

# Calendar No. 430

109TH CONGRESS  
2ND SESSION

# S. 2791

To amend titles 46 and 49, United States Code, to provide improved maritime, rail, and public transportation security, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 11, 2006

Mr. STEVENS (for himself, Mr. INOUE, Mr. SHELBY, Mr. SARBANES, Mrs. HUTCHISON, Ms. SNOWE, Mr. SMITH, Mr. BURNS, Mr. ALLARD, Mr. BENNETT, Mr. VITTER, Mr. BUNNING, Mr. ALLEN, Mr. GRAHAM, Mr. LOTT, Mr. DEWINE, Mr. DOMENICI, Mrs. DOLE, Mr. TALENT, Ms. MURKOWSKI, Mr. ROBERTS, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mrs. BOXER, Mr. NELSON of Florida, Mr. KERRY, Ms. CANTWELL, Mr. REED, Mr. AKAKA, Mr. SCHUMER, Mrs. CLINTON, Mr. CARPER, Mr. MENENDEZ, Mr. KENNEDY, Mr. PRYOR, Ms. STABENOW, Mr. DORGAN, Mr. KOHL, Mr. BIDEN, Mr. DURBIN, Ms. MIKULSKI, and Mr. JEFFORDS) introduced the following bill; which was read the first time

MAY 12, 2006

Read the second time and placed on the calendar

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## A BILL

To amend titles 46 and 49, United States Code, to provide improved maritime, rail, and public transportation security, 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. TABLE OF CONTENTS.

## 2 The table of contents of this Act is as follows:

Sec. 1. Table of contents.

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### TITLE II—IMPROVED RAIL SECURITY

- Sec. 201. Short title.
- Sec. 202. Rail transportation security risk assessment.
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- Sec. 204. Fire and life-safety improvements.
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- Sec. 208. AMTRAK plan to assist families of passengers involved in rail passenger accidents.
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- Sec. 213. Memorandum of agreement.
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### TITLE III—IMPROVED MARITIME SECURITY

- Sec. 300. Short title.
- Sec. 301. Establishment of additional interagency operational centers for port security.
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- Sec. 311. Deadline for transportation security cards.
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Sec. 313. Customs-Trade Partnership Against Terrorism security validation program.

Sec. 314. Work stoppages and employee-employer disputes.

Sec. 315. Appeal of denial of waiver for transportation security card.

Sec. 316. Inspection of car ferries entering from Canada.

# 1      **TITLE I—IMPROVED PUBLIC** 2      **TRANSPORTATION SECURITY**

## 3      **SEC. 101. SHORT TITLE.**

4            This title may be cited as the “Public Transportation  
5      Terrorism Prevention Act of 2006”.

## 6      **SEC. 102. FINDINGS AND PURPOSE.**

7            (a) FINDINGS.—Congress finds that—

8                    (1) public transportation systems throughout  
9                    the world have been a primary target of terrorist at-  
10                    tacks, causing countless death and injuries;

11                   (2) 5,800 public transportation agencies operate  
12                   in the United States;

13                   (3) 14,000,000 people in the United States ride  
14                   public transportation each work day;

15                   (4) safe and secure public transportation sys-  
16                   tems are essential for the Nation’s economy and for  
17                   significant national and international public events;

18                   (5) the Federal Transit Administration has in-  
19                   vested \$74,900,000,000 since 1992 for construction  
20                   and improvements to the Nation’s public transpor-  
21                   tation systems;

1           (6) the Federal Government appropriately in-  
2       vested \$18,100,000,000 in fiscal years 2002 through  
3       2005 to protect our Nation’s aviation system and its  
4       1,800,000 daily passengers;

5           (7) the Federal Government has allocated  
6       \$250,000,000 in fiscal years 2003 through 2005 to  
7       protect public transportation systems in the United  
8       States;

9           (8) the Federal Government has invested \$7.38  
10      in aviation security improvements per passenger, but  
11      only \$0.007 in public transportation security im-  
12      provements per passenger;

13          (9) the Government Accountability Office, the  
14      Mineta Institute for Surface Transportation Policy  
15      Studies, the American Public Transportation Asso-  
16      ciation, and many transportation experts have re-  
17      ported an urgent need for significant investment in  
18      public transportation security improvements; and

19          (10) the Federal Government has a duty to  
20      deter and mitigate, to the greatest extent prac-  
21      ticable, threats against the Nation’s public transpor-  
22      tation systems.

23   **SEC. 103. SECURITY ASSESSMENTS.**

24      (a) PUBLIC TRANSPORTATION SECURITY ASSESS-  
25   MENTS.—

1           (1) SUBMISSION.—Not later than 30 days after  
2           the date of enactment of this Act, the Federal Tran-  
3           sit Administration of the Department of Transpor-  
4           tation shall submit all public transportation security  
5           assessments and all other relevant information to  
6           the Secretary of Homeland Security.

7           (2) REVIEW.—Not later than July 31, 2006,  
8           the Secretary of Homeland Security shall review and  
9           augment the security assessments received under  
10          paragraph (1).

11          (3) ALLOCATIONS.—The Secretary of Home-  
12          land Security shall use the security assessments re-  
13          ceived under paragraph (1) as the basis for allo-  
14          cating grant funds under section 104, unless the  
15          Secretary notifies the Committee on Banking, Hous-  
16          ing, and Urban Affairs of the Senate that the Sec-  
17          retary has determined that an adjustment is nec-  
18          essary to respond to an urgent threat or other sig-  
19          nificant factors.

20          (4) SECURITY IMPROVEMENT PRIORITIES.—Not  
21          later than September 30, 2006, the Secretary of  
22          Homeland Security, after consultation with the man-  
23          agement and employee representatives of each public  
24          transportation system for which a security assess-  
25          ment has been received under paragraph (1), shall

1       establish security improvement priorities that will be  
2       used by public transportation agencies for any fund-  
3       ing provided under section 104.

4           (5) UPDATES.—Not later than July 31, 2007,  
5       and annually thereafter, the Secretary of Homeland  
6       Security shall—

7           (A) update the security assessments re-  
8       ferred to in this subsection; and

9           (B) conduct security assessments of all  
10       public transportation agencies considered to be  
11       at greatest risk of a terrorist attack.

12       (b) USE OF SECURITY ASSESSMENT INFORMA-  
13       TION.—The Secretary of Homeland Security shall use the  
14       information collected under subsection (a)—

15           (1) to establish the process for developing secu-  
16       rity guidelines for public transportation security; and

17           (2) to design a security improvement strategy  
18       that—

19           (A) minimizes terrorist threats to public  
20       transportation systems; and

21           (B) maximizes the efforts of public trans-  
22       portation systems to mitigate damage from ter-  
23       rorist attacks.

24       (c) BUS AND RURAL PUBLIC TRANSPORTATION SYS-  
25       TEMS.—Not later than July 31, 2006, the Secretary of

1 Homeland Security shall conduct security assessments,  
2 appropriate to the size and nature of each system, to de-  
3 termine the specific needs of—

4 (1) local bus-only public transportation systems;

5 and

6 (2) selected public transportation systems that  
7 receive funds under section 5311 of title 49, United  
8 States Code.

9 **SEC. 104. SECURITY ASSISTANCE GRANTS.**

10 (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

11 (1) IN GENERAL.—The Secretary of Homeland  
12 Security shall award grants directly to public trans-  
13 portation agencies for allowable capital security im-  
14 provements based on the priorities established under  
15 section 103(a)(4).

16 (2) ALLOWABLE USE OF FUNDS.—Grants  
17 awarded under paragraph (1) may be used for—

18 (A) tunnel protection systems;

19 (B) perimeter protection systems;

20 (C) redundant critical operations control  
21 systems;

22 (D) chemical, biological, radiological, or ex-  
23 plosive detection systems;

24 (E) surveillance equipment;

25 (F) communications equipment;

- 1 (G) emergency response equipment;
- 2 (H) fire suppression and decontamination
- 3 equipment;
- 4 (I) global positioning or automated vehicle
- 5 locator type system equipment;
- 6 (J) evacuation improvements; and
- 7 (K) other capital security improvements.

8 (b) OPERATIONAL SECURITY ASSISTANCE PRO-  
9 GRAM.—

10 (1) IN GENERAL.—The Secretary of Homeland  
11 Security shall award grants directly to public trans-  
12 portation agencies for allowable operational security  
13 improvements based on the priorities established  
14 under section 103(a)(4).

15 (2) ALLOWABLE USE OF FUNDS.—Grants  
16 awarded under paragraph (1) may be used for—

17 (A) security training for public transpor-  
18 tation employees, including bus and rail opera-  
19 tors, mechanics, customer service, maintenance  
20 employees, transit police, and security per-  
21 sonnel;

22 (B) live or simulated drills;

23 (C) public awareness campaigns for en-  
24 hanced public transportation security;



1 (D) canine patrols for chemical, biological,  
2 or explosives detection;

3 (E) overtime reimbursement for enhanced  
4 security personnel during significant national  
5 and international public events, consistent with  
6 the priorities established under section  
7 103(a)(4); and

8 (F) other appropriate security improve-  
9 ments identified under section 103(a)(4), ex-  
10 cluding routine, ongoing personnel costs.

11 (c) CONGRESSIONAL NOTIFICATION.—Not later than  
12 3 days before the award of any grant under this section,  
13 the Secretary of Homeland Security shall notify the Com-  
14 mittee on Banking, Housing, and Urban Affairs of the  
15 Senate of the intent to award such grant.

16 (d) PUBLIC TRANSPORTATION AGENCY RESPON-  
17 SIBILITIES.—Each public transportation agency that re-  
18 ceives a grant under this section shall—

19 (1) identify a security coordinator to coordinate  
20 security improvements;

21 (2) develop a comprehensive plan that dem-  
22 onstrates the agency's capacity for operating and  
23 maintaining the equipment purchased under this  
24 section; and

1           (3) report annually to the Department of  
2       Homeland Security on the use of grant funds re-  
3       ceived under this section.

4       (e) RETURN OF MISSPENT GRANT FUNDS.—If the  
5       Secretary of Homeland Security determines that a grantee  
6       used any portion of the grant funds received under this  
7       section for a purpose other than the allowable uses speci-  
8       fied for that grant under this section, the grantee shall  
9       return any amount so used to the Treasury of the United  
10      States.

11   **SEC. 105. INTELLIGENCE SHARING.**

12       (a) INTELLIGENCE SHARING.—The Secretary of  
13      Homeland Security shall ensure that the Department of  
14      Transportation receives appropriate and timely notifica-  
15      tion of all credible terrorist threats against public trans-  
16      portation assets in the United States.

