

108TH CONGRESS
2D SESSION

H. R. 4355

To strengthen port security by establishing an improved container security regime, to expand on the Maritime Transportation Security Act of 2002, to strengthen the Coast Guard port security mission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2004

Ms. LORETTA SANCHEZ of California (for herself, Mr. TURNER of Texas, Mr. MARKEY, Mr. DICKS, Ms. HARMAN, Mr. DEFazio, Mrs. LOWEY, Mr. ANDREWS, Ms. MCCARTHY of Missouri, Ms. JACKSON-LEE of Texas, Mrs. CHRISTENSEN, Mr. LANGEVIN, Mr. MEEK of Florida, and Mr. CHANDLER) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To strengthen port security by establishing an improved container security regime, to expand on the Maritime Transportation Security Act of 2002, to strengthen the Coast Guard port security mission, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Secure Containers
3 from Overseas and Seaports from Terrorism Act” or the
4 “Secure COAST Act”.

5 **TITLE I—BUREAU OF CUSTOMS**
6 **AND BORDER PROTECTION**
7 **SECURITY PROGRAMS**

8 **SEC. 101. AMENDMENTS TO THE HOMELAND SECURITY ACT**
9 **OF 2002.**

10 (a) IN GENERAL.—Title IV of the Homeland Secu-
11 rity Act of 2002 (6 U.S.C. 201 et seq.) is amended by
12 adding at the end the following new subtitle:

13 **“Subtitle G—Bureau of Customs**
14 **and Border Protection Security**
15 **Programs**

16 **“SEC. 481. STANDARDS AND VERIFICATION PROCEDURES**
17 **FOR THE SECURITY OF MARITIME CARGO**
18 **CONTAINERS.**

19 “(a) STANDARDS AND VERIFICATION PROCE-
20 DURES.—Not later than 180 days after the date of the
21 enactment of the Secure COAST Act, the Secretary, act-
22 ing through the Under Secretary for Border and Trans-
23 portation Security, shall establish standards and
24 verification procedures for the security of maritime cargo
25 containers moving within the intermodal transportation

1 system, including standards for sealing and procedures for
2 seal verifications for cargo containers at loading.

3 “(b) REQUIREMENTS.—The standards and
4 verification procedures established pursuant to subsection
5 (a) shall be consistent with the cargo container security
6 recommendations of Operation Safe Commerce, the inter-
7 agency Container Working Group, and the Smart and Se-
8 cure Trade Lane program and shall meet the following
9 additional requirements:

10 “(1) SEAL STANDARDS.—Maritime cargo con-
11 tainers shall at a minimum be affixed with a secu-
12 rity seal equivalent to the level ‘D’ high security seal
13 (as certified by the International Organization for
14 Standardization (ISO); Certification No. 17712) at
15 loading.

16 “(2) SEAL VERIFICATION.—Procedures shall be
17 established for the verification of security seals de-
18 scribed in paragraph (1), including procedures to de-
19 termine which individuals and entities in the inter-
20 modal transportation system are responsible for seal-
21 ing maritime cargo containers, recording of seal
22 numbers, changes to such numbers if a container is
23 opened, and anomalies relating to security seals.

1 “(c) EVALUATION OF CONTAINER TRACKING TECH-
2 NOLOGIES, CONTAINER TARGETING, AND SECURITY OF
3 EMPTY CONTAINERS.—

4 “(1) EVALUATION.—The Secretary, acting
5 through the Under Secretary for Border and Trans-
6 portation Security, shall carry out the following:

7 “(A) CONTAINER TRACKING TECH-
8 NOLOGIES.—The Secretary shall evaluate the
9 security benefits of existing technology for con-
10 tainer tracking from the point of loading to its
11 final destination, such as electronic seals or in-
12 trusion detection devices that can detect a phys-
13 ical breach of a container. In addition to deter-
14 mining the security benefits, the Secretary shall
15 determine the costs, infrastructure, communica-
16 tion system, required to deploy such technology
17 in the intermodal transportation system, includ-
18 ing incentives for investment in such tech-
19 nology.

