

109TH CONGRESS
2D SESSION

S. 2334

To ensure the security of United States ports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2006

Mr. MENENDEZ (for himself, Mrs. CLINTON, Mr. LAUTENBERG, Mr. NELSON of Florida, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To ensure the security of United States ports, 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 Security Act of
5 2006”.

1 **SEC. 2. PROHIBITION ON LEASES OF REAL PROPERTY AND**
2 **FACILITIES AT UNITED STATES PORTS BY**
3 **FOREIGN GOVERNMENT-OWNED ENTITIES.**

4 (a) IN GENERAL.—Section 271(d) of the Defense
5 Production Act of 1950 (50 U.S.C. App. 2170(d)) is
6 amended—

7 (1) by striking “Subject to subsection (d)” and
8 inserting the following:

9 “(1) IN GENERAL.—Subject to subsection (e);
10 and

11 (2) by adding at the end the following new
12 paragraph:

13 “(2) PROHIBITION ON LEASES OF REAL PROP-
14 ERTY AND FACILITIES AT UNITED STATES PORTS BY
15 FOREIGN GOVERNMENT-OWNED ENTITIES.—The
16 President shall prohibit any merger, acquisition, or
17 takeover described in subsection (a)(1) that will re-
18 sult in any entity that is owned or controlled by a
19 foreign government leasing, operating, managing, or
20 owning real property or facilities at a United States
21 port.”.

22 (b) REPORT REQUIRED.—

23 (1) IN GENERAL.—Not later than 30 days after
24 the date of the enactment of this Act, the President
25 shall submit to Congress a report on the leasing, op-
26 erating, managing, or owning real property or facili-

ties at United States ports by entities that are owned or controlled by foreign governments.

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) a list of all entities that are owned or controlled by foreign governments that are leasing, operating, managing, or owning real property or facilities at United States ports;

(B) an assessment of the national security threat posed by such activities; and

(C) recommendations for any legislation in response to such threat.

SEC. 3. INCREASED TRANSPARENCY OF MANDATORY INVESTIGATIONS.

Section 271(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking “The President” and inserting the following:

“(1) IN GENERAL.—The President”;

(3) by adding at the end the following new paragraphs:

“(2) NOTIFICATION TO CONGRESS.—Not later than one day after commencing an investigation

1 under paragraph (1), the President shall provide no-
2 tice of the investigation and relevant information re-
3 garding the proposed merger, acquisition, or take-
4 over, including relevant ownership records to—

5 “(A) the majority leader and minority
6 leader of the Senate;

7 “(B) the Speaker and minority leader of
8 the House of Representatives;

9 “(C) the Chairmen and Ranking Members
10 of the Committee on Finance, the Committee
11 on Homeland Security and Government Affairs,
12 the Committee on Banking, Housing, and
13 Urban Affairs, the Committee on Armed Serv-
14 ices, and the Select Committee on Intelligence
15 of the Senate;

16 “(D) the Chairmen and Ranking Members
17 of the Committee on Ways and Means, the
18 Committee on Homeland Security, the Com-
19 mittee on Financial Services, the Committee on
20 Armed Services, and the Permanent Select
21 Committee on Intelligence of the House of Rep-
22 resentatives; and

23 “(E) the Members of Congress rep-
24 resenting the States and districts affected by
25 the proposed transaction.

1 “(3) NOTIFICATION TO PUBLIC OFFICIALS OF
2 INVESTIGATIONS OF PROPOSED TRANSACTIONS AF-
3 FECTING UNITED STATES PORTS.—In the case of an
4 investigation under paragraph (1) of a proposed
5 merger, acquisition, or takeover that will result in
6 any entity that is owned or controlled by a foreign
7 government leasing, operating, managing, or owning
8 real property or facilities at a United States port,
9 the President shall, not later than one day after
10 commencing an investigation under paragraph (1),
11 notify the Governors and heads of relevant govern-
12 ment agencies of the States in which such ports are
13 located and provide to such Governors and relevant
14 agency heads information regarding the proposed
15 merger, acquisition, or takeover, including relevant
16 ownership records.

17 “(4) PUBLIC COMMENTS.—

18 “(A) SOLICITATION OF PUBLIC COM-
19 MENTS.—Not later than 7 days after com-
20 mencing an investigation under paragraph (1),
21 the President shall publish in the Federal Reg-
22 ister a description of the proposed merger, ac-
23 quisition, or takeover, including a solicitation
24 for public comments on such proposed merger,
25 acquisition, or takeover.

1 “(B) SUMMARY OF PUBLIC COMMENTS.—
2 Not later than 10 days prior to the completion
3 of an investigation under paragraph (1), the
4 President shall publish in the Federal Register
5 a summary of the public comments received
6 pursuant to subparagraph (A).”.

7 **SEC. 4. TECHNICAL CORRECTION.**

8 Section 271(e) of the Defense Production Act of 1950
9 (50 U.S.C. App. 2170(e)) is amended by striking “sub-
10 section (c)” and inserting “subsection (d)”.

11 **SEC. 5. EFFECTIVE DATE.**

12 The amendments made by this Act shall apply to any
13 merger, acquisition, or takeover considered on or after Oc-
14 tober 1, 2005 under section 271 of the Defense Produc-
15 tion Act of 1950 (50 U.S.C. App. 2170).

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