17       (b) INFORMATION SHARING ANALYSIS CENTER.—

18           (1) ESTABLISHMENT.—The Secretary of Home-  
19      land Security shall provide sufficient financial assist-  
20      ance for the reasonable costs of the Information  
21      Sharing and Analysis Center for Public Transpor-  
22      tation (referred to in this subsection as the “ISAC”)  
23      established pursuant to Presidential Directive 63, to  
24      protect critical infrastructure.

1           (2) PUBLIC TRANSPORTATION AGENCY PARTICI-  
2           PATION.—The Secretary of Homeland Security—

3                   (A) shall require those public transpor-  
4                   tation agencies that the Secretary determines to  
5                   be at significant risk of terrorist attack to par-  
6                   ticipate in the ISAC;

7                   (B) shall encourage all other public trans-  
8                   portation agencies to participate in the ISAC;  
9                   and

10                  (C) shall not charge a fee to any public  
11                  transportation agency for participating in the  
12                  ISAC.

13 **SEC. 106. RESEARCH, DEVELOPMENT, AND DEMONSTRA-**  
14 **TION GRANTS.**

15           (a) GRANTS AUTHORIZED.—The Secretary of Home-  
16 land Security, in consultation with the Federal Transit  
17 Administration, shall award grants to public or private en-  
18 tities to conduct research into, and demonstrate, tech-  
19 nologies and methods to reduce and deter terrorist threats  
20 or mitigate damages resulting from terrorist attacks  
21 against public transportation systems.

22           (b) USE OF FUNDS.—Grants awarded under sub-  
23 section (a) may be used to—

1           (1) research chemical, biological, radiological, or  
2       explosive detection systems that do not significantly  
3       impede passenger access;

4           (2) research imaging technologies;

5           (3) conduct product evaluations and testing;  
6       and

7           (4) research other technologies or methods for  
8       reducing or deterring terrorist attacks against public  
9       transportation systems, or mitigating damage from  
10      such attacks.

11      (c) REPORTING REQUIREMENT.—Each entity that  
12      receives a grant under this section shall report annually  
13      to the Department of Homeland Security on the use of  
14      grant funds received under this section.

15      (d) RETURN OF MISSPENT GRANT FUNDS.—If the  
16      Secretary of Homeland Security determines that a grantee  
17      used any portion of the grant funds received under this  
18      section for a purpose other than the allowable uses speci-  
19      fied under subsection (b), the grantee shall return any  
20      amount so used to the Treasury of the United States.

21      **SEC. 107. REPORTING REQUIREMENTS.**

22      (a) SEMI-ANNUAL REPORT TO CONGRESS.—

23           (1) IN GENERAL.—Not later than March 31  
24      and September 30 of each year, the Secretary of

1 Homeland Security shall submit a report, containing  
2 the information described in paragraph (2), to—

3 (A) the Committee on Banking, Housing,  
4 and Urban Affairs of the Senate;

5 (B) the Committee on Homeland Security  
6 and Governmental Affairs of the Senate; and

7 (C) the Committee on Appropriations of  
8 the Senate.

9 (2) CONTENTS.—The report submitted under  
10 paragraph (1) shall include—

11 (A) a description of the implementation of  
12 the provisions of sections 103 through 106;

13 (B) the amount of funds appropriated to  
14 carry out the provisions of each of sections 103  
15 through 106 that have not been expended or  
16 obligated; and

17 (C) the state of public transportation secu-  
18 rity in the United States.

19 (b) ANNUAL REPORT TO GOVERNORS.—

20 (1) IN GENERAL.—Not later than March 31 of  
21 each year, the Secretary of Homeland Security shall  
22 submit a report to the Governor of each State with  
23 a public transportation agency that has received a  
24 grant under this title.

1           (2) CONTENTS.—The report submitted under  
2       paragraph (1) shall specify—

3           (A) the amount of grant funds distributed  
4       to each such public transportation agency; and

5           (B) the use of such grant funds.

6 **SEC. 108. AUTHORIZATION OF APPROPRIATIONS.**

7       (a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

8       There are authorized to be appropriated \$2,370,000,000  
9       for fiscal year 2007 to carry out the provisions of section  
10      104(a), which shall remain available until expended.

11      (b) OPERATIONAL SECURITY ASSISTANCE PRO-  
12      GRAM.—There are authorized to be appropriated to carry  
13      out the provisions of section 104(b)—

14           (1) \$534,000,000 for fiscal year 2007;

15           (2) \$333,000,000 for fiscal year 2008; and

16           (3) \$133,000,000 for fiscal year 2009.

17      (c) INTELLIGENCE.—There are authorized to be ap-  
18      propriated such sums as may be necessary to carry out  
19      the provisions of section 105.

20      (d) RESEARCH.—There are authorized to be appro-  
21      priated \$130,000,000 for fiscal year 2007 to carry out the  
22      provisions of section 106, which shall remain available  
23      until expended.

1 **SEC. 109. SUNSET PROVISION.**

2 The authority to make grants under this title shall  
3 expire on October 1, 2009.

4 **TITLE II—IMPROVED RAIL**  
5 **SECURITY**

6 **SEC. 201. SHORT TITLE.**

7 This title may be cited as the “Rail Security Act of  
8 2006”.

9 **SEC. 202. RAIL TRANSPORTATION SECURITY RISK ASSESS-**  
10 **MENT.**

11 (a) IN GENERAL.—

12 (1) VULNERABILITY AND RISK ASSESSMENT.—

13 The Secretary of Homeland Security shall establish  
14 a task force, including the Transportation Security  
15 Administration, the Department of Transportation,  
16 and other appropriate agencies, to complete a vul-  
17 nerability and risk assessment of freight and pas-  
18 senger rail transportation (encompassing railroads,  
19 as that term is defined in section 20102(1) of title  
20 49, United States Code). The assessment shall in-  
21 clude—

22 (A) a methodology for conducting the risk  
23 assessment, including timelines, that addresses  
24 how the Department of Homeland Security will  
25 work with the entities describe in subsection (b)  
26 and make use of existing Federal expertise

1 within the Department of Homeland Security,  
2 the Department of Transportation, and other  
3 appropriate agencies;

4 (B) identification and evaluation of critical  
5 assets and infrastructures;

6 (C) identification of vulnerabilities and  
7 risks to those assets and infrastructures;

8 (D) identification of vulnerabilities and  
9 risks that are specific to the transportation of  
10 hazardous materials via railroad;

11 (E) identification of security weaknesses in  
12 passenger and cargo security, transportation in-  
13 frastructure, protection systems, procedural  
14 policies, communications systems, employee  
15 training, emergency response planning, and any  
16 other area identified by the assessment; and

17 (F) an account of actions taken or planned  
18 by both public and private entities to address  
19 identified rail security issues and assess the ef-  
20 fective integration of such actions.

21 (2) RECOMMENDATIONS.—Based on the assess-  
22 ment conducted under paragraph (1), the Secretary,  
23 in consultation with the Secretary of Transportation,  
24 shall develop prioritized recommendations for im-



1       proving rail security, including any recommendations  
2       the Secretary has for—

3               (A) improving the security of rail tunnels,  
4               rail bridges, rail switching and car storage  
5               areas, other rail infrastructure and facilities, in-  
6               formation systems, and other areas identified  
7               by the Secretary as posing significant rail-re-  
8               lated risks to public safety and the movement  
9               of interstate commerce, taking into account the  
10              impact that any proposed security measure  
11              might have on the provision of rail service;

12             (B) deploying equipment to detect explo-  
13             sives and hazardous chemical, biological, and  
14             radioactive substances, and any appropriate  
15             countermeasures;

16             (C) training appropriate railroad or rail-  
17             road shipper employees in terrorism prevention,  
18             passenger evacuation, and response activities;

19             (D) conducting public outreach campaigns  
20             on passenger railroads;

21             (E) deploying surveillance equipment; and

22             (F) identifying the immediate and long-  
23             term costs of measures that may be required to  
24             address those risks.

1           (3) PLANS.—The report required by subsection  
2       (c) shall include—

3           (A) a plan, developed in consultation with  
4       the freight and intercity passenger railroads,  
5       and State and local governments, for the Fed-  
6       eral government to provide increased security  
7       support at high or severe threat levels of alert;

8           (B) a plan for coordinating existing and  
9       planned rail security initiatives undertaken by  
10      the public and private sectors; and

11          (C) a contingency plan, developed in con-  
12      junction with freight and intercity and com-  
13      muter passenger railroads, to ensure the contin-  
14      ued movement of freight and passengers in the  
15      event of an attack affecting the railroad system,  
16      which shall contemplate—

17           (i) the possibility of rerouting traffic  
18          due to the loss of critical infrastructure,  
19          such as a bridge, tunnel, yard, or station;  
20          and

21           (ii) methods of continuing railroad  
22          service in the Northeast Corridor in the  
23          event of a commercial power loss, or catas-  
24          trophe affecting a critical bridge, tunnel,  
25          yard, or station.

1       (b) CONSULTATION; USE OF EXISTING RE-  
2 SOURCES.—In carrying out the assessment and developing  
3 the recommendations and plans required by subsection  
4 (a), the Secretary of Homeland Security shall consult with  
5 rail management, rail labor, owners or lessors of rail cars  
6 used to transport hazardous materials, first responders,  
7 shippers of hazardous materials, public safety officials,  
8 and other relevant parties.

9       (c) REPORT.—

10           (1) CONTENTS.—Within 180 days after the  
11 date of enactment of this Act, the Secretary shall  
12 transmit to the Senate Committee on Commerce,  
13 Science, and Transportation, the House of Rep-  
14 resentatives Committee on Transportation and In-  
15 frastructure, and the House of Representatives Com-  
16 mittee on Homeland Security a report containing the  
17 assessment, prioritized recommendations, and plans  
18 required by subsection (a) and an estimate of the  
19 cost to implement such recommendations.

20           (2) FORMAT.—The Secretary may submit the  
21 report in both classified and redacted formats if the  
22 Secretary determines that such action is appropriate  
23 or necessary.

24       (d) ANNUAL UPDATES.—The Secretary, in consulta-  
25 tion with the Secretary of Transportation, shall update the

1 assessment and recommendations each year and transmit  
 2 a report, which may be submitted in both classified and  
 3 redacted formats, to the Committees named in subsection  
 4 (c)(1), containing the updated assessment and rec-  
 5 ommendations.

6 (e) FUNDING.—Out of funds appropriated pursuant  
 7 to section 114(u)(2) of title 49, United States Code, there  
 8 shall be made available to the Secretary of Homeland Se-  
 9 curity to carry out this section \$5,000,000 for fiscal year  
 10 2007.