20 “(B) CONTAINER TARGETING.—The Sec-
21 retary shall evaluate trade information, in addi-
22 tion to cargo manifest information, such as pur-
23 chase orders, port of origin data, and trans-
24 shipment data, which would improve the ability

1 of the Bureau of Customs and Border Protec-
2 tion to carry out risk analysis of containers.

3 “(C) SECURITY OF EMPTY CONTAINERS.—
4 The Secretary shall evaluate the practices and
5 policies in place to secure shipment of empty
6 containers at United States ports and shall de-
7 velop recommendations with respect to whether
8 additional regulations or legislation is necessary
9 to ensure the safe and secure delivery of cargo
10 and to prevent potential acts of terrorism in-
11 volving such containers.

12 “(2) REPORT.—Not later than 180 days after
13 the date of the enactment of the Secure COAST
14 Act, the Secretary shall prepare and submit to the
15 appropriate congressional committees a report that
16 contains the results of the evaluations carried out
17 under paragraph (1), including any recommenda-
18 tions thereto.

19 **“SEC. 482. VALIDATION OF SECURITY MEASURES UNDER**
20 **THE C-TPAT PROGRAM.**

21 “(a) GENERAL VALIDATION.—Not later than Sep-
22 tember 30, 2005, and on an annual basis thereafter, the
23 Commissioner of the Bureau of Customs and Border Pro-
24 tection shall conduct on site validations of each individual
25 and entity participating in the C-TPAT program to ensure

1 that the individual or entity is implementing appropriate
2 security measures under the program. The Commissioner
3 may certify private security companies to carry out the
4 validation process described in the preceding sentence.

5 “(b) SPECIFIC VALIDATION.—The Commissioner
6 shall establish inspection teams under the C-TPAT pro-
7 gram to evaluate the program’s security requirements and,
8 as circumstances warrant, to carry out unannounced in-
9 spections of individuals and entities participating in the
10 program to ensure compliance with the security require-
11 ments.

12 “(c) PENALTIES FOR NON-COMPLIANCE.—The Com-
13 missioner shall establish penalties for non-compliance with
14 the requirements of the C-TPAT program by individuals
15 and entities participating in the program, including proba-
16 tion or expulsion from the program, as appropriate.

17 **“SEC. 483. DEPLOYMENT OF RADIATION DETECTION POR-**
18 **TAL EQUIPMENT; INTEGRATED CARGO IN-**
19 **SPECTION SYSTEM.**

20 “(a) DEPLOYMENT OF RADIATION DETECTION POR-
21 TAL EQUIPMENT.—

22 “(1) DEPLOYMENT.—Not later than September
23 30, 2005, the Commissioner of the Bureau of Cus-
24 toms and Border Protection shall deploy radiation
25 detection portal equipment at all United States sea-

1 ports, other United States ports of entry, and major
2 facilities as determined by the Secretary.

3 “(2) REPORT.—Not later than December 31,
4 2004, the Commissioner shall submit to the appro-
5 priate congressional committees a report on the im-
6 plementation of the requirement under paragraph
7 (1).

8 “(3) AUTHORIZATION OF APPROPRIATIONS.—
9 There is authorized to be appropriated to the Com-
10 missioner \$297,000,000 for fiscal year 2005 to carry
11 out this subsection.

12 “(b) INTEGRATED CARGO INSPECTION SYSTEM.—

13 “(1) PLAN.—The Commissioner of the Bureau
14 of Customs and Border Protection shall develop a
15 plan to integrate radiation detection portal equip-
16 ment with gamma-ray inspection technology equip-
17 ment at United States seaports and foreign seaports
18 that are participating the Container Security Initia-
19 tive in order to facilitate the detection of nuclear
20 weapons in maritime cargo containers. Such plan
21 shall include methods for automatic identification of
22 containers and vehicles for inspection in a timely
23 manner and a data sharing network capable of
24 transmitting gamma-ray images and cargo data
25 among relevant ports and the National Targeting

1 Center of the Bureau of Customs and Border Pro-
2 tection.

3 “(2) REPORT.—Not later than 180 days after
4 the date of the enactment of the Secure COAST
5 Act, the Commissioner shall prepare and submit to
6 the appropriate congressional committees a report
7 that contains—

8 “(A) a description of the plan developed
9 under paragraph (1), including any infrastruc-
10 ture improvements required at the seaports in-
11 volved;

12 “(B) an estimate of the costs associated
13 with implementation of the plan; and

14 “(C) an estimate of the timeframe for im-
15 plementation of the plan.

