

108TH CONGRESS
2D SESSION

S. 2297

To improve intermodal shipping container transportation security.

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2004

Mrs. HUTCHISON (for herself and Ms. SNOWE) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To improve intermodal shipping container transportation
security.

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 “Intermodal Shipping
5 Container Security Act”.

6 **SEC. 2. NATIONAL TRANSPORTATION SECURITY STRATEGY.**

7 In carrying out section 114(f) of title 49, United
8 States Code, the Under Secretary of Homeland Security
9 for Border and Transportation Security shall take into ac-
10 count the National Maritime Transportation Security

1 Plan prepared under section 70103 of title 46, United
2 States Code, by the Secretary of the department in which
3 the Coast Guard is operating when the plan is prepared
4 in order to ensure that the strategy for dealing with
5 threats to transportation security developed under section
6 114(f)(3) of title 49, United States Code, incorporates rel-
7 evant aspects of the National Maritime Transportation Se-
8 curity Plan and addresses all modes of commercial trans-
9 portation to, from, and within the United States.

10 **SEC. 3. COMPREHENSIVE STRATEGIC PLAN FOR INTER-**
11 **MODAL SHIPPING CONTAINER SECURITY.**

12 (a) STRATEGIC PLAN.—

13 (1) IN GENERAL.—Within 180 days after the
14 date of enactment of this Act, the Secretary of
15 Homeland Security shall submit to the Senate Com-
16 mittee on Commerce, Science, and Transportation
17 and the House of Representatives Committee on
18 Transportation and Infrastructure a strategic plan
19 for integrating security for all modes of transpor-
20 tation by which intermodal shipping containers ar-
21 rive, depart, or move in interstate commerce in the
22 United States that—

23 (A) takes into account the security-related
24 authorities and missions of all Federal, State,
25 and local law enforcement agencies that relate

1 to the movement of intermodal shipping con-
2 tainers via air, rail, maritime, or highway trans-
3 portation in the United States; and

4 (B) establishes as a goal the creation of a
5 comprehensive, integrated strategy for inter-
6 modal shipping container security that encom-
7 passes the authorities and missions of all those
8 agencies and sets forth specific objectives,
9 mechanisms, and a schedule for achieving that
10 goal.

11 (2) UPDATES.—The Secretary shall revise the
12 plan from time to time.

13 (b) IDENTIFICATION OF PROBLEM AREAS.—In devel-
14 oping the strategic plan required by subsection (a), the
15 Secretary shall consult with all Federal, State, and local
16 government agencies responsible for security matters that
17 affect or relate to the movement of intermodal shipping
18 containers via air, rail, maritime, or highway transpor-
19 tation in the United States in order to—

20 (1) identify changes, including legislative, regu-
21 latory, jurisdictional, and organizational changes,
22 necessary to improve coordination among those
23 agencies;

24 (2) reduce overlapping capabilities and respon-
25 sibilities; and

1 (3) streamline efforts to improve the security of
2 such intermodal shipping containers.

3 (c) ESTABLISHMENT OF STEERING GROUP.—The
4 Secretary shall establish, organize, and provide support
5 for an advisory committee, to be known as the Senior
6 Steering Group, of senior representatives of the agencies
7 described in subsection (c). The Group shall meet from
8 time to time, at the call of the Secretary or upon its own
9 motion, for the purpose of developing solutions to jurisdic-
10 tional and other conflicts among the represented agencies
11 with respect to the security of intermodal shipping con-
12 tainers, improving coordination and information-sharing
13 among the represented agencies, and addressing such
14 other, related matters, as the Secretary may request.

15 (d) ANNUAL REPORT.—The Secretary, after con-
16 sulting the Senior Steering Group, shall submit an annual
17 report to the Senate Committee on Commerce, Science,
18 and Transportation and the House of Representatives
19 Committee on Transportation and Infrastructure describ-
20 ing the activities of the Senior Steering Group and the
21 Secretary under this section, describing the progress made
22 during the year toward achieving the objectives of the
23 plan, and including any recommendations, including legis-
24 lative recommendations, if appropriate for further im-
25 provements in dealing with security-issues related to inter-

1 modal shipping containers and related transportation se-
2 curity issues.

3 (e) BIENNIAL EXPERT CRITIQUE.—

4 (1) EXPERT PANEL.—A panel of experts shall
5 be convened once every 2 years by the Senate Com-
6 mittee on Commerce, Science, and Transportation
7 and the House of Representatives Committee on
8 Transportation and Infrastructure to review plans
9 submitted by the Secretary under subsection (a).