11 **SEC. 203. SYSTEMWIDE AMTRAK SECURITY UPGRADES.**

12 (a) IN GENERAL.—Subject to subsection (c) the Sec-  
 13 retary of Homeland Security, in consultation with the As-  
 14 sistant Secretary of Homeland Security (Transportation  
 15 Security Administration), is authorized to make grants to  
 16 Amtrak—

- 17 (1) to secure major tunnel access points and en-  
 18 sure tunnel integrity in New York, Baltimore, and  
 19 Washington, DC;
- 20 (2) to secure Amtrak trains;
- 21 (3) to secure Amtrak stations;
- 22 (4) to obtain a watch list identification system  
 23 approved by the Secretary;

1           (5) to obtain train tracking and interoperable  
2       communications systems that are coordinated to the  
3       maximum extent possible;

4           (6) to hire additional police and security offi-  
5       cers, including canine units;

6           (7) to expand emergency preparedness efforts;  
7       and

8           (8) for employee security training.

9       (b) CONDITIONS.—The Secretary of Transportation  
10   shall disburse funds to Amtrak provided under subsection  
11   (a) for projects contained in a systemwide security plan  
12   approved by the Secretary of Homeland Security. The  
13   plan shall include appropriate measures to address secu-  
14   rity awareness, emergency response, and passenger evacu-  
15   ation training.

16       (c) EQUITABLE GEOGRAPHIC ALLOCATION.—The  
17   Secretary shall ensure that, subject to meeting the highest  
18   security needs on Amtrak’s entire system and consistent  
19   with the risk assessment required under section 202, sta-  
20   tions and facilities located outside of the Northeast Cor-  
21   ridor receive an equitable share of the security funds au-  
22   thorized by this section.

23       (d) AVAILABILITY OF FUNDS.—Out of funds appro-  
24   priated pursuant to section 114(u)(2) of title 49, United  
25   States Code, there shall be made available to the Secretary

1 of Homeland Security and the Assistant Secretary of  
2 Homeland Security (Transportation Security Administra-  
3 tion) to carry out this section—

- 4 (1) \$63,500,000 for fiscal year 2007;
- 5 (2) \$30,000,000 for fiscal year 2008; and
- 6 (3) \$30,000,000 for fiscal year 2009.

7 Amounts appropriated pursuant to this subsection shall  
8 remain available until expended.

9 **SEC. 204. FIRE AND LIFE-SAFETY IMPROVEMENTS.**

10 (a) LIFE-SAFETY NEEDS.—The Secretary of Trans-  
11 portation, in consultation with the Secretary of Homeland  
12 Security, is authorized to make grants to Amtrak for the  
13 purpose of making fire and life-safety improvements to  
14 Amtrak tunnels on the Northeast Corridor in New York,  
15 NY, Baltimore, MD, and Washington, DC.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—Out of  
17 funds appropriated pursuant to section 102 of this Act,  
18 there shall be made available to the Secretary of Transpor-  
19 tation for the purposes of carrying out subsection (a) the  
20 following amounts:

- 21 (1) For the 6 New York tunnels to provide ven-  
22 tilation, electrical, and fire safety technology up-  
23 grades, emergency communication and lighting sys-  
24 tems, and emergency access and egress for pas-  
25 sengers—

1 (A) \$190,000,000 for fiscal year 2007;

2 (B) \$190,000,000 for fiscal year 2008; and

3 (C) \$190,000,000 for fiscal year 2009.

4 (2) For the Baltimore & Potomac tunnel and  
5 the Union tunnel, together, to provide adequate  
6 drainage, ventilation, communication, lighting, and  
7 passenger egress upgrades—

8 (A) \$19,000,000 for fiscal year 2007;

9 (B) \$19,000,000 for fiscal year 2008; and

10 (C) \$19,000,000 for fiscal year 2009.

11 (3) For the Washington, DC, Union Station  
12 tunnels to improve ventilation, communication, light-  
13 ing, and passenger egress upgrades—

14 (A) \$13,333,000 for fiscal year 2007;

15 (B) \$13,333,000 for fiscal year 2008; and

16 (C) \$13,333,000 for fiscal year 2009.

17 (c) INFRASTRUCTURE UPGRADES.—Out of funds ap-  
18 propriated pursuant to section 102 of this Act, there shall  
19 be made available to the Secretary of Transportation for  
20 fiscal year 2007 \$3,000,000 for the preliminary design of  
21 options for a new tunnel on a different alignment to aug-  
22 ment the capacity of the existing Baltimore tunnels.

23 (d) AVAILABILITY OF APPROPRIATED FUNDS.—  
24 Amounts made available pursuant to this section shall re-  
25 main available until expended.

1 (e) PLANS REQUIRED.—The Secretary of Transpor-  
2 tation may not make amounts available to Amtrak for ob-  
3 ligation or expenditure under subsection (a)—

4 (1) until Amtrak has submitted to the Sec-  
5 retary, and the Secretary has approved, an engineer-  
6 ing and financial plan for such projects; and

7 (2) unless, for each project funded pursuant to  
8 this section, the Secretary has approved a project  
9 management plan prepared by Amtrak addressing  
10 appropriate project budget, construction schedule,  
11 recipient staff organization, document control and  
12 record keeping, change order procedure, quality con-  
13 trol and assurance, periodic plan updates, and peri-  
14 odic status reports.

15 (f) REVIEW OF PLANS.—The Secretary of Transpor-  
16 tation shall complete the review of the plans required by  
17 paragraphs (1) and (2) of subsection (e) and approve or  
18 disapprove the plans within 45 days after the date on  
19 which each such plan is submitted by Amtrak. If the Sec-  
20 retary determines that a plan is incomplete or deficient,  
21 the Secretary shall notify Amtrak of the incomplete items  
22 or deficiencies and Amtrak shall, within 30 days after re-  
23 ceiving the Secretary's notification, submit a modified  
24 plan for the Secretary's review. Within 15 days after re-  
25 ceiving additional information on items previously included



1 in the plan, and within 45 days after receiving items newly  
 2 included in a modified plan, the Secretary shall either ap-  
 3 prove the modified plan, or, if the Secretary finds the plan  
 4 is still incomplete or deficient, the Secretary shall identify  
 5 in writing to the Senate Committee on Commerce, Science,  
 6 and Transportation, the House of Representatives Com-  
 7 mittee on Transportation and Infrastructure, and the  
 8 House of Representatives Committee on Homeland Secu-  
 9 rity the portions of the plan the Secretary finds incomplete  
 10 or deficient, approve all other portions of the plan, obligate  
 11 the funds associated with those other portions, and exe-  
 12 cute an agreement with Amtrak within 15 days thereafter  
 13 on a process for resolving the remaining portions of the  
 14 plan.

15 (g) FINANCIAL CONTRIBUTION FROM OTHER TUN-  
 16 NEL USERS.—The Secretary shall, taking into account the  
 17 need for the timely completion of all portions of the tunnel  
 18 projects described in subsection (a)—

19 (1) consider the extent to which rail carriers  
 20 other than Amtrak use or plan to use the tunnels;

21 (2) consider the feasibility of seeking a financial  
 22 contribution from those other rail carriers toward  
 23 the costs of the projects; and

24 (3) obtain financial contributions or commit-  
 25 ments from such other rail carriers at levels reflect-

1       ing the extent of their use or planned use of the tun-  
 2       nels, if feasible.

3   **SEC. 205. FREIGHT AND PASSENGER RAIL SECURITY UP-**  
 4       **GRADES.**

5       (a) SECURITY IMPROVEMENT GRANTS.—The Sec-  
 6   retary of Homeland Security, through the Assistant Sec-  
 7   retary of Homeland Security (Transportation Security Ad-  
 8   ministration) and other appropriate agencies, is author-  
 9   ized to make grants to freight railroads, the Alaska Rail-  
 10   road, hazardous materials shippers, owners of rail cars  
 11   used in the transportation of hazardous materials, univer-  
 12   sities, colleges and research centers, State and local gov-  
 13   ernments (for rail passenger facilities and infrastructure  
 14   not owned by Amtrak), and, through the Secretary of  
 15   Transportation, to Amtrak, for full or partial reimburse-  
 16   ment of costs incurred in the conduct of activities to pre-  
 17   vent or respond to acts of terrorism, sabotage, or other  
 18   intercity passenger rail and freight rail security  
 19   vulnerabilities and risks identified under section 202, in-  
 20   cluding—

21           (1) security and redundancy for critical commu-  
 22       nications, computer, and train control systems essen-  
 23       tial for secure rail operations;

24           (2) accommodation of rail cargo or passenger  
 25       screening equipment at the United States-Mexico

1 border, the United States-Canada border, or other  
2 ports of entry;

3 (3) the security of hazardous material transpor-  
4 tation by rail;

5 (4) secure intercity passenger rail stations,  
6 trains, and infrastructure;

7 (5) structural modification or replacement of  
8 rail cars transporting high hazard materials to im-  
9 prove their resistance to acts of terrorism;

10 (6) employee security awareness, preparedness,  
11 passenger evacuation, and emergency response train-  
12 ing;

13 (7) public security awareness campaigns for  
14 passenger train operations;

15 (8) the sharing of intelligence and information  
16 about security threats;

17 (9) to obtain train tracking and interoperable  
18 communications systems that are coordinated to the  
19 maximum extent possible;

20 (10) to hire additional police and security offi-  
21 cers, including canine units; and

22 (11) other improvements recommended by the  
23 report required by section 202, including infrastruc-  
24 ture, facilities, and equipment upgrades.

1       (b) ACCOUNTABILITY.—The Secretary shall adopt  
2 necessary procedures, including audits, to ensure that  
3 grants made under this section are expended in accord-  
4 ance with the purposes of this Act and the priorities and  
5 other criteria developed by the Secretary.

6       (c) ALLOCATION.—The Secretary shall distribute the  
7 funds authorized by this section based on risk and vulner-  
8 ability as determined under section 202, and shall encour-  
9 age non-Federal financial participation in awarding  
10 grants. With respect to grants for intercity passenger rail  
11 security, the Secretary shall also take into account pas-  
12 senger volume and whether a station is used by commuter  
13 rail passengers as well as intercity rail passengers.

14       (d) CONDITIONS.—The Secretary of Transportation  
15 may not disburse funds to Amtrak under subsection (a)  
16 unless Amtrak meets the conditions set forth in section  
17 203(b) of this Act.

