

110TH CONGRESS
1ST SESSION

S. 1594

To amend title 46, United States Code, to improve port safety and security
for especially hazardous cargos, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 12, 2007

Mr. LAUTENBERG (for himself, Mr. INOUYE, Mr. SMITH, and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 46, United States Code, to improve port safety and security for especially hazardous cargos, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Maritime Hazardous Cargo Security Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. International committee for the safe and secure transportation of especially hazardous cargo.

Sec. 3. Validation of compliance with ISPFC standards.

Sec. 4. Safety and security assistance for foreign ports.
Sec. 5. Coast Guard port assistance program.
Sec. 6. EHC facility risk-based cost sharing.
Sec. 7. Transportation security incident mitigation plan.
Sec. 8. Coast Guard national resource allocation plan.
Sec. 9. Incident command system training.
Sec. 10. Conveyance of certain National Defense Reserve Fleet Vessels.
Sec. 11. Pre-positioning interoperable communications equipment at inter-agency operational centers.
Sec. 12. Definitions.

1 **SEC. 2. INTERNATIONAL COMMITTEE FOR THE SAFE AND**
2 **SECURE TRANSPORTATION OF ESPECIALLY**
3 **HAZARDOUS CARGO.**

4 (a) IN GENERAL.—Chapter 701 of title 46, United
5 States Code, is amended by inserting after section 70109
6 the following:

7 **“§ 70109A. International committee for the safe and**
8 **secure transportation of especially haz-**
9 **ardous cargo**

10 “(a) IN GENERAL.—The Secretary, in consultation
11 with the Secretary of State and other appropriate entities,
12 shall, in a manner consistent with international treaties,
13 conventions, and agreements to which the United States
14 is a party, establish a committee that includes representa-
15 tives of United States trading partners that supply tank
16 or break-bulk shipments of especially hazardous cargo to
17 the United States.

18 “(b) SAFE AND SECURE LOADING, UNLOADING, AND
19 TRANSPORTATION OF ESPECIALLY HAZARDOUS CAR-
20 GOES.—In carrying out this section, the Secretary, in co-

1 operation with the International Maritime Organization
2 and in consultation with the International Standards Or-
3 ganization and shipping industry stakeholders, shall de-
4 velop protocols, procedures, standards, and requirements
5 for receiving, handling, loading, unloading, vessel crewing,
6 and transportation of especially hazardous cargo to pro-
7 mote the safe and secure operation of ports, facilities, and
8 vessels that transport especially hazardous cargo to the
9 United States.

10 “(c) DEADLINES.—The Secretary shall—

11 “(1) initiate the development of the committee
12 within 180 days after the date of enactment of the
13 Maritime Hazardous Cargo Security Act; and

14 “(2) endeavor to have the protocols, procedures,
15 standards, and requirements developed by the com-
16 mittee take effect within 3 years after the date of
17 enactment of that Act.

18 “(d) REPORTS.—The Secretary shall report annually
19 to the Senate Committee on Commerce, Science, and
20 Transportation, the House of Representatives Committee
21 on Transportation and Infrastructure, and the House of
22 Representatives Committee on Homeland Security on the
23 development, implementation, and administration of the
24 protocols, procedures, standards, and requirements devel-
25 oped by the committee established under subsection (a).”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
2 ysis for chapter 701 of title 46, United States Code, is
3 amended by inserting after the item relating the section
4 70109 the following:

“70109A. International committee for the safe and secure transportation of es-
pecially hazardous cargo.”.

5 **SEC. 3. VALIDATION OF COMPLIANCE WITH ISPFC STAND-
6 ARDS.**

7 (a) IN GENERAL.—Chapter 701 of title 46, United
8 States Code, is amended by inserting after section 70110
9 the following:

10 **“70110A. Port safety and security validations**

11 “(a) IN GENERAL.—The Secretary, in consultation
12 with the Secretary of State, shall, in a manner consistent
13 with international treaties, conventions, and agreements
14 to which the United States is a party, develop and imple-
15 ment a voluntary program under which foreign ports and
16 facilities can certify their compliance with applicable Inter-
17 national Ship and Port Facility Code standards.

18 “(b) THIRD-PARTY VALIDATION.—

19 “(1) IN GENERAL.—In carrying out this sec-
20 tion, the Secretary, in cooperation with the Inter-
21 national Maritime Organization and the Inter-
22 national Standards Organization, shall develop and
23 implement a program under which independent,
24 third-party entities are certified to validate a foreign

1 port's or facility's compliance under the program de-
2 veloped under subsection (a).

