; and

15 (2) to establish which foreign seaports are not
16 under the de facto control of the government of the
17 foreign country in which they are located and pose
18 a high risk of introducing danger to international
19 sea travel.

20 (d) QUALIFIED ASSESSMENT ENTITIES.—In carrying
21 out subsection (a) of this section, the Secretary of Trans-
22 portation may utilize entities determined by the Secretary
23 of Transportation and the Secretary of State to be quali-
24 fied to conduct such assessments.

1 (e) NOTIFYING FOREIGN AUTHORITIES.—If the Sec-
 2 retary of Transportation, after conducting an assessment
 3 under subsection (a) of this section, determines that a sea-
 4 port does not maintain and carry out effective security
 5 measures, the Secretary, after advising the Secretary of
 6 State, shall notify the appropriate authorities of the gov-
 7 ernment of the foreign country of the decision and rec-
 8 ommend the steps necessary to bring the security meas-
 9 ures in use at the seaport up to the standard used by the
 10 Secretary in making the assessment.

11 (f) ACTIONS WHEN SEAPORTS NOT MAINTAINING
 12 AND CARRYING OUT EFFECTIVE SECURITY MEASURES.—

13 (1) IN GENERAL.—If the Secretary of Trans-
 14 portation makes a determination under subsection
 15 (e) that a seaport does not maintain and carry out
 16 effective security measures, the Secretary—

17 (A) shall publish the identity of the seaport
 18 in the Federal Register;

19 (B) shall require the identity of the seaport
 20 to be posted and displayed prominently at all
 21 United States seaports at which scheduled pas-
 22 senger carriage is provided regularly;

23 (C) shall notify the news media of the
 24 identity of the seaport;

1 (D) shall require each United States and
2 foreign vessel providing transportation between
3 the United States and the seaport to provide
4 written notice of the decision, on or with the
5 ticket, to each passenger buying a ticket for
6 transportation between the United States and
7 the seaport; and

8 (E) may, after consulting with the appro-
9 priate port authorities of the foreign country
10 concerned and United States and foreign vessel
11 operators serving the seaport and with the ap-
12 proval of the Secretary of State, withhold, re-
13 voke, or prescribe conditions on the operating
14 authority of a United States or foreign vessel
15 that uses that seaport to provide foreign sea
16 transportation.

17 (2) PRESIDENTIAL ACTION.—If the Secretary
18 makes such a determination under subsection (e)
19 about a seaport, the President may prohibit a
20 United States or foreign vessel from providing trans-
21 portation between the United States and any other
22 foreign seaport that is served by vessels navigating
23 to or from the seaport with respect to which a deci-
24 sion is made under this section.

25 (3) WHEN ACTION TO BE TAKEN.—

1 (A) IN GENERAL.—The provisions of para-
2 graphs (1) and (2) shall apply with respect to
3 a foreign seaport—

4 (i) 90 days after the government of a
5 foreign country is notified of the Sec-
6 retary's determination under subsection (e)
7 of this section unless the Secretary of
8 Transportation finds that the government
9 has brought the security measures at the
10 seaport up to the standard the Secretary
11 used in making an assessment under sub-
12 section (a) of this section before the end of
13 that 90-day period; or

14 (ii) on the date on which the Sec-
15 retary makes that determination if the
16 Secretary of Transportation determines,
17 after consulting with the Secretary of
18 State, that a condition exists that threat-
19 ens the safety or security of passengers,
20 vessels, or crew traveling to or from the
21 seaport.

22 (B) TRAVEL ADVISORY NOTIFICATION.—
23 The Secretary of Transportation immediately
24 shall notify the Secretary of State of a deter-
25 mination under subparagraph (A)(ii) of this

1 paragraph so that the Secretary of State may
2 issue a travel advisory required under section
3 908 of the International Maritime and Port Se-
4 curity Act (46 U.S.C. App. 1804).

5 (4) CONGRESSIONAL NOTIFICATION.—The Sec-
6 retary of Transportation promptly shall submit to
7 Congress a report (and classified annex if necessary)
8 on action taken under paragraph (1) or (2) of this
9 subsection, including information on attempts made
10 to obtain the cooperation of the government of a for-
11 eign country in meeting the standard the Secretary
12 used in assessing the seaport under subsection (a) of
13 this section.

14 (5) CANCELLATION OF PUBLICATION REQUIRE-
15 MENTS.—If the Secretary of Transportation, in con-
16 sultation with the Secretary of State, determines
17 that effective security measures are maintained and
18 carried out at the seaport against which the Sec-
19 retary took action under paragraph (1), then the
20 Secretary shall—

21 (A) terminate action under paragraph (1)
22 against that seaport; and

23 (B) notify the Congress of the Secretary's
24 determination.

1 (g) SUSPENSIONS.—The Secretary of Transpor-
2 tation, with the approval of the Secretary of State and
3 without notice or a hearing, shall suspend the right of any
4 United States vessel to provide foreign sea transportation,
5 and the right of a person to operate vessels in foreign sea
6 commerce, to or from a foreign seaport if the Secretary
7 of Transportation determines that—

8 (1) a condition exists that threatens the safety
9 or security of passengers, vessels, or crew traveling
10 to or from that seaport; and

11 (2) the public interest requires an immediate
12 suspension of transportation between the United
13 States and that seaport.

14 (h) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Secretary of
16 Transportation \$2,000,000 for fiscal year 2002 and each
17 fiscal year thereafter to carry out this section.

18 **SEC. 6. FOREIGN PORT ASSESSMENT FEES.**

19 (a) IN GENERAL.—The Secretary of Transportation
20 shall collect a user fee from cruise vessel lines upon the
21 arrival of a cruise vessel at a United States port from a
22 foreign port. Amounts collected under this section shall
23 be treated as offsetting collections to offset annual appro-
24 priations for the costs of providing foreign port vulner-
25 ability assessments under section 5.

1 (b) AMOUNT OF FEE.—Cruise vessel lines shall remit
2 \$0.50 for each passenger embarkment on a cruise that in-
3 cludes at least one United States port and one foreign
4 port.

5 (c) USE OF FEES.—A fee collected under this section
6 shall be used solely for the costs associated with providing
7 foreign port vulnerability assessments and may be used
8 only to the extent provided in advance in an appropriation
9 law.

10 (d) EFFECTIVE DATE.—The requirements of this
11 section apply with respect to travel beginning more than
12 179 days after the date of enactment of this Act.

○