18       (e) ALLOCATION BETWEEN RAILROADS AND OTH-  
19 ERS.—Unless as a result of the assessment required by  
20 section 202 the Secretary of Homeland Security deter-  
21 mines that critical rail transportation security needs re-  
22 quire reimbursement in greater amounts to any eligible  
23 entity, no grants under this section may be made—

24               (1) in excess of \$45,000,000 to Amtrak; or

1           (2) in excess of \$80,000,000 for the purposes  
 2       described in paragraphs (3) and (5) of subsection  
 3       (a).

4       (f) AUTHORIZATION OF APPROPRIATIONS.—Out of  
 5 funds appropriated pursuant to section 114(u)(2) of title  
 6 49, United States Code, there shall be made available to  
 7 the Secretary of Homeland Security to carry out this sec-  
 8 tion—

- 9           (1) \$100,000,000 for fiscal year 2007;
- 10          (2) \$100,000,000 for fiscal year 2008; and
- 11          (3) \$100,000,000 for fiscal year 2009.

12 Amounts made available pursuant to this subsection shall  
 13 remain available until expended.

14       (g) HIGH HAZARD MATERIALS DEFINED.—In this  
 15 section, the term “high hazard materials” means quan-  
 16 tities of poison inhalation hazard materials, Class 2.3  
 17 gases, Class 6.1 materials, and anhydrous ammonia that  
 18 the Secretary, in consultation with the Secretary of Trans-  
 19 portation, determines pose a security risk.

20 **SEC. 206. RAIL SECURITY RESEARCH AND DEVELOPMENT.**

21       (a) ESTABLISHMENT OF RESEARCH AND DEVELOP-  
 22 MENT PROGRAM.—The Secretary of Homeland Security,  
 23 through the Under Secretary for Science and Technology  
 24 and the Assistant Secretary of Homeland Security (Trans-  
 25 portation Security Administration), in consultation with

1 the Secretary of Transportation shall carry out a research  
2 and development program for the purpose of improving  
3 freight and intercity passenger rail security that may in-  
4 clude research and development projects to—

5 (1) reduce the vulnerability of passenger trains,  
6 stations, and equipment to explosives and hazardous  
7 chemical, biological, and radioactive substances;

8 (2) test new emergency response techniques and  
9 technologies;

10 (3) develop improved freight technologies, in-  
11 cluding—

12 (A) technologies for sealing rail cars;

13 (B) automatic inspection of rail cars;

14 (C) communication-based train controls;

15 and

16 (D) emergency response training;

17 (4) test wayside detectors that can detect tam-  
18 pering with railroad equipment;

19 (5) support enhanced security for the transpor-  
20 tation of hazardous materials by rail, including—

21 (A) technologies to detect a breach in a  
22 tank car or other rail car used to transport haz-  
23 ardous materials and transmit information  
24 about the integrity of cars to the train crew or  
25 dispatcher;

1 (B) research to improve tank car integrity,  
2 with a focus on tank cars that carry high haz-  
3 ard materials (as defined in section 205(g) of  
4 this Act; and

5 (C) techniques to transfer hazardous mate-  
6 rials from rail cars that are damaged or other-  
7 wise represent an unreasonable risk to human  
8 life or public safety; and

9 (6) other projects that address vulnerabilities  
10 and risks identified under section 202.

11 (b) COORDINATION WITH OTHER RESEARCH INITIA-  
12 TIVES.—The Secretary of Homeland Security shall ensure  
13 that the research and development program authorized by  
14 this section is coordinated with other research and devel-  
15 opment initiatives at the Department of Homeland Secu-  
16 rity and the Department of Transportation. The Secretary  
17 shall carry out any research and development project au-  
18 thorized by this section through a reimbursable agreement  
19 with the Secretary of Transportation, if the Secretary of  
20 Transportation—

21 (1) is already sponsoring a research and devel-  
22 opment project in a similar area; or

23 (2) has a unique facility or capability that  
24 would be useful in carrying out the project.

1 (c) GRANTS AND ACCOUNTABILITY.—To carry out  
 2 the research and development program, the Secretary may  
 3 award grants to the entities described in section 205(a)  
 4 and shall adopt necessary procedures, including audits, to  
 5 ensure that grants made under this section are expended  
 6 in accordance with the purposes of this Act and the prior-  
 7 ities and other criteria developed by the Secretary.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—Out of  
 9 funds appropriated pursuant to section 114(u)(4) of title  
 10 49, United States Code, there shall be made available to  
 11 the Secretary of Homeland Security to carry out this sec-  
 12 tion—

13 (1) \$35,000,000 for fiscal year 2007;

14 (2) \$35,000,000 for fiscal year 2008; and

15 (3) \$35,000,000 for fiscal year 2009.

16 Amounts made available pursuant to this subsection shall  
 17 remain available until expended.

18 **SEC. 207. OVERSIGHT AND GRANT PROCEDURES.**

19 (a) SECRETARIAL OVERSIGHT.—The Secretary of  
 20 Homeland Security may use up to 0.5 percent of amounts  
 21 made available for capital projects under the Rail Security  
 22 Act of 2006 to enter into contracts for the review of pro-  
 23 posed capital projects and related program management  
 24 plans and to oversee construction of such projects.



1       (b) USE OF FUNDS.—The Secretary may use  
 2 amounts available under subsection (a) of this subsection  
 3 to make contracts to audit and review the safety, procure-  
 4 ment, management, and financial compliance of a recipi-  
 5 ent of amounts under this Act.

6       (c) PROCEDURES FOR GRANT AWARD.—The Sec-  
 7 retary shall, within 90 days after the date of enactment  
 8 of this Act, prescribe procedures and schedules for the  
 9 awarding of grants under this Act, including application  
 10 and qualification procedures (including a requirement that  
 11 the applicant have a security plan), and a record of deci-  
 12 sion on applicant eligibility. The procedures shall include  
 13 the execution of a grant agreement between the grant re-  
 14 cipient and the Secretary and shall be consistent, to the  
 15 extent practicable, with the grant procedures established  
 16 under section 70107 of title 46, United States Code.

17 **SEC. 208. AMTRAK PLAN TO ASSIST FAMILIES OF PAS-**  
 18 **SENGERS INVOLVED IN RAIL PASSENGER AC-**  
 19 **CIDENTS.**

20       (a) IN GENERAL.—Chapter 243 of title 49, United  
 21 States Code, is amended by adding at the end the fol-  
 22 lowing:

1 **“§ 24316. Plans to address needs of families of pas-**  
 2 **sengers involved in rail passenger acci-**  
 3 **dents**

4 “(a) SUBMISSION OF PLAN.—Not later than 6  
 5 months after the date of the enactment of the Rail Secu-  
 6 rity Act of 2006, Amtrak shall submit to the Chairman  
 7 of the National Transportation Safety Board, the Sec-  
 8 retary of Transportation, and the Secretary of Homeland  
 9 Security a plan for addressing the needs of the families  
 10 of passengers involved in any rail passenger accident in-  
 11 volving an Amtrak intercity train and resulting in a loss  
 12 of life.

13 “(b) CONTENTS OF PLANS.—The plan to be sub-  
 14 mitted by Amtrak under subsection (a) shall include, at  
 15 a minimum, the following:

16 “(1) A process by which Amtrak will maintain  
 17 and provide to the National Transportation Safety  
 18 Board and the Secretary of Transportation, imme-  
 19 diately upon request, a list (which is based on the  
 20 best available information at the time of the request)  
 21 of the names of the passengers aboard the train  
 22 (whether or not such names have been verified), and  
 23 will periodically update the list. The plan shall in-  
 24 clude a procedure, with respect to unreserved trains  
 25 and passengers not holding reservations on other  
 26 trains, for Amtrak to use reasonable efforts to ascer-

1       tain the number and names of passengers aboard a  
2       train involved in an accident.

3               “(2) A plan for creating and publicizing a reli-  
4       able, toll-free telephone number within 4 hours after  
5       such an accident occurs, and for providing staff, to  
6       handle calls from the families of the passengers.

7               “(3) A process for notifying the families of the  
8       passengers, before providing any public notice of the  
9       names of the passengers, by suitably trained individ-  
10      uals.

11              “(4) A process for providing the notice de-  
12      scribed in paragraph (2) to the family of a pas-  
13      senger as soon as Amtrak has verified that the pas-  
14      senger was aboard the train (whether or not the  
15      names of all of the passengers have been verified).

16              “(5) A process by which the family of each pas-  
17      senger will be consulted about the disposition of all  
18      remains and personal effects of the passenger within  
19      Amtrak’s control; that any possession of the pas-  
20      senger within Amtrak’s control will be returned to  
21      the family unless the possession is needed for the ac-  
22      cident investigation or any criminal investigation;  
23      and that any unclaimed possession of a passenger  
24      within Amtrak’s control will be retained by the rail  
25      passenger carrier for at least 18 months.

1           “(6) A process by which the treatment of the  
2           families of nonrevenue passengers will be the same  
3           as the treatment of the families of revenue pas-  
4           sengers.

5           “(7) An assurance that Amtrak will provide  
6           adequate training to its employees and agents to  
7           meet the needs of survivors and family members fol-  
8           lowing an accident.

9           “(c) USE OF INFORMATION.—The National Trans-  
10          portation Safety Board, the Secretary of Transportation,  
11          and Amtrak may not release any personal information on  
12          a list obtained under subsection (b)(1) but may provide  
13          information on the list about a passenger to the family  
14          of the passenger to the extent that the Board or Amtrak  
15          considers appropriate.

16          “(d) LIMITATION ON LIABILITY.—Amtrak shall not  
17          be liable for damages in any action brought in a Federal  
18          or State court arising out of the performance of Amtrak  
19          in preparing or providing a passenger list, or in providing  
20          information concerning a train reservation, pursuant to a  
21          plan submitted by Amtrak under subsection (b), unless  
22          such liability was caused by Amtrak’s conduct.

23          “(e) LIMITATION ON STATUTORY CONSTRUCTION.—  
24          Nothing in this section may be construed as limiting the  
25          actions that Amtrak may take, or the obligations that Am-

1 trak may have, in providing assistance to the families of  
 2 passengers involved in a rail passenger accident.

3 “(f) FUNDING.—Out of funds appropriated pursuant  
 4 to section 102 of the Rail Security Act of 2006, there shall  
 5 be made available to the Secretary of Transportation for  
 6 the use of Amtrak \$500,000 for fiscal year 2007 to carry  
 7 out this section. Amounts made available pursuant to this  
 8 subsection shall remain available until expended.”.

9 (b) CONFORMING AMENDMENT.—The chapter anal-  
 10 ysis for chapter 243 of title 49, United States Code, is  
 11 amended by adding at the end the following:

“24316. Plan to assist families of passengers involved in rail passenger acci-  
 dents”.