3 "(2) PROGRAM COMPONENTS.—The inter-
4 national program shall include—

5 "(A) international inspection protocols and
6 procedures;

7 "(B) minimum validation standards to en-
8 sure a port or facility meets the applicable
9 International Ship and Port Facility Code
10 standards;

11 "(C) recognition for foreign ports or facili-
12 ties that exceed the minimum standards;

13 "(D) uniform performance metrics by
14 which inspection validations are to be con-
15 ducted;

16 "(E) a process for notifying a port or facil-
17 ity, and its host nation, of areas of concern
18 about the port's or facility's failure to comply
19 with International Ship and Port Facility Code
20 standards;

21 "(F) provisional or probationary valida-
22 tions;

23 "(G) conditions under which routine moni-
24 toring is to occur if a port or facility receives
25 a provisional or probationary validation;

1 “(H) a process by which failed validations
2 can be appealed; and

3 “(I) an appropriate cycle for re-inspection
4 and validation.

5 “(c) CERTIFICATION OF THIRD PARTY ENTITIES.—

6 The Secretary may not certify a third party entity to vali-
7 date ports or facilities under subsection (b) unless—

8 “(1) the entity demonstrates to the satisfaction
9 of the Secretary the ability to perform validations in
10 accordance with the standards, protocols, proce-
11 dures, and requirements established by the program
12 implemented under subsection (a); and

13 “(2) the entity has no beneficial interest in or
14 any direct control over the port and facilities being
15 inspected and validated.

16 “(d) MONITORING—The Secretary shall regularly
17 monitor and audit the operations of each third party entity
18 conducting validations under this section to ensure that
19 it is meeting the minimum standards, operating protocols,
20 procedures, and requirements established by international
21 agreement.

22 “(e) REVOCATION.—The Secretary shall revoke the
23 certification of any entity determined by the Secretary not
24 to meet the minimum standards, operating protocol, pro-

1 cedures, and requirements established by international
2 agreement for third party entity validations.

3 “(f) PROTECTION OF SECURITY AND PROPRIETARY
4 INFORMATION.—In carrying out this section, the Sec-
5 retary shall take appropriate actions to protect from dis-
6 closure information that—

7 “(1) is security sensitive, proprietary, or busi-
8 ness sensitive; or

9 “(2) is otherwise not appropriately in the public
10 domain.

11 “(g) DEADLINES.—The Secretary shall—

12 “(1) initiate procedures to carry out this section
13 within 180 days after the date of enactment of the
14 Maritime Hazardous Cargo Security Act; and

15 “(2) develop standards under subsection (b) for
16 third party validation within 2 years after the date
17 of enactment of that Act.

18 “(h) REPORTS.—The Secretary shall report annually
19 to the Senate Committee on Commerce, Science, and
20 Transportation, the House of Representatives Committee
21 on Transportation and Infrastructure, and the House of
22 Representatives Committee on Homeland Security on ac-
23 tivities conducted pursuant to this section.”.

24 (c) CONFORMING AMENDMENT.—The chapter anal-
25 ysis for chapter 701 of title 46, United States Code, is

1 amended by inserting after the item relating to section
2 70110 the following:

“70110A. Port safety and security validations.”.

3 **SEC. 4. SAFETY AND SECURITY ASSISTANCE FOR FOREIGN**
4 **PORTS.**

5 (a) IN GENERAL.—Section 70110(e)(1) of title 46,
6 United States Code, is amended by striking the second
7 sentence and inserting the following: “The Secretary shall
8 establish a strategic plan to utilize those assistance pro-
9 grams to assist ports and facilities that are found by the
10 Secretary under subsection (a) not to maintain effective
11 antiterrorism measures in the implementation of port se-
12 curity antiterrorism measures.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 70110 of title 46, United States
15 Code, is amended—

16 (A) by inserting “**OR FACILITIES**”
17 after “**PORTS**” in the section heading;

18 (B) by inserting “or facility” after “port”
19 each place it appears; and

20 (C) by striking “PORTS” in the heading
21 for subsection (e) and inserting “PORTS, FA-
22 CILITIES.”.

23 (2) The chapter analysis for chapter 701 of title
24 46, United States Code, is amended by striking the

1 item relating to section 70110 and inserting the fol-
2 lowing:

“70110. Actions and assistance for foreign ports or facilities and United States territories.”.