10 (2) MEMBERSHIP.—The panel shall consist
11 of—

12 (A) 4 individuals selected by the chairman
13 and ranking member of the Senate Committee
14 on Commerce, Science, and Transportation and
15 by the chairman and ranking member of House
16 of Representatives Committee on Transpor-
17 tation and Infrastructure, respectively; and

18 (B) 1 individual selected by the 4 individ-
19 uals selected under subparagraph (A).

20 (3) QUALIFICATIONS.—Individuals selected
21 under paragraph (2) shall be chosen from among in-
22 dividuals with professional expertise and experience
23 in security-related issues involving shipping or trans-
24 portation and without regard to political affiliation.

1 (4) COMPENSATION AND EXPENSES.—An indi-
2 vidual serving as a member of the panel shall not re-
3 ceive any compensation or other benefits from the
4 Federal Government for serving on the panel or be
5 considered a Federal employee as a result of such
6 service. Panel members shall be reimbursed by the
7 Committees for expenses, including travel and lodg-
8 ing, they incur while actively engaged in carrying
9 out the functions of the panel.

10 (5) FUNCTION.—The panel shall review plans
11 submitted by the Secretary under subsection (a),
12 evaluate the strategy set forth in the plan, and make
13 such recommendations to the Secretary for modi-
14 fying or otherwise improving the strategy as may be
15 appropriate.

16 **SEC. 4. SHIPPING CONTAINER INTEGRITY INITIATIVE.**

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

19 (1) by redesignating section 70117 as section
20 70118; and

21 (2) by inserting after section 70116 the fol-
22 lowing:

1 **“§ 70117. Enhanced container-related security meas-**
2 **ures.**

3 “(a) TRACKING INTERMODAL CONTAINER SHIP-
4 MENTS IN THE UNITED STATES.—The Secretary, in co-
5 operation with the Under Secretary of Border and Trans-
6 portation Security, shall develop a system to increase the
7 number of intermodal shipping containers physically in-
8 spected (including nonintrusive inspection by scanning
9 technology), monitored, and tracked within the United
10 States.

11 “(b) SMART BOX TECHNOLOGY.—Under regulations
12 to be prescribed by the Secretary, beginning with calendar
13 year 2007 no less than 50 percent of all ocean-borne ship-
14 ping containers entering the United States during any cal-
15 endar year shall incorporate ‘Smart Box’ or equivalent
16 technology developed, approved, or certified by the Under
17 Secretary of Homeland Security for Border and Transpor-
18 tation Security. Beginning with calendar year 2009, any
19 such container that does not incorporate ‘Smart Box’ or
20 equivalent technology may not enter the United States.

21 “(c) DEVELOPMENT OF INTERNATIONAL STANDARD
22 FOR SMART CONTAINERS.—The Secretary shall—

23 “(1) develop, and seek international acceptance
24 of, a standard for ‘smart’ maritime shipping con-
25 tainers that incorporate technology for tracking the
26 location and assessing the integrity of those con-

1 tainers as they move through the intermodal trans-
2 portation system; and

3 “(2) implement an integrated tracking and
4 technology system for such containers.”.

5 (b) CONFORMING AMENDMENT.—The chapter anal-
6 ysis for chapter 701 of title 46, United States Code, is
7 amended by striking the item relating to section 70117
8 and inserting the following:

 “70117. Enhanced container-related security measures.
 “70118. Civil penalties.”.

9 **SEC. 5. ADDITIONAL RECOMMENDATIONS.**

10 Within 180 days after the date of enactment of this
11 Act, the Secretary of Homeland Security shall submit to
12 the Senate Committee on Commerce, Science, and Trans-
13 portation and the House of Representatives Committee on
14 Transportation and Infrastructure a report that contains
15 the following:

16 (1) Recommendations about what analysis must
17 be performed and the cost to develop and field a
18 cargo container tracking and monitoring system
19 within the United States which tracks all aviation,
20 rail, maritime, and highway cargo containers
21 equipped with smart container technology.

22 (2) Recommendations on how the Department
23 of Homeland Security could help support the deploy-
24 ment of such a system.

1 (3) Recommendations as to how current efforts
2 by the Department of Homeland Security and other
3 Federal agencies could be incorporated into the
4 physical screening or inspection of aviation, rail,
5 maritime, and highway cargo containers within the
6 United States.

7 (4) Recommendations about operating systems
8 and standards for those operating systems, to sup-
9 port the tracking of aviation, rail, maritime, and
10 highway cargo containers within the United States
11 that would include the location of regional, State,
12 and local operations centers.