12 **SEC. 209. NORTHERN BORDER RAIL PASSENGER REPORT.**

13 Within 180 days after the date of enactment of this  
 14 Act, the Secretary of Homeland Security, in consultation  
 15 with the Assistant Secretary of Homeland Security  
 16 (Transportation Security Administration), the Secretary  
 17 of Transportation, heads of other appropriate Federal de-  
 18 partments, and agencies and the National Railroad Pas-  
 19 senger Corporation, shall transmit a report to the Senate  
 20 Committee on Commerce, Science, and Transportation,  
 21 the House of Representatives Committee on Transpor-  
 22 tation and Infrastructure, and the House of Representa-  
 23 tives Committee on Homeland Security that contains—

1           (1) a description of the current system for  
2 screening passengers and baggage on passenger rail  
3 service between the United States and Canada;

4           (2) an assessment of the current program to  
5 provide preclearance of airline passengers between  
6 the United States and Canada as outlined in “The  
7 Agreement on Air Transport Preclearance between  
8 the Government of Canada and the Government of  
9 the United States of America”, dated January 18,  
10 2001;

11          (3) an assessment of the current program to  
12 provide preclearance of freight railroad traffic be-  
13 tween the United States and Canada as outlined in  
14 the “Declaration of Principle for the Improved Secu-  
15 rity of Rail Shipments by Canadian National Rail-  
16 way and Canadian Pacific Railway from Canada to  
17 the United States”, dated April 2, 2003;

18          (4) information on progress by the Department  
19 of Homeland Security and other Federal agencies to-  
20 wards finalizing a bilateral protocol with Canada  
21 that would provide for preclearance of passengers on  
22 trains operating between the United States and Can-  
23 ada;

24          (5) a description of legislative, regulatory,  
25 budgetary, or policy barriers within the United

1 States Government to providing pre-screened pas-  
2 senger lists for rail passengers traveling between the  
3 United States and Canada to the Department of  
4 Homeland Security;

5 (6) a description of the position of the Govern-  
6 ment of Canada and relevant Canadian agencies  
7 with respect to preclearance of such passengers;

8 (7) a draft of any changes in existing Federal  
9 law necessary to provide for pre-screening of such  
10 passengers and providing pre-screened passenger  
11 lists to the Department of Homeland Security; and

12 (8) an analysis of the feasibility of reinstating  
13 in-transit inspections onboard international Amtrak  
14 trains.

15 **SEC. 210. RAIL WORKER SECURITY TRAINING PROGRAM.**

16 (a) IN GENERAL.—Not later than 180 days after the  
17 date of enactment of this Act, the Secretary of Homeland  
18 Security and the Secretary of Transportation, in consulta-  
19 tion with appropriate law enforcement, security, and ter-  
20 rorism experts, representatives of railroad carriers, and  
21 nonprofit employee organizations that represent rail work-  
22 ers, shall develop and issue detailed guidance for a rail  
23 worker security training program to prepare front-line  
24 workers for potential threat conditions. The guidance shall

1 take into consideration any current security training re-  
2 quirements or best practices.

3 (b) PROGRAM ELEMENTS.—The guidance developed  
4 under subsection (a) shall include elements, as appropriate  
5 to passenger and freight rail service, that address the fol-  
6 lowing:

7 (1) Determination of the seriousness of any oc-  
8 currence.

9 (2) Crew communication and coordination.

10 (3) Appropriate responses to defend or protect  
11 oneself.

12 (4) Use of protective devices.

13 (5) Evacuation procedures.

14 (6) Psychology of terrorists to cope with hi-  
15 jacker behavior and passenger responses.

16 (7) Situational training exercises regarding var-  
17 ious threat conditions.

18 (8) Any other subject the Secretary considers  
19 appropriate.

20 (c) RAILROAD CARRIER PROGRAMS.—Not later than  
21 90 days after the Secretary of Homeland Security issues  
22 guidance under subsection (a) in final form, each railroad  
23 carrier shall develop a rail worker security training pro-  
24 gram in accordance with that guidance and submit it to  
25 the Secretary for review. Not later than 30 days after re-



1 ceiving a railroad carrier's program under this subsection,  
2 the Secretary shall review the program and transmit com-  
3 ments to the railroad carrier concerning any revisions the  
4 Secretary considers necessary for the program to meet the  
5 guidance requirements. A railroad carrier shall respond to  
6 the Secretary's comments within 30 days after receiving  
7 them.

8 (d) TRAINING.—Not later than 1 year after the Sec-  
9 retary reviews the training program developed by a rail-  
10 road carrier under this section, the railroad carrier shall  
11 complete the training of all front-line workers in accord-  
12 ance with that program. The Secretary shall review imple-  
13 mentation of the training program of a representative  
14 sample of railroad carriers and report to the Senate Com-  
15 mittee on Commerce, Science, and Transportation, the  
16 House of Representatives Committee on Transportation  
17 and Infrastructure, and the House of Representatives  
18 Committee on Homeland Security on the number of re-  
19 views conducted and the results. The Secretary may sub-  
20 mit the report in both classified and redacted formats as  
21 necessary.

22 (e) UPDATES.—The Secretary shall update the train-  
23 ing guidance issued under subsection (a) as appropriate  
24 to reflect new or different security threats. Railroad car-  
25 riers shall revise their programs accordingly and provide

1 additional training to their front-line workers within a rea-  
 2 sonable time after the guidance is updated.

3 (f) FRONT-LINE WORKERS DEFINED.—In this sec-  
 4 tion, the term “front-line workers” means security per-  
 5 sonnel, dispatchers, train operators, other onboard em-  
 6 ployees, maintenance and maintenance support personnel,  
 7 bridge tenders, as well as other appropriate employees of  
 8 railroad carriers, as defined by the Secretary.

9 (g) OTHER EMPLOYEES.—The Secretary of Home-  
 10 land Security shall issue guidance and best practices for  
 11 a rail shipper employee security program containing the  
 12 elements listed under subsection (b) as appropriate.

13 **SEC. 211. WHISTLEBLOWER PROTECTION PROGRAM.**

14 (a) IN GENERAL.—Subchapter A of chapter 201 of  
 15 title 49, United States Code, is amended by inserting after  
 16 section 20117 the following:

17 **“§ 20118. Whistleblower protection for rail security**  
 18 **matters**

19 “(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail  
 20 carrier engaged in interstate or foreign commerce may dis-  
 21 charge a railroad employee or otherwise discriminate  
 22 against a railroad employee because the employee (or any  
 23 person acting pursuant to a request of the employee)—

24 “(1) provided, caused to be provided, or is  
 25 about to provide or cause to be provided, to the em-

1        ployer or the Federal Government information relat-  
2        ing to a reasonably perceived threat, in good faith,  
3        to security; or

4            “(2) provided, caused to be provided, or is  
5        about to provide or cause to be provided, testimony  
6        before Congress or at any Federal or State pro-  
7        ceeding regarding a reasonably perceived threat, in  
8        good faith, to security; or

9            “(3) refused to violate or assist in the violation  
10       of any law, rule or regulation related to rail security.

11        “(b) DISPUTE RESOLUTION.—A dispute, grievance,  
12       or claim arising under this section is subject to resolution  
13       under section 3 of the Railway Labor Act (45 U.S.C. 153).  
14       In a proceeding by the National Railroad Adjustment  
15       Board, a division or delegate of the Board, or another  
16       board of adjustment established under section 3 to resolve  
17       the dispute, grievance, or claim the proceeding shall be  
18       expedited and the dispute, grievance, or claim shall be re-  
19       solved not later than 180 days after it is filed. If the viola-  
20       tion is a form of discrimination that does not involve dis-  
21       charge, suspension, or another action affecting pay, and  
22       no other remedy is available under this subsection, the  
23       Board, division, delegate, or other board of adjustment  
24       may award the employee reasonable damages, including  
25       punitive damages, of not more than \$20,000.

1       “(c) PROCEDURAL REQUIREMENTS.—Except as pro-  
 2       vided in subsection (b), the procedure set forth in section  
 3       42121(b)(2)(B) of this title, including the burdens of  
 4       proof, applies to any complaint brought under this section.

5       “(d) ELECTION OF REMEDIES.—An employee of a  
 6       railroad carrier may not seek protection under both this  
 7       section and another provision of law for the same allegedly  
 8       unlawful act of the carrier.

9       “(e) DISCLOSURE OF IDENTITY.—

10       “(1) Except as provided in paragraph (2) of  
 11       this subsection, or with the written consent of the  
 12       employee, the Secretary of Transportation may not  
 13       disclose the name of an employee of a railroad car-  
 14       rier who has provided information about an alleged  
 15       violation of this section.

16       “(2) The Secretary shall disclose to the Attor-  
 17       ney General the name of an employee described in  
 18       paragraph (1) of this subsection if the matter is re-  
 19       ferred to the Attorney General for enforcement.”.

20       (b) CONFORMING AMENDMENT.—The chapter anal-  
 21       ysis for chapter 201 of title 49, United States Code, is  
 22       amended by inserting after the item relating to section  
 23       20117 the following:

“20118. Whistleblower protection for rail security matters”.

1 **SEC. 212. HIGH HAZARD MATERIAL SECURITY THREAT**  
2 **MITIGATION PLANS.**

3 (a) IN GENERAL.—The Secretary of Homeland Secu-  
4 rity, in consultation with the Assistant Secretary of Home-  
5 land Security (Transportation Security Administration)  
6 and the Secretary of Transportation, shall require rail car-  
7 riers transporting a high hazard material, as defined in  
8 section 205(g) of this Act and of a quantity equal or ex-  
9 ceeding the quantities of such material listed in subpart  
10 172.800, title 49, Federal Code of Regulations, to develop  
11 a high hazard material security threat mitigation plan  
12 containing appropriate measures, including alternative  
13 routing and temporary shipment suspension options, to  
14 address assessed risks to high consequence targets. The  
15 plan, and any information submitted to the Secretary  
16 under this section shall be protected as sensitive security  
17 information under the regulations prescribed under sec-  
18 tion 114(s) of title 49, United States Code.

19 (b) IMPLEMENTATION.—A high hazard material se-  
20 curity threat mitigation plan shall be put into effect by  
21 a rail carrier for the shipment of high hazardous materials  
22 by rail on the rail carrier’s right-of-way when the threat  
23 levels of the Homeland Security Advisory System are high  
24 or severe and specific intelligence of probable or imminent  
25 threat exists towards—

1           (1) a high-consequence target that is within the  
2           catastrophic impact zone of a railroad right-of-way  
3           used to transport high hazardous material; or

4           (2) rail infrastructure or operations within the  
5           immediate vicinity of a high-consequence target.