16 **“SEC. 484. STAFFING ASSESSMENT OF SEAPORT SECURITY**
17 **MISSIONS.**

18 “(a) STUDY.—The Commissioner of the Bureau of
19 Customs and Border Protection shall conduct a study to
20 determine the number of Bureau inspectors and other ap-
21 propriate personnel that should be stationed at United
22 States seaports and foreign seaports that are participating
23 in the Container Security Initiative (CSI) to support in-
24 creased inspections of low risk cargo, deployment of per-
25 sonnel at foreign seaports for a period of at least one year,

1 and the manning of radiation portal monitors installed at
2 such seaports. In determining such number of Bureau in-
3 spectors, the Commissioner shall take into account the re-
4 quirements contained in the other sections of this subtitle.

5 “(b) REPORT.—Not later than 180 days after the
6 date of the enactment of the Secure COAST Act, the Com-
7 missioner shall prepare and submit to the appropriate con-
8 gressional committees a report that contains the results
9 of the study conducted under subsection (a).

10 **“SEC. 485. CSI REPORT.**

11 “Not later than 180 days after the date of the enact-
12 ment of the Secure COAST Act, and on an annual basis
13 thereafter, the Secretary, acting through the Commis-
14 sioner of the Bureau of Customs and Border Protection,
15 shall prepare and submit to the appropriate congressional
16 committees a report that contains all cargo inspection data
17 at foreign seaports participating in the Container Security
18 Initiative (CSI) for the prior year. The initial report shall
19 include the plan for the ‘strategic port’ phase of the CSI.

20 **“SEC. 486. DEFINITIONS.**

21 “In this subtitle:

22 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
23 TEES.—The term ‘appropriate congressional com-
24 mittees’ means—

1 “(A) the Committee on Appropriations, the
2 Committee on Ways and Means, the Select
3 Committee on Homeland Security (or any suc-
4 cessor committee), and the Committee on
5 Transportation and Infrastructure of the House
6 of Representatives; and

7 “(B) the Committee on Appropriations, the
8 Committee on Finance, the Committee on Com-
9 merce, Science, and Transportation, and the
10 Committee on Governmental Affairs of the Sen-
11 ate.

12 “(2) BUREAU OF CUSTOMS AND BORDER PRO-
13 TECTION OR BUREAU.—The term ‘Bureau of Cus-
14 toms and Border Protection’ or ‘Bureau’ means the
15 Bureau of Customs and Border Protection of the
16 Department.

17 “(3) COMMISSIONER.—The term ‘Commis-
18 sioner’ means the Commissioner of the Bureau of
19 Customs and Border Protection.

20 “(4) CONTAINER SECURITY INITIATIVE OR
21 CSI.—The term ‘Container Security Initiative’ or
22 ‘CSI’ means the program carried out by the Bureau
23 of Customs and Border Protection under which Bu-
24 reau personnel are deployed to major seaports out-

1 side the United States to work with their host coun-
2 try counterparts to—

3 “(A) establish security criteria to identify
4 high-risk maritime cargo containers bound for
5 the United States based on advance informa-
6 tion;

7 “(B) identify and pre-screen such maritime
8 cargo containers for chemical, biological, or nu-
9 clear weapons through examination or inspec-
10 tion; and

11 “(C) develop secure or ‘smart’ maritime
12 cargo containers.

13 “(5) C-TPAT PROGRAM.—The term ‘C-TPAT
14 program’ means the Customs-Trade Partnership
15 Against Terrorism program carried out by the Bu-
16 reau of Customs and Border Protection under which
17 importers, brokers, air, sea, and land carriers, and
18 other individuals and entities in the intermodal
19 transportation system voluntarily enter into partner-
20 ships with the Bureau to establish and carry out a
21 validation process to ensure that participants are im-
22 plementing appropriate security measures to protect
23 the system from being compromised by individual
24 terrorists and terrorist organizations.