13 (5) A description of what contingency actions,
14 measures, and mechanisms should be incorporated in
15 the deployment of a nationwide aviation, rail, mari-
16 time, and highway cargo containers tracking and
17 monitoring system which would allow the United
18 States maximum flexibility in responding quickly
19 and appropriately to increased terrorist threat levels
20 at the local, State, or regional level.

21 (6) A description of what contingency actions,
22 measures, and mechanisms must be incorporated in
23 the deployment of such a system which would allow
24 for the quick reconstitution of the system in the

1 event of a catastrophic terrorist attack which af-
2 fected part of the system.

3 (7) Recommendations on how to leverage exist-
4 ing information and operating systems within State
5 or Federal agencies to assist in the fielding of the
6 system.

7 (8) Recommendations on co-locating local,
8 State, and Federal agency personnel to streamline
9 personnel requirements, minimize costs, and avoid
10 redundancy.

11 (9) An initial assessment of the availability of
12 private sector resources which could be utilized, and
13 incentive systems developed, to support the fielding
14 of the system, and the maintenance and improve-
15 ment as technology or terrorist threat dictate.

16 (10) Recommendations on how this system that
17 is focused on the continental United States would be
18 integrated into any existing or planned system, or
19 process, which is designed to monitor the movement
20 of cargo containers outside the continental United
21 States.

22 **SEC. 6. IMPROVEMENTS TO CONTAINER TARGETING SYS-**
23 **TEMS.**

24 (a) IN GENERAL.—Within 90 days after the date of
25 enactment of this Act, the Secretary of Homeland Security

1 shall submit a report to the Senate Committee on Com-
2 merce, Science, and Transportation and the House of Rep-
3 resentatives Committee on Transportation and Infrastruc-
4 ture that provides a preliminary plan for strengthening the
5 Bureau of Customs and Border Protection’s container tar-
6 geting system. The plan shall identify the cost and feasi-
7 bility of requiring additional non-manifest documentation
8 for each container, including purchase orders, shipper’s
9 letters of instruction, commercial invoices, letters of credit,
10 or certificates of origin.

11 (b) REDUCTION OF MANIFEST REVISION WINDOW.—
12 Within 60 days after the date of enactment of this Act,
13 the Secretary of Homeland Security shall issue regulations
14 under which the time period for revisions to a container
15 cargo manifest submitted to the Bureau of Customs and
16 Border Protection shall be reduced from 60 days to 45
17 days after arrival at a United States port.

18 (c) SUPPLY CHAIN INFORMATION.—Within 180 days
19 after the date of enactment of this Act, the Secretary of
20 Homeland Security shall develop a system to share threat
21 and vulnerability information with all of the industries in
22 the supply chain that will allow ports, carriers, and ship-
23 pers to report on security lapses in the supply chain and
24 have access to unclassified maritime threat and security
25 information such as piracy incidents.

1 **SEC. 7. INCREASE IN NUMBER OF CUSTOMS INSPECTORS**
2 **ASSIGNED OVERSEAS.**

3 (a) IN GENERAL.—The Secretary of Homeland Secu-
4 rity shall substantially increase the number of United
5 States Customs Service inspectors assigned to duty out-
6 side the United States under the Container Security Ini-
7 tiative of the United States Customs Service with respon-
8 sibility for inspecting intermodal shipping containers being
9 shipped to the United States.

10 (b) STAFFING CRITERIA.—In carrying out subsection
11 (a) the Secretary of Homeland Security shall determine
12 the appropriate level for assignment and density of cus-
13 toms inspectors at selected international port facilities by
14 a threat, vulnerability, and risk analysis which, at a min-
15 imum, considers—

16 (1) the volume of containers shipped;

17 (2) the ability of the host government to assist
18 in both manning and providing equipment and re-
19 sources;

20 (3) terrorist intelligence known of importer ven-
21 dors, suppliers or manufacturers; and

22 (4) other criteria as determined in consult with
23 experts in the shipping industry, terrorism, and
24 shipping container security.

25 (c) MINIMUM NUMBER.—The total number of cus-
26 toms inspectors assigned to international port facilities

1 shall not be less than the number determined as a result
2 of the threat, vulnerability, and risk assessment analysis
3 which is validated by the Administrator of the Transpor-
4 tation Security Administration within 180 days after the
5 date of enactment of this Act.

6 (d) PLAN.—The Secretary shall submit a plan to the
7 Senate Committee on Commerce, Science, and Transpor-
8 tation and the House of Representatives Committee on
9 Transportation and Infrastructure, with timelines, for
10 phasing inspectors into selected port facilities within 180
11 days after the enactment of this Act.

○