6           (c) COMPLETION AND REVIEW OF PLANS.—

7           (1) PLANS REQUIRED.—Each rail carrier  
8           shall—

9                   (A) submit a list of routes used to trans-  
10                  port high hazard materials to the Secretary of  
11                  Homeland Security within 60 days after the  
12                  date of enactment of this Act;

13                  (B) develop and submit a high hazard ma-  
14                  terial security threat mitigation plan to the Sec-  
15                  retary within 180 days after it receives the no-  
16                  tice of high consequence targets on such routes  
17                  by the Secretary; and

18                  (C) submit any subsequent revisions to the  
19                  plan to the Secretary within 30 days after mak-  
20                  ing the revisions.

21           (2) REVIEW AND UPDATES.—The Secretary,  
22           with assistance of the Secretary of Transportation,  
23           shall review the plans and transmit comments to the  
24           railroad carrier concerning any revisions the Sec-  
25           retary considers necessary. A railroad carrier shall

1       respond to the Secretary’s comments within 30 days  
2       after receiving them. Each rail carrier shall update  
3       and resubmit its plan for review not less than every  
4       2 years.

5       (d) DEFINITIONS.—In this section:

6               (1) The term “high-consequence target” means  
7       a building, buildings, infrastructure, public space, or  
8       natural resource designated by the Secretary of  
9       Homeland Security that is viable terrorist target of  
10      national significance, the attack of which could re-  
11      sult in—

12                       (A) catastrophic loss of life; and

13                       (B) significantly damaged national security  
14      and defense capabilities; or

15                       (C) national economic harm.

16               (2) The term “catastrophic impact zone” means  
17      the area immediately adjacent to, under, or above an  
18      active railroad right-of-way used to ship high hazard  
19      materials in which the potential release or explosion  
20      of the high hazard material being transported would  
21      likely cause—

22                       (A) loss of life; or

23                       (B) significant damage to property or  
24      structures.

1           (3) The term “rail carrier” has the meaning  
 2           given that term by section 10102(5) of title 49,  
 3           United States Code.

4   **SEC. 213. MEMORANDUM OF AGREEMENT.**

5           (a) MEMORANDUM OF AGREEMENT.—Similar to the  
 6           public transportation security annex between the two de-  
 7           partments signed on September 8, 2005, within 1 year  
 8           after the date of enactment of this Act, the Secretary of  
 9           Transportation and the Secretary of Homeland Security  
 10          shall execute and develop an annex to the memorandum  
 11          of agreement between the two departments signed on Sep-  
 12          tember 28, 2004, governing the specific roles, delineations  
 13          of responsibilities, resources and commitments of the De-  
 14          partment of Transportation and the Department of Home-  
 15          land Security, respectively, in addressing railroad trans-  
 16          portation security matters, including the processes the de-  
 17          partments will follow to promote communications, effi-  
 18          ciency, and nonduplication of effort.

19          (b) RAIL SAFETY REGULATIONS.—Section 20103(a)  
 20          of title 49, United States Code, is amended by striking  
 21          “safety” the first place it appears, and inserting “safety,  
 22          including security,”.

23   **SEC. 214. RAIL SECURITY ENHANCEMENTS.**

24          (a) RAIL POLICE OFFICERS.—Section 28101 of title  
 25          49, United States Code, is amended—



1           (1) by inserting “(a) IN GENERAL.—” before  
2           “Under”; and

3           (2) by striking “the rail carrier” each place it  
4           appears and inserting “any rail carrier”.

5           (b) REVIEW OF RAIL REGULATIONS.—Within 1 year  
6 after the date of enactment of this Act, the Secretary of  
7 Transportation, in consultation with the Secretary of  
8 Homeland Security and the Assistant Secretary of Home-  
9 land Security (Transportation Security Administration),  
10 shall review existing rail regulations of the Department  
11 of Transportation for the purpose of identifying areas in  
12 which those regulations need to be revised to improve rail  
13 security.

14 **SEC. 215. PUBLIC AWARENESS.**

15           Not later than 90 days after the date of enactment  
16 of this Act, the Secretary of Homeland Security, in con-  
17 sultation with the Secretary of Transportation, shall de-  
18 velop a national plan for public outreach and awareness.  
19 Such plan shall be designed to increase awareness of  
20 measures that the general public, railroad passengers, and  
21 railroad employees can take to increase railroad system  
22 security. Such plan shall also provide outreach to railroad  
23 carriers and their employees to improve their awareness  
24 of available technologies, ongoing research and develop-  
25 ment efforts, and available Federal funding sources to im-

1 prove railroad security. Not later than 9 months after the  
2 date of enactment of this Act, the Secretary of Homeland  
3 Security shall implement the plan developed under this  
4 section.

5 **SEC. 216. RAILROAD HIGH HAZARD MATERIAL TRACKING.**

6 (a) WIRELESS COMMUNICATIONS.—

7 (1) IN GENERAL.—In conjunction with the re-  
8 search and development program established under  
9 section 206 and consistent with the results of re-  
10 search relating to wireless tracking technologies, the  
11 Secretary of Homeland Security, in consultation  
12 with the Assistant Secretary of Homeland Security  
13 (Transportation Security Administration), shall de-  
14 velop a program that will encourage the equipping of  
15 rail cars transporting high hazard materials (as de-  
16 fined in section 205(g) of this Act) in quantities  
17 equal to or greater than the quantities specified in  
18 subpart 171.800 of title 49, Code of Federal Regula-  
19 tions, with wireless terrestrial or satellite commu-  
20 nications technology that provides—

21 (A) car position location and tracking ca-  
22 pabilities;

23 (B) notification of rail car depressuriza-  
24 tion, breach, or unsafe temperature; and

1 (C) notification of hazardous material re-  
 2 lease.

3 (2) COORDINATION.—In developing the pro-  
 4 gram required by paragraph (1), the Secretary  
 5 shall—

6 (A) consult with the Secretary of Trans-  
 7 portation to coordinate the program with any  
 8 ongoing or planned efforts for rail car tracking  
 9 at the Department of Transportation; and

10 (B) ensure that the program is consistent  
 11 with recommendations and findings of the De-  
 12 partment of Homeland Security’s hazardous  
 13 material tank rail car tracking pilot programs.

14 (b) FUNDING.—Out of funds appropriated pursuant  
 15 to section 114(u)(2) of title 49, United States Code, there  
 16 shall be made available to the Secretary of Homeland Se-  
 17 curity to carry out this section \$3,000,000 for each of fis-  
 18 cal years 2007, 2008, and 2009.

19 **SEC. 217. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) TRANSPORTATION SECURITY ADMINISTRATION  
 21 AUTHORIZATION.—Section 114 of title 49, United States  
 22 Code, is amended by adding at the end thereof the fol-  
 23 lowing:

24 “(u) AUTHORIZATION OF APPROPRIATIONS.—There  
 25 are authorized to be appropriated to the Secretary of

1 Homeland Security, (Transportation Security Administra-  
 2 tion) for rail security—

3 “(1) \$206,500,000 for fiscal year 2007;

4 “(2) \$168,000,000 for fiscal year 2008; and

5 “(3) \$168,000,000 for fiscal year 2009.”.

6 (b) DEPARTMENT OF TRANSPORTATION.—There are  
 7 authorized to be appropriated to the Secretary of Trans-  
 8 portation to carry out this title and sections 20118 and  
 9 24316 of title 49, United States Code, as added by this  
 10 title—

11 (1) \$225,000,000 for fiscal year 2007;

12 (2) \$223,000,000 for fiscal year 2008; and

13 (3) \$223,000,000 for fiscal year 2009.

## 14 **TITLE III—IMPROVED MARITIME** 15 **SECURITY**

### 16 **SEC. 300. SHORT TITLE.**

17 This title may be cited as the “Maritime Security Im-  
 18 provement Act of 2006”.

### 19 **SEC. 301. ESTABLISHMENT OF ADDITIONAL INTERAGENCY** 20 **OPERATIONAL CENTERS FOR PORT SECU-** 21 **RITY.**

22 (a) IN GENERAL.—In order to improve interagency  
 23 cooperation, unity of command, and the sharing of intel-  
 24 ligence information in a common mission to provide great-  
 25 er protection for port and intermodal transportation sys-

1 tems against acts of terrorism, the Secretary of Homeland  
2 Security, acting through the Commandant of the Coast  
3 Guard, shall establish interagency operational centers for  
4 port security at all high priority ports.

5 (b) CHARACTERISTICS.—The interagency operational  
6 centers shall—

7 (1) be based on the most appropriate  
8 compositional and operational characteristics of the  
9 pilot project interagency operational centers for port  
10 security in Miami, Florida, Norfolk/Hampton Roads,  
11 Virginia, Charleston, South Carolina, and San  
12 Diego, California;

13 (2) be adapted to meet the security needs, re-  
14 quirements, and resources of the individual port area  
15 at which each is operating;

16 (3) provide for participation by representatives  
17 of the United States Customs and Border Protec-  
18 tion, the Transportation Security Administration,  
19 the Department of Defense, and other Federal agen-  
20 cies, as determined to be appropriate by the Sec-  
21 retary of Homeland Security, and State and local  
22 law enforcement or port security agencies and per-  
23 sonnel; and

24 (4) be incorporated in the implementation of—

1 (A) maritime transportation security plans  
2 developed under section 70103 of title 46,  
3 United States Code;

4 (B) maritime intelligence activities under  
5 section 70113 of that title;

6 (C) short and long range vessel tracking  
7 under sections 70114 and 70115 of that title;

8 (D) secure transportation systems under  
9 section 70116 of that title;

10 (E) the United States Customs and Border  
11 Protection's screening and high-risk cargo in-  
12 spection programs; and

13 (F) the transportation security incident re-  
14 sponse plans required by section 70104 of that  
15 title.

16 (c) 2005 ACT REPORT REQUIREMENT.—Nothing in  
17 this section relieves the Commandant of the Coast Guard  
18 from compliance with the requirements of section 807 of  
19 the Coast Guard and Maritime Transportation Act of  
20 2004. The Commandant shall utilize the information de-  
21 veloped in making the report required by that section in  
22 carrying out the requirements of this section.

23 (d) BUDGET AND COST-SHARING ANALYSIS.—Within  
24 180 days after the date of enactment of this Act, the Sec-  
25 retary shall transmit to the Senate Committee on Com-

merce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a proposed budget analysis for implementing subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the interagency operation of the centers.

