

107TH CONGRESS
2D SESSION

S. 2774

To transfer to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2002

Mr. ROBERTS (for himself, Mr. ALLARD, Mr. MILLER, Mr. CRAIG, and Mr. CRAPO) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To transfer to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities.

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 “APHIS Function
5 Transfer Act”.

6 **SEC. 2. TRANSFER OF CERTAIN AGRICULTURAL INSPEC-**
7 **TION FUNCTIONS OF THE DEPARTMENT OF**
8 **AGRICULTURE.**

9 (a) DEFINITIONS.—In this section:

1 (1) COVERED LAW.—The term “covered law”
2 means—

3 (A) the first section of the Act of August
4 31, 1922 (7 U.S.C. 281);

5 (B) title III of the Federal Seed Act (7
6 U.S.C. 1581 et seq.);

7 (C) the Plant Protection Act (7 U.S.C.
8 7701 et seq.);

9 (D) the Animal Health Protection Act (7
10 U.S.C. 8301 et seq.);

11 (E) section 11 of the Endangered Species
12 Act of 1973 (16 U.S.C. 1540).

13 (F) the Lacey Act Amendments of 1981
14 (16 U.S.C. 3371 et seq.); and

15 (G) the eighth paragraph under the head-
16 ing “BUREAU OF ANIMAL INDUSTRY” in
17 the Act of March 4, 1913 (21 U.S.C. 151 et
18 seq.) (commonly known as the “Virus-Serum-
19 Toxin Act”);

20 (2) FUNCTION.—The term “function” does not
21 include any quarantine activity carried out under a
22 covered law.

23 (b) TRANSFER.—There is transferred to the Sec-
24 retary of Homeland Security the functions of the Sec-

1 retary of Agriculture relating to agricultural import and
2 entry inspection activities under each covered law.

3 (c) EFFECT OF TRANSFER.—

4 (1) COMPLIANCE WITH DEPARTMENT OF AGRI-
5 CULTURE REGULATIONS.—The authority transferred
6 under subsection (b) shall be exercised by the Sec-
7 retary of Homeland Security in accordance with the
8 regulations, policies, and procedures issued by the
9 Secretary of Agriculture regarding the administra-
10 tion of each applicable covered law.

11 (2) RULEMAKING COORDINATION.—The Sec-
12 retary of Agriculture shall coordinate with the Sec-
13 retary of Homeland Security in any case in which
14 the Secretary of Agriculture prescribes regulations,
15 policies, or procedures for administering a covered
16 law at—

17 (A) a port of entry to the United States;

18 or

19 (B) any other similar location, as deter-
20 mined by the Secretary of Agriculture.

21 (3) EFFECTIVE ADMINISTRATION.—The Sec-
22 retary of Homeland Security, in consultation with
23 the Secretary of Agriculture, may issue such direc-
24 tives and guidelines as are necessary to ensure the
25 effective use of personnel of the Department of

1 Homeland Security to carry out the functions trans-
2 ferred under subsection (b).

3 (d) TRANSFER AGREEMENT.—

4 (1) IN GENERAL.—As soon as practicable after
5 the date of enactment of this Act, the Secretary of
6 Agriculture and the Secretary of Homeland Security
7 shall enter into an agreement to effectuate the
8 transfer of functions required by subsection (b).

9 (2) REQUIRED TERMS.—The agreement re-
10 quired by this subsection shall specifically address—

11 (A) the supervision by the Secretary of Ag-
12 riculture of the training of employees of the
13 Secretary of Homeland Security to carry out
14 the functions transferred under subsection (b);
15 and

16 (B) the transfer of funds to the Secretary
17 of Homeland Security under subsection (e).

18 (3) REVISION.—After the date of execution of
19 the agreement described in paragraph (1), the Sec-
20 retary of Agriculture and the Secretary of Homeland
21 Security may jointly revise the agreement, as nec-
22 essary.

23 (4) COOPERATION AND RECIPROCITY.—The
24 Secretary of Agriculture and the Secretary of Home-

1 land Security may include as part of the
2 agreement—

3 (A) authority under which the Secretary of
4 Homeland Security may perform functions
5 that—

6 (i) are delegated to the Animal and
7 Plant Health Inspection Service of the De-
8 partment of Agriculture regarding the pro-
9 tection of domestic livestock and plants;
10 but

11 (ii) are not transferred to the Sec-
12 retary of Homeland Security under sub-
13 section (b); and

14 (B) authority under which the Secretary of
15 Agriculture may use employees of the Depart-
16 ment of Homeland Security to carry out au-
17 thorities delegated to the Animal and Plant
18 Health Inspection Service regarding the protec-
19 tion of domestic livestock and plants.