1 “(6) INTERAGENCY CONTAINER WORKING
2 GROUP.—The term ‘Interagency Container Working
3 Group’ means the working group consisting of rep-
4 resentatives of the former United States Customs
5 Service and the National Infrastructure Security
6 Committee of the Department of Transportation
7 that provided recommendations relating to the secu-
8 rity of intermodal cargo containers to the Office of
9 Homeland Security in the Executive Office of the
10 President.

11 “(7) OPERATION SAFE COMMERCE.—The term
12 ‘Operation Safe Commerce’ means the program car-
13 ried out by the Department of Transportation and
14 the Bureau of Customs and Border Protection to
15 fund business initiatives designed to enhance secu-
16 rity for maritime cargo containers moving within the
17 intermodal transportation system.

18 “(8) SMART AND SECURE TRADE LANE PRO-
19 GRAM.—The term ‘Smart and Secure Trade Lane
20 Program’ means the program carried out by the
21 intermodal transportation industry to provide secu-
22 rity and ensure efficiency throughout the intermodal
23 transportation system, specifically by developing
24 technology to improve the security of intermodal
25 cargo containers and to improve information sharing

1 within the industry relating to such security and ef-
 2 ficiency.”

3 (b) CLERICAL AMENDMENT.—The table of contents
 4 in section 1(b) of the Homeland Security Act of 2002 is
 5 amended by adding after the items relating to subtitle F
 6 of title IV the following new items:

“Subtitle G—Bureau of Customs and Border Protection Security Programs

“Sec. 481. Standards for the security of maritime cargo containers.

“Sec. 482. Validation of security measures under the C-TPAT program.

“Sec. 483. Deployment of radiation detection portal equipment; integrated
 cargo inspection system.

“Sec. 484. Staffing assessment of seaport security missions.

“Sec. 485. CSI report.

“Sec. 486. Definitions.”.

7 **SEC. 102. REMOVAL AND STORAGE OF UNCLAIMED MER-**
 8 **CHANDISE.**

9 (a) IN GENERAL.—Chapter 701 of title 46, United
 10 States Code, is amended—

11 (1) by redesignating section 70117 as section
 12 70118; and

13 (2) by inserting after section 70116 the fol-
 14 lowing new section:

15 **“§ 70117. Removal and storage of unclaimed mer-**
 16 **chandise**

17 “(a) IN GENERAL.—Notwithstanding any other pro-
 18 vision of law, the Secretary shall require any uncleared,
 19 imported merchandise remaining on the pier or wharf onto
 20 which it was unladen for more than 7 calendar days to
 21 be removed from the pier or wharf and deposited in the

1 public stores or a general order warehouse, where it shall
 2 be inspected for determination of contents, and thereafter
 3 a permit for its delivery may be granted.

4 “(b) PENALTY.—The Secretary may impose an ad-
 5 ministrative penalty of \$5,000 for each bill of lading for
 6 general order merchandise remaining on a wharf or pier
 7 in violation of subsection (a).”.

8 (b) CLERICAL AMENDMENT.—The chapter analysis
 9 for chapter 701 of title 46, United States Code, is amend-
 10 ed by striking the last item and inserting the following:

“70117. Removal and storage of unclaimed merchandise.

“70118. Civil penalty.”.

11 **TITLE II—PORT SECURITY**

12 **SEC. 201. ADMINISTRATION OF PORT SECURITY GRANTS BY** 13 **SECRETARY OF HOMELAND SECURITY.**

14 (a) GRANT AUTHORITY.—Section 70107(a) of title
 15 46, United States Code, is amended to read as follows:

16 “(a) GRANT AUTHORITY.—The Under Secretary for
 17 Border and Transportation Security of the Department of
 18 Homeland Security shall establish a grant program for
 19 making a fair and equitable allocation of funds to imple-
 20 ment Area Maritime Transportation Security Plans and
 21 to help fund compliance with Federal security plan among
 22 port authorities, facility operators, and State and local
 23 agencies required to provide security services. Grants shall
 24 be made on the basis of the need to address vulnerabilities

1 in security subject to review and comment by the appro-
2 priate Federal Maritime Security Coordinators and the
3 Maritime Administration. The grant program shall take
4 into account national economic and strategic defense con-
5 cerns and shall be coordinated with the Director of the
6 Office of Domestic Preparedness to ensure that the grant
7 process is consistent with other Department of Homeland
8 Security grant programs.”.