**SEC. 302. AREA MARITIME TRANSPORTATION SECURITY**  
**PLAN TO INCLUDE SALVAGE RESPONSE**  
**PLAN.**

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) by striking “and” after the semicolon in subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

“(F) include a salvage response plan—

“(i) to identify salvage equipment capable of restoring operational trade capacity; and

“(ii) to ensure that the flow of cargo through United States ports is re-estab-

1                   lished as efficiently and quickly as possible  
 2                   after a transportation security incident.”.

3 **SEC. 303. POST-INCIDENT RESUMPTION OF TRADE.**

4       Section 70103(a)(2)(J) of title 46, United States  
 5 Code, is amended by inserting after “incident.” the fol-  
 6 lowing: “The plan shall provide, to the extent practicable,  
 7 preference in the reestablishment of the flow of cargo  
 8 through United States ports after a transportation secu-  
 9 rity incident to—

10                   “(i) vessels that have a vessel security plan  
 11                   approved under subsection (c);

12                   “(ii) vessels manned by individuals who are  
 13                   described in section 70105(b)(2)(B) and who  
 14                   have undergone a background records check  
 15                   under section 70105(d) or who hold transpor-  
 16                   tation security cards issued under section  
 17                   70105; and

18                   “(iii) vessels on which all the cargo has un-  
 19                   dergone screening and inspection under stand-  
 20                   ards and procedures established under section  
 21                   70116(b)(2) of this title.”.

22 **SEC. 304. ASSISTANCE FOR FOREIGN PORTS.**

23       (a) IN GENERAL.—Section 70109 of title 46, United  
 24 States Code, is amended—



1           (1) by striking the section heading and insert-  
2           ing the following:

3   **“§ 70109. International cooperation and coordina-**  
4           **tion” ; and**

5           (2) by adding at the end the following:

6   “(c) FOREIGN ASSISTANCE PROGRAMS.—

7           “(1) IN GENERAL.—The Secretary, in consulta-  
8           tion with the Secretary of Transportation, the Sec-  
9           retary of State, the Secretary of Energy, and the  
10          Commandant of the United States Coast Guard,  
11          shall identify foreign assistance programs that could  
12          facilitate implementation of port security  
13          antiterrorism measures in foreign countries. The  
14          Secretary shall establish a program to utilize those  
15          programs that are capable of implementing port se-  
16          curity antiterrorism measures at ports in foreign  
17          countries that the Secretary finds, under section  
18          70108, to lack effective antiterrorism measures.

19          “(2) CARIBBEAN BASIN.—The Secretary, in co-  
20          ordination with the Secretary of State and in con-  
21          sultation with the Organization of American States  
22          and the Commandant of the United States Coast  
23          Guard, shall place particular emphasis on utilizing  
24          programs to facilitate the implementation of port se-  
25          curity antiterrorism measures at the ports located in

1 the Caribbean Basin, as such ports pose unique se-  
2 curity and safety threats to the United States due  
3 to—

4 “(A) the strategic location of such ports  
5 between South America and United States;

6 “(B) the relative openness of such ports;  
7 and

8 “(C) the significant number of shipments  
9 of narcotics to the United States that are  
10 moved through such ports.

11 “(d) INTERNATIONAL CARGO SECURITY STAND-  
12 ARDS.—The Secretary of State, in consultation with the  
13 Secretary acting through the Commissioner of Customs  
14 and Border Protection, shall enter into negotiations with  
15 foreign governments and international organizations, in-  
16 cluding the International Maritime Organization, the  
17 World Customs Organization, the International Labor Or-  
18 ganization, and the International Standards Organization,  
19 as appropriate—

20 “(1) to promote standards for the security of  
21 containers and other cargo moving within the inter-  
22 national supply chain;

23 “(2) to encourage compliance with minimum  
24 technical requirements for the capabilities of non-  
25 intrusive inspection equipment, including imaging

1 and radiation detection devices, established under  
2 section 306 of the Maritime Security Improvement  
3 Act of 2006;

4 “(3) to implement the requirements of the con-  
5 tainer security initiative under section 70121; and

6 “(4) to implement standards and procedures es-  
7 tablished under section 70116.”.

8 (b) REPORT ON SECURITY AT PORTS IN THE CARIB-  
9 BEAN BASIN.—Not later than 180 days after the date of  
10 enactment of this Act, the Comptroller General shall sub-  
11 mit to the Senate Committee on Commerce, Science, and  
12 Transportation, the House of Representatives Committee  
13 on Transportation and Infrastructure, and the House of  
14 Representatives Committee on Homeland Security a re-  
15 port on the security of ports in the Caribbean Basin. The  
16 report—

17 (1) shall include—

18 (A) an assessment of the effectiveness of  
19 the measures employed to improve security at  
20 ports in the Caribbean Basin and recommenda-  
21 tions for any additional measures to improve  
22 such security;

23 (B) an estimate of the number of ports in  
24 the Caribbean Basin that will not be secured by  
25 January 1, 2007, and an estimate of the finan-

1           cial impact in the United States of any action  
 2           taken pursuant to section 70110 of title 46,  
 3           United States Code, that affects trade between  
 4           such ports and the United States; and

5           (C) an assessment of the additional re-  
 6           sources and program changes that are nec-  
 7           essary to maximize security at ports in the Car-  
 8           ibbean Basin; and

9           (2) may be submitted in both classified and re-  
 10          dacted formats.

11          (c) CONFORMING AMENDMENT.—The chapter anal-  
 12          ysis for chapter 701 of title 46, United States Code, is  
 13          amended by striking the item relating to section 70901  
 14          and inserting the following:

“70901. International cooperation and coordination”.

15       **SEC. 305. IMPROVED DATA FOR TARGETED CARGO**  
 16                               **SEARCHES.**

17          (a) IN GENERAL.—In order to provide the best pos-  
 18          sible data for the automated targeting system developed  
 19          and operated by United States Customs and Border Pro-  
 20          tection under section 70116(b)(1) of title 46, United  
 21          States Code, that identifies high-risk cargo for inspection  
 22          before it is loaded in a foreign port for shipment to the  
 23          United States, the Secretary of Homeland Security, acting  
 24          through the Commissioner of Customs and Border Protec-  
 25          tion, shall require importers shipping goods to the United

1 States via cargo container to supply entry data not later  
 2 than 24 hours before loading a container under the ad-  
 3 vance notification requirements under section 484(a)(2) of  
 4 the Tariff Act of 1930 (19 U.S.C. 1484(a)(2)).

5 (b) DEADLINE.—The requirement imposed under  
 6 subsection (a) shall apply to goods entered after July 1,  
 7 2006.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—

9 (1) There are authorized to be appropriated to  
 10 the Secretary of Homeland Security to carry out the  
 11 automated targeting system program to identify  
 12 high-risk oceanborne container cargo for inspec-  
 13 tion—

14 (A) \$30,700,000 for fiscal year 2007;

15 (B) \$33,200,000 for fiscal year 2008; and

16 (C) \$35,700,000 for fiscal year 2009.

17 (2) The amounts authorized by this subsection  
 18 shall be in addition to any other amounts authorized  
 19 to be appropriated to carry out that program.

20 **SEC. 306. TECHNICAL REQUIREMENTS FOR NON-INTRUSIVE**  
 21 **INSPECTION EQUIPMENT.**

22 Within 2 years after the date of enactment of this  
 23 Act, the Commissioner of Customs and Border Protection,  
 24 in consultation with the National Institute of Science and  
 25 Technology, shall initiate a rulemaking to establish min-

1 imum technical requirements for the capabilities of non-  
2 intrusive inspection equipment, including imaging and ra-  
3 diation detection devices, that help ensure that all equip-  
4 ment used can detect risks and threats as determined ap-  
5 propriate by the Secretary, while considering the need not  
6 to endorse specific companies or to create sovereignty con-  
7 flicts with participating countries.

8 **SEC. 307. RANDOM INSPECTION OF CONTAINERS.**

9       Within 1 year after the date of enactment of this Act,  
10 the Commissioner of Customs and Border Protection shall  
11 develop and implement a plan, utilizing best practices for  
12 empirical scientific research design and random sampling  
13 standards for random physical inspection of shipping con-  
14 tainers in addition to any targeted or pre-shipment inspec-  
15 tion of such containers required by law or regulation or  
16 conducted under any other program conducted by the  
17 Commissioner. Nothing in this section shall be construed  
18 to mean that implementation of the random sampling plan  
19 would preclude the additional physical inspection of ship-  
20 ping containers not inspected pursuant to the plan.

21 **SEC. 308. CARGO SECURITY.**

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

24               (1) by redesignating the second section 70118  
25       (relating to withholding of clearance), as added by

1 section 802(a)(2) of the Coast Guard and Maritime  
2 Transportation Act of 2004, as section 70119;

3 (2) by redesignating the first section 70119 (re-  
4 lating to enforcement by State and local officers), as  
5 added by section 801(a) of the Coast Guard and  
6 Maritime Transportation Act of 2004, as section  
7 70120;

8 (3) by redesignating the second section 70119  
9 (relating to civil penalty), as redesignated by section  
10 802(a)(1) of the Coast Guard and Maritime Trans-  
11 portation Act of 2004, as section 70122; and

12 (4) by inserting after section 70120, as redesign-  
13 nated by paragraph (2), the following:

14 **“§ 70121. Container security initiative**

15 “(a) IN GENERAL.—Pursuant to the standards estab-  
16 lished under subsection (b)(1) of section 70116—

17 “(1) the Secretary, through the Commissioner  
18 of Customs and Border Protection, shall issue regu-  
19 lations to—

20 “(A) evaluate and screen cargo documents  
21 prior to loading in a foreign port for shipment  
22 to the United States, either directly or via a  
23 foreign port; and

24 “(B) inspect high-risk cargo in a foreign  
25 port intended for shipment to the United States

1 by physical examination or nonintrusive exam-  
 2 ination by technological means; and

3 “(2) the Commissioner of Customs and Border  
 4 Protection shall execute inspection and screening  
 5 protocols with authorities in foreign ports to ensure  
 6 that the standards and procedures promulgated  
 7 under paragraph (1) are implemented in an effective  
 8 manner.

