

107TH CONGRESS  
1ST SESSION

# S. 1587

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

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## 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

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# 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

(D) whose laws or regulations are not sufficient to allow tracking of ownership and registration histories of registered flag vessels.

## 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;

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

(B) other foreign seaports the Secretary  
considers appropriate.

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.

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—

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 qual-  
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.

25 (3) WHEN ACTION TO BE TAKEN.—

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

(i) 90 days after the government of a foreign country is notified of the Secretary's determination under subsection (e) of this section unless the Secretary of Transportation finds that the government has brought the security measures at the seaport up to the standard the Secretary used in making an assessment under subsection (a) of this section before the end of that 90-day period; or

(ii) on the date on which the Secretary makes that determination if the Secretary of Transportation determines, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from the seaport.

(B) TRAVEL ADVISORY NOTIFICATION.—  
The Secretary of Transportation immediately shall notify the Secretary of State of a determination 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 Transporta-  
2 tion, 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.

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