9 (b) LETTER OF INTENT.—

10 (1) AUTHORITY TO ISSUE.—The Secretary of
11 Homeland Security may issue a letter of intent to a
12 seaport committing to obligate from future budget
13 authority available for grants under section 70107 of
14 title 46, United States Code,, an amount equal to
15 not more than the Federal share of the costs of a
16 security improvement project (including project de-
17 sign and interest costs) having a total cost of
18 \$10,000,000 or more.

19 (2) NOTICE TO CONGRESS.—The Secretary
20 shall transmit to the Committees on Appropriations
21 and Homeland Security of the House of Representa-
22 tives and the Committees on Appropriations and
23 Commerce, Science, and Transportation of the Sen-
24 ate a written notification at least 3 days before the
25 issuance of a letter of intent under this subsection.

1 (3) LIMITATIONS.—A letter of intent issued
2 under this subsection is not an obligation of the
3 Government for purposes of section 1501 of title 31,
4 United States Code, and shall not be considered to
5 be an administrative commitment for financing. An
6 obligation or administrative commitment pursuant to
7 a letter of intent issued under this subsection may
8 be made only as amounts are provided in appropria-
9 tions Acts to carry out the project that is the subject
10 of the letter.

11 (4) STATUTORY CONSTRUCTION.—Nothing in
12 this subsection shall be construed to prohibit the ob-
13 ligation of amounts pursuant to a letter of intent
14 under this subsection in the same fiscal year as the
15 letter of intent is issued.

16 (5) APPLICATION OF ADDITIONAL REQUIRE-
17 MENTS.—The Secretary may require as a condition
18 for issuance of a letter of intent under this sub-
19 section such reasonable administrative requirements
20 as may be necessary to carry out this Act.

21 **SEC. 202. PORT SECURITY GRANT FUNDING.**

22 Section 70107(h) of title 46, United States Code, is
23 amended to read as follows:

1 “(B) shall designate—

2 “(i) the Federal agencies that are respon-
3 sible for the operation of the system; and

4 “(ii) the Federal, State, and local agencies
5 and persons in the private sector that will have
6 access to the information provided by the sys-
7 tem;

8 “(C) shall include timelines, costs, and other re-
9 sources required to operate such a system; and

10 “(D) shall require that, during the 96-hour pe-
11 riod preceding the entry of a vessel into a port in
12 the United States, information regarding the loca-
13 tion of the vessel—

14 “(i) shall be submitted to the Secretary;
15 and

16 “(ii) shall be available to Federal, State,
17 and local agencies and persons in the private
18 sector that are otherwise authorized to have ac-
19 cess to the information.

20 “(3) The Secretary shall submit the plan to the Com-
21 mittee of Appropriations, the Committee on Transpor-
22 tation and Infrastructure, and the Select Committee on
23 Homeland Security of the House of Representatives and
24 the Committee on Appropriations, the Committee on Com-
25 merce, Science, and Transportation, and the Committee

1 on Governmental Affairs of the Senate, by not later than
2 the 180 days after the date of the enactment of this sub-
3 section.”.

4 **SEC. 204. MARITIME INFORMATION REPORT.**

5 Not later than 90 days after the date of the enact-
6 ment of this Act, the Secretary of Homeland Security shall
7 submit to the appropriate congressional committees a plan
8 for the implementation of section 70113 of title 46, United
9 States Code. The plan shall—

10 (1) identify all Federal agencies with maritime
11 information relating to vessels, crew, passengers,
12 cargo, and cargo shippers;

13 (2) establish a timeline for coordinating the ef-
14 forts of those Federal agencies in the collection of
15 maritime information;

16 (3) establish a timeline for the incorporation
17 into implementation of such section of information
18 on vessel movements derived through the implemen-
19 tation of sections 70114 and 70115 of title 46,
20 United States Code; and

21 (4) include recommendations on co-locating
22 agency personnel in order to maximize expertise,
23 minimize cost, and avoid redundancy.