9 “(b) EXTENSION OF CONTAINER SECURITY INITIA-  
 10 TIVE TO OTHER PORTS.—The Secretary, through the  
 11 Commissioner of Customs and Border Protection, may  
 12 designate foreign seaports under this section if, with re-  
 13 spect to any such seaport, the Secretary determines that—

14 “(1) the seaport—

15 “(A) presents a significant level of risk;

16 “(B) is a significant port or origin or  
 17 transshipment, in terms of volume or value, for  
 18 cargo being imported to the United States; and

19 “(C) is potentially capable of validating a  
 20 secure system of transportation pursuant to  
 21 section 70116; and

22 “(2) the Department of State and representa-  
 23 tives of the country with jurisdiction over the port  
 24 have completed negotiations to ensure compliance



1 with the requirements of the container security ini-  
 2 tiative.

3 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
 4 are authorized to be appropriated to the Secretary to carry  
 5 out this section—

6 “(1) \$142,000,000 for fiscal year 2007;

7 “(2) \$144,000,000 for fiscal year 2008; and

8 “(3) \$146,000,000 for fiscal year 2009.”.

9 (b) CONFORMING AMENDMENTS.—

10 (1) The chapter analysis for chapter 701 of title  
 11 46, United States Code, is amended by striking the  
 12 items following the item relating to section 70116  
 13 and inserting the following:

“70117. In rem liability for civil penalties and certain costs

“70118. Firearms, arrests, and seizure of property

“70119. Withholding of clearance

“70120. Enforcement by State and local officers

“70121. Container security initiative

“70122. Civil penalty”.

14 (2) Section 70117(a) of title 46, United States  
 15 Code, is amended by striking “section 70120” and  
 16 inserting “section 70122”.

17 (3) Section 70119(a) of such title, as redesign-  
 18 nated by subsection (a)(1) of this section, is amend-  
 19 ed—

20 (A) by striking “under section 70119,”  
 21 and inserting “under section 70122,”; and

1 (B) by striking “under section 70120,”  
 2 and inserting “under that section,”.

3 (4) Section 111 of the Maritime Transportation  
 4 Security Act of 2002 is repealed.

5 **SEC. 309. SECURE SYSTEMS OF INTERNATIONAL INTER-**  
 6 **MODAL TRANSPORTATION.**

7 Section 70116 of title 46, United States Code, is  
 8 amended—

9 (1) by striking “transportation.” in subsection  
 10 (a) and inserting “transportation—

11 “(1) to ensure the security and integrity of  
 12 shipments of goods to the United States from the  
 13 point at which such goods are initially packed or  
 14 loaded into a cargo container for international ship-  
 15 ment until they reach their ultimate destination; and

16 “(2) to facilitate the movement of such goods  
 17 through the entire supply chain through an expe-  
 18 dited security and clearance program.”; and

19 (2) by striking subsection (b) and inserting the  
 20 following:

21 “(b) PROGRAM ELEMENTS.—In establishing and con-  
 22 ducting the program under subsection (a) the Secretary,  
 23 acting through the Commissioner of Customs and Border  
 24 Protection, shall—

1           “(1) establish standards and procedures for  
2     verifying, at the point at which goods are placed in  
3     a cargo container for shipping, that the container is  
4     free of unauthorized hazardous chemical, biological,  
5     or nuclear material and for securely sealing such  
6     containers after the contents are so verified;

7           “(2) establish standards and procedures for  
8     screening and evaluating cargo prior to loading in a  
9     foreign port for shipment to the United States either  
10    directly or via a foreign port;

11          “(3) establish standards and procedures for se-  
12    curing cargo and monitoring that security while in  
13    transit;

14          “(4) develop performance standards to enhance  
15    the physical security of shipping containers, includ-  
16    ing performance standards for seals and locks;

17          “(5) establish standards and procedures for allow-  
18    ing the United States Government to ensure and  
19    validate compliance with this program; and

20          “(6) incorporate any other measures the Secretary  
21    considers necessary to ensure the security and integ-  
22    rity of international intermodal transport move-  
23    ments.

1       “(c) BENEFITS FROM PARTICIPATION.—The Com-  
 2       missioner of Customs and Border Protection may provide  
 3       expedited clearance of cargo to an entity that—

4               “(1) meets or exceeds the standards established  
 5       under subsection (b); and

6               “(2) certifies the security of its supply chain  
 7       not less often than once every 2 years to the Sec-  
 8       retary.”.

9       **SEC. 310. PORT SECURITY USER FEE STUDY.**

10       The Secretary of Homeland Security shall conduct a  
 11       study of the need for, and feasibility of, establishing a sys-  
 12       tem of oceanborne and port-related intermodal transpor-  
 13       tation user fees that could be imposed and collected as  
 14       a dedicated revenue source, on a temporary or continuing  
 15       basis, to provide necessary funding for the improvement  
 16       and maintenance of enhanced port security. Within 1 year  
 17       after date of enactment of this Act, the Secretary shall  
 18       submit a report to the Senate Committee on Commerce,  
 19       Science, and Transportation, the House of Representa-  
 20       tives Committee on Transportation and Infrastructure,  
 21       and the House of Representatives Committee on Home-  
 22       land Security that—

23               (1) contains the Secretary’s findings, conclu-  
 24       sions, and recommendations (including legislative  
 25       recommendations if appropriate); and

1           (2) includes an assessment of the annual  
2           amount of customs fees and duties collected through  
3           oceanborne and port-related transportation and the  
4           amount and percentage of such fees and duties that  
5           are dedicated to improve and maintain security.

6 **SEC. 311. DEADLINE FOR TRANSPORTATION SECURITY**  
7 **CARDS.**

8           The Secretary shall issue a final rule under section  
9 70105 of title 46, United States Code, no later than Janu-  
10 ary 1, 2007.

11 **SEC. 312. PORT SECURITY GRANTS.**

12           (a) BASIS FOR GRANTS.—Section 70107(a) of title  
13 46, United States Code, is amended by striking “for mak-  
14 ing a fair and equitable allocation of funds” and inserting  
15 “based on risk and vulnerability”.

16           (b) ELIGIBLE COSTS.—Section 70107(b) of title 46,  
17 United States Code, is amended by striking paragraph (1)  
18 and redesignating paragraphs (2) through (4) as para-  
19 graphs (1) through (3), respectively.

20           (c) LETTERS OF INTENT.—Section 70107(e) of title  
21 46, United States Code, is amended by adding at the end  
22 the following:

23                   “(5) LETTERS OF INTENT.—The Secretary may  
24           execute letters of intent to commit funding to port  
25           sponsors from the Fund.”.

1 **SEC. 313. CUSTOMS-TRADE PARTNERSHIP AGAINST TER-**  
2 **RORISM SECURITY VALIDATION PROGRAM.**

3 (a) IN GENERAL.—Chapter 701 of title 46, United  
4 States Code, as amended by section 308 of this title, is  
5 further amended—

6 (1) by redesignating section 70122 (as redesign-  
7 nated by section 538(a)(3) of this title) as section  
8 70123; and

9 (2) by inserting after section 70121 the fol-  
10 lowing:

11 **“§ 70122. Customs-Trade Partnership Against Ter-**  
12 **rorism validation program**

13 “(a) VALIDATION; RECORDS MANAGEMENT.—The  
14 Secretary of Homeland Security, through the Commis-  
15 sioner of Customs and Border Protection, shall issue regu-  
16 lations—

17 “(1) to strengthen the validation process to  
18 verify that security programs of members of the  
19 Customs-Trade Partnership Against Terrorism have  
20 been implemented and that the program benefits  
21 should continue by providing appropriate guidance  
22 to specialists conducting such validations, including  
23 establishing what level of review is adequate to de-  
24 termine whether member security practices are reli-  
25 able, accurate, and effective; and

1           “(2) to implement a records management sys-  
2           tem that documents key decisions and significant  
3           operational events accurately and in a timely man-  
4           ner, including a reliable system for—

5                   “(A) documenting and maintaining records  
6                   of all decisions in the application through vali-  
7                   dation processes, including documentation of  
8                   the objectives, scope, methodologies, and limita-  
9                   tions of validations; and

10                   “(B) tracking member status.

11           “(b) HUMAN CAPITAL PLAN.—Within 6 months after  
12 the date of enactment of the Maritime Security Improve-  
13 ment Act of 2006, the Secretary shall complete a human  
14 capital plan, that clearly describes how the Customs-Trade  
15 Partnership Against Terrorism program will recruit, train,  
16 and retain sufficient staff to conduct the work of the pro-  
17 gram successfully, including reviewing security profiles,  
18 vetting, and conducting validations to mitigate program  
19 risk.”.

20           (b) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated to the Secretary of  
22 Homeland Security to carry out section 70122 of title 49,  
23 United States Code, not to exceed—

24                   (1) \$60,000,000 for fiscal year 2007;

25                   (2) \$65,000,000 for fiscal year 2008; and

1           (3) \$72,000,000 for fiscal year 2009.

2           (c) CONFORMING AMENDMENTS.—

3           (1) The chapter analysis for chapter 701 of title  
4           46, United States Code, as amended by section  
5           308(b) of this title, is further amended by striking  
6           the item relating to section 70122 and inserting the  
7           following:

“70122. Customs-Trade Partnership Against Terrorism validation program  
“70123. Civil penalty”.

8           (2) Section 70117(a) and 70119(a) of title 46,  
9           United States Code, as amended by section  
10          308(b)(2) and (3), respectively, of this Act, are each  
11          amended by striking “section 70122,” and inserting  
12          “section 70123,”.

13 **SEC. 314. WORK STOPPAGES AND EMPLOYEE-EMPLOYER**  
14 **DISPUTES.**

15          Section 70101(6) is amended by inserting after  
16          “area.” the following: “In this paragraph, the term ‘eco-  
17          nomic disruption’ does not include a work stoppage or  
18          other nonviolent employee-related action resulting from an  
19          employee-employer dispute.”.

20 **SEC. 315. APPEAL OF DENIAL OF WAIVER FOR TRANSPOR-**  
21 **TATION SECURITY CARD.**

22          Section 70105(c)(3) of title 46, United States Code,  
23          is amended by inserting “or a waiver under paragraph  
24          (2)” after “card”.



1 **SEC. 316. INSPECTION OF CAR FERRIES ENTERING FROM**  
2 **CANADA.**

3       Within 120 days after the date of enactment of this  
4 Act, the Secretary of Homeland Security, acting through  
5 the Commissioner of Customs and Border Protection, in  
6 coordination with the Secretary of State, and their Cana-  
7 dian counterparts, shall develop a plan for the inspection  
8 of passengers and vehicles before such passengers board,  
9 or such vehicles are loaded onto, a ferry bound for a  
10 United States port.

**Calendar No. 430**

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**S. 2791**

**A BILL**

To amend titles 46 and 49, United States Code, to provide improved maritime, rail, and public transportation security, and for other purposes.

MAY 12, 2006

Read the second time and placed on the calendar