

109TH CONGRESS  
2D SESSION

# H. R. 5144

To provide for supply chain security cooperation between Department of Homeland Security and the private sector, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 2006

Mr. JINDAL introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

To provide for supply chain security cooperation between Department of Homeland Security and the private sector, 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. INFORMATION SHARING.**

4       (a) PURPOSES.—The purposes of this section are—

5               (1) to establish continuing liaison and to pro-  
6       vide for supply chain security cooperation between  
7       Department of Homeland Security and the private  
8       sector; and

9               (2) to provide for regular and timely inter-  
10      change of information between the private sector

1       and the Department concerning developments and  
2       security risks in the supply chain environment.

3       (b) SECURE SYSTEM.—Not later than one year after  
4 the date of the enactment of this Act, the Secretary of  
5 Homeland Security shall develop a secure electronic data  
6 interchange system to collect from and share appropriate  
7 risk information related to securing the supply chain with  
8 the private sector entities determined appropriate by the  
9 Secretary.

10      (c) CONSULTATION.—In developing the system under  
11 subsection (b), the Secretary shall consult with the Com-  
12 mercial Operations Advisory Committee and a broad range  
13 of public and private sector entities likely to utilize the  
14 system, including importers, exporters, carriers, customs  
15 brokers, and freight forwarders, among other parties.

16      (d) PROCEDURES.—The Secretary shall establish  
17 uniform procedures for the receipt, care, and storage of  
18 supply chain security information that is voluntarily sub-  
19 mitted to the Department through the system developed  
20 under subsection (b).

21      (e) LIMITATIONS.—The voluntary information col-  
22 lected through the system developed under subsection (b)  
23 shall be used exclusively for ensuring security and shall  
24 not be used for determining entry or for any other com-  
25 mercial enforcement purpose. The voluntary information

1 submitted to the Department through the system devel-  
2 oped under subsection (b) shall not be construed to con-  
3 stitute compliance with any requirement to submit such  
4 information to a Federal agency under any other provision  
5 of law.

6 (f) PARTICIPANTS.—The Secretary shall develop pro-  
7 tocols for determining appropriate private sector personnel  
8 who shall have access to the system developed under sub-  
9 section (b). Such personnel shall include designated secu-  
10 rity officers within companies that are determined to be  
11 low risk through participation in the Customs-Trade Part-  
12 nership Against Terrorism program administered by U.S.  
13 Customs and Border Protection.

14 (g) CONFIDENTIALITY.—Notwithstanding any other  
15 provision of law, information that is voluntarily submitted  
16 by the private sector to the Department through the sys-  
17 tem developed under subsection (b)—

18 (1) shall be exempt from disclosure under sec-  
19 tion 552 of title 5, United States Code (commonly  
20 referred to as the Freedom of Information Act);

21 (2) shall not, without the written consent of the  
22 person or entity submitting such information, be  
23 used directly by the Department or a third party, in  
24 any civil action arising under Federal or State law  
25 if such information is submitted in good faith; and

1           (3) shall not, without the written consent of the  
2           person or entity submitting such information, be  
3           used or disclosed by any officer or employee of the  
4           United States for purposes other than the purposes  
5           of this section, except—

6                   (A) in furtherance of an investigation or  
7                   other prosecution of a criminal act; or

8                   (B) when disclosure of the information  
9                   would be—

10                       (i) to either House of Congress, or to  
11                       the extent of matter within its jurisdiction,  
12                       any committee or subcommittee thereof,  
13                       any joint committee thereof or sub-  
14                       committee of any such joint committee; or

15                       (ii) to the Comptroller General, or any  
16                       authorized representative of the Comp-  
17                       troller General, in the course of the per-  
18                       formance of the duties of the Comptroller  
19                       General.

20           (h) INDEPENDENTLY OBTAINED INFORMATION.—

21   Nothing in this section shall be construed to limit or other-  
22   wise affect the ability of a Federal, State, or local, govern-  
23   ment entity, under applicable law, to obtain supply chain  
24   security information, including any information lawfully  
25   and properly disclosed generally or broadly to the public

1 and to use such information in any manner permitted by  
2 law.

3 (i) PENALTIES.—Whoever, being an officer or em-  
4 ployee of the United States or of any department or agen-  
5 cy thereof, knowingly publishes, divulges, discloses, or  
6 makes known in any manner or to any extent not author-  
7 ized by law, any supply chain security information pro-  
8 tected in this section from disclosure, shall be fined under  
9 title 18, United States Code, imprisoned not more than  
10 1 year, or both, and shall be removed from office or em-  
11 ployment.

12 (j) AUTHORITY TO ISSUE WARNINGS.—The Sec-  
13 retary may provide advisories, alerts, and warnings to rel-  
14 evant companies, targeted sectors, other governmental en-  
15 tities, or the general public regarding potential risks to  
16 the supply chain as appropriate. In issuing a warning, the  
17 Secretary shall take appropriate actions to protect from  
18 disclosure—

19 (1) the source of any voluntarily submitted sup-  
20 ply chain security information that forms the basis  
21 for the warning; and

22 (2) information that is proprietary, business  
23 sensitive, relates specifically to the submitting per-  
24 son or entity, or is otherwise not appropriately in  
25 the public domain.

1       (k) DEFINITIONS.—In this section:

2               (1) DEPARTMENT.—The term “Department”  
3 means the Department of Homeland Security.

4               (2) SECRETARY.—The term “Secretary” means  
5 the Secretary of Homeland Security.

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