1 **SEC. 205. NATIONAL MARITIME TRANSPORTATION SECUR-**
2 **RITY PLAN.**

3 No later than 180 days after the date of the enact-
4 ment of this Act, the Secretary of Homeland Security shall
5 submit to the appropriate congressional committees the
6 National Maritime Transportation Security Plan required
7 under section 70103 of title 46, United States Code.

8 **SEC. 206. FUNDING FOR COLLABORATIVE PROGRAM FOR**
9 **DEVELOPMENT OF MARITIME INFORMATION**
10 **SHARING AND ANALYSIS CAPABILITY.**

11 (a) FISCAL YEAR 2005.—Of the amounts authorized
12 to be appropriated to the Department of Homeland Secu-
13 rity, \$3,000,000 shall be available for a grant to assist
14 the maritime industry to develop and operate a
15 collaborative maritime information sharing and analysis
16 capability.

17 (b) SENSE OF CONGRESS.—It is the sense of Con-
18 gress that—

19 (1) the President should include in budget re-
20 quests submitted for fiscal years 2006 and 2007 suf-
21 ficient funds to ensure that such a maritime infor-
22 mation sharing and analysis capability is fully oper-
23 ational before fiscal year 2008; and

24 (2) the maritime industry should pay at least
25 half of the operating costs of such capability in-
26 curred in fiscal year 2008 and thereafter.

1 **SEC. 207. APPROPRIATE CONGRESSIONAL COMMITTEES**

2 **DEFINED.**

3 In this title the term “appropriate congressional com-
4 mittees” means the Committee on Transportation and In-
5 frastructure, the Select Committee on Homeland Security,
6 and the Committee on Appropriations of the House of
7 Representatives and the Committee on Commerce, Science
8 and Transportation and the Committee on Appropriations
9 of the Senate.

10 **TITLE III—STRENGTHENING THE**
11 **COAST GUARD**

12 **SEC. 301. ACCELERATION OF INTEGRATED DEEPWATER**

13 **PROGRAM.**

14 In addition to any other amounts authorized, there
15 is authorized to be appropriated to the Secretary of Home-
16 land Security \$1,892,000,000 for the acquisition and con-
17 struction of vessels, aircraft, shore and offshore facilities
18 and other components associated with the Integrated
19 Deepwater System in accordance with the report required
20 by section 888 of the Homeland Security Act of 2002 (116
21 Stat. 2250).

22 **SEC. 302. AIS INFRASTRUCTURE.**

23 In addition to any other amounts authorized, there
24 is authorized to be appropriated to the Secretary of Home-
25 land Security \$4,000,000 for the acquisition and construc-
26 tion of shore-based equipment and infrastructure associ-

1 ated with the Automated Identification System authorized
2 by section 70114 of title 46, United States Code, for ports
3 that do not have Coast Guard Vessel Traffic Services.

4 **SEC. 303. INCREASE IN AUTHORIZED COAST GUARD PER-**
5 **SONNEL.**

6 The Coast Guard is authorized an end-of-year
7 strength for active duty personnel of 50,000 as of Sep-
8 tember 30 of each of 2004, 2005, and 2006.

9 **SEC. 304. SENSE OF THE CONGRESS REGARDING NAMING**
10 **NEW VESSELS UNDER THE DEEPWATER PRO-**
11 **GRAM FOR CITIES OF THE UNITED STATES.**

12 It is the sense of the Congress that the Coast Guard
13 should consider including in its naming protocols for new
14 vessels constructed under the Deepwater Program the
15 names of cities of the United States, in recognition of their
16 support and friendly relationship to the Coast Guard and
17 the challenge to cities in the United States from terrorism.

○