20 (e) PERIODIC TRANSFER OF FUNDS TO DEPART-
21 MENT OF HOMELAND SECURITY.—

22 (1) TRANSFER OF FUNDS.—Subject to para-
23 graph (2), out of any funds collected as fees under
24 sections 2508 and 2509 of the Food, Agriculture,
25 Conservation, and Trade Act of 1990 (21 U.S.C.

1 136, 136a), the Secretary of Agriculture shall peri-
 2 odically transfer to the Secretary of Homeland Secu-
 3 rity, in accordance with the agreement under sub-
 4 section (d), funds for activities carried out by the
 5 Secretary of Homeland Security for which the fees
 6 were collected.

7 (2) LIMITATION.—The proportion of fees col-
 8 lected under sections 2508 and 2509 of the Food,
 9 Agriculture, Conservation, and Trade Act of 1990
 10 (21 U.S.C. 136, 136a) that are transferred to the
 11 Secretary of Homeland Security under paragraph
 12 (1) may not exceed the proportion that—

13 (A) the costs incurred by the Secretary of
 14 Homeland Security to carry out activities fund-
 15 ed by those fees; bears to

16 (B) the costs incurred by the Federal Gov-
 17 ernment to carry out activities funded by those
 18 fees.

19 (f) TRANSFER OF DEPARTMENT OF AGRICULTURE
 20 EMPLOYEES.—In carrying out this section, the Secretary
 21 of Agriculture shall transfer to the Secretary of Homeland
 22 Security not more than 3,200 full-time equivalent posi-
 23 tions of the Department of Agriculture.

24 (g) PROTECTION OF INSPECTION ANIMALS.—

1 (1) DEFINITION OF SECRETARY CONCERNED.—
2 Title V of the Agricultural Risk Protection Act of
3 2000 is amended—

4 (A) by redesignating sections 501 and 502
5 (7 U.S.C. 2279e, 2279f) as sections 502 and
6 503, respectively; and

7 (B) by inserting before section 502 (as re-
8 designated by paragraph (1)) the following:

9 **“SEC. 501. DEFINITION OF SECRETARY CONCERNED.**

10 “In this title, the term ‘Secretary concerned’
11 means—

12 “(1) the Secretary of Agriculture, with respect
13 to an animal used for purposes of official inspections
14 by the Department of Agriculture; and

15 “(2) the Secretary of Homeland Security, with
16 respect to an animal used for purposes of official in-
17 spections by the Department of Homeland Secu-
18 rity.”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Section 502 of the Agricultural Risk
21 Protection Act of 2000 (as redesignated by
22 paragraph (1)(A)) is amended—

23 (i) in subsection (a)—

1 (I) by inserting “or the Depart-
 2 ment of Homeland Security” after
 3 “Department of Agriculture”; and

4 (II) by inserting “or the Sec-
 5 retary of Homeland Security” after
 6 “Secretary of Agriculture”; and

7 (ii) by striking “Secretary” each place
 8 it appears (other than in subsections (a)
 9 and (e)) and inserting “Secretary con-
 10 cerned”.

11 (B) Section 503 of the Agricultural Risk
 12 Protection Act of 2000 (as redesignated by
 13 paragraph (1)(A)) is amended by striking
 14 “501” each place it appears and inserting
 15 “502”.

16 **SEC. 3. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CEN-**
 17 **TER, DEPARTMENT OF AGRICULTURE.**

18 (a) IN GENERAL.—The Secretary of Agriculture shall
 19 transfer to the Secretary of Homeland Security the Plum
 20 Island Animal Disease Center of the Department of Agri-
 21 culture, including the assets and liabilities of the Center.

22 (b) CONTINUED DEPARTMENT OF AGRICULTURE AC-
 23 CESS.—On completion of the transfer of the Plum Island
 24 Animal Disease Center under subsection (a), the Secretary
 25 of Homeland Security and the Secretary of Agriculture

1 shall enter into an agreement to ensure that the Secretary
2 of Agriculture retains access to the Center for research,
3 diagnostic, and other activities of the Department of Agri-
4 culture.

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