3 **SEC. 5. COAST GUARD PORT ASSISTANCE PROGRAM.**

4 Section 70110 of title 46, United States Code, is
5 amended by adding at the end thereof the following:

6 **“(f) COAST GUARD LEND-LEASE ASSISTANCE.—**

7 **“(1) IN GENERAL.—**The Secretary may lend,
8 lease, or otherwise provide equipment, and provide
9 technical training and support, to the owner or oper-
10 ator of a foreign port or facility—

11 **“(A) to assist in bringing the port or facil-**
12 **ity into compliance with applicable International**
13 **Ship and Port Facility Code standards;**

14 **“(B) to assist the port or facility in meet-**
15 **ing standards established under section 70109A**
16 **of this chapter; and**

17 **“(C) to assist the port or facility in exceed-**
18 **ing the standards described in subparagraph**
19 **(A) and (B).**

20 **“(2) CONDITIONS.—**The Secretary—

21 **“(A) shall provide such assistance based**
22 **upon an assessment of the risks to the security**
23 **of the United States and the inability of the**
24 **owner or operator of the port or facility other-**

1 wise to bring the port or facility into compli-
2 ance with those standards and to maintain com-
3 pliance with them; but

4 “(B) may not provide such assistance un-
5 less the facility or port has been subjected to a
6 comprehensive port security assessment by the
7 Coast Guard or a third party entity certified by
8 the Secretary under section 70110A(b) to vali-
9 date foreign port or facility compliance with
10 International Ship and Port Facility Code
11 standards.

12 “(3) DEADLINE.—The Secretary shall identify
13 ports and facilities that qualify for assistance under
14 this subsection within 180 days after the date of en-
15 actment of the Maritime Hazardous Cargo Security
16 Act.

17 “(4) AUTHORIZATION OF APPROPRIATIONS.—
18 There are authorized to be appropriated to the Sec-
19 retary such sums as may be necessary to carry out
20 this subsection.”.

21 SEC. 6. EHC FACILITY RISK-BASED COST SHARING.

22 The Commandant shall identify facilities sited or con-
23 structed on or adjacent to the navigable waters of the
24 United States that receive, handle, load, or unload espe-
25 cially hazardous cargos that pose a risk greater than an

1 acceptable risk threshold, as determined by the Secretary
2 under a uniform risk assessment methodology. The Sec-
3 retary may establish a security cost-share plan to assist
4 the Coast Guard in providing security for the transpor-
5 tation of especially hazardous cargo to such facilities.

6 **SEC. 7. TRANSPORTATION SECURITY INCIDENT MITIGA-**
7 **TION PLAN.**

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

10 (1) by redesignating subparagraphs (E)
11 through (G) as subparagraphs (F) through (H), re-
12 spectively; and

13 (2) by inserting after subparagraph (D) the fol-
14 lowing:

15 “(E) establish regional response and recovery
16 protocols to prepare for, respond to, mitigate
17 against, and recover from a transportation security
18 incident consistent with section 202 of the Security
19 and Accountability for Every Port Act of 2006 (6
20 U.S.C. 942) and section 70103(a) of title 46, United
21 States Code;”.

22 **SEC. 8. COAST GUARD NATIONAL RESOURCE ALLOCATION**
23 **PLAN.**

24 The Commandant shall develop a national resource
25 allocation plan for Coast Guard assets and resources nec-

1 essary to meet safety and security requirements associated
2 with receiving, handling, and loading especially hazardous
3 cargo at United States ports and facilities, taking into ac-
4 count the Coast Guard assets and resources necessary to
5 execute other Coast Guard missions. The Secretary shall
6 submit the plan to the Congress at the same time as the
7 President submits the Budget of the United States for fis-
8 cal year 2009, together with an estimate of the operational
9 and capital costs required to assure an acceptable level
10 of safety and security under the plan.

11 **SEC. 9. INCIDENT COMMAND SYSTEM TRAINING.**

12 The Secretary shall ensure that Federal, State, and
13 local personnel responsible for the safety and security of
14 vessels in port carrying especially hazardous cargo have
15 successfully completed training in the Coast Guard's inci-
16 dent command system.

17 **SEC. 10. CONVEYANCE OF CERTAIN NATIONAL DEFENSE
18 RESERVE FLEET VESSELS.**

19 Section 57102 of title 46, United States Code, is
20 amended—

21 (1) by striking “vessel or sell the vessel for
22 cash.” in subsection (a) and inserting “vessel, sell
23 the vessel for cash, or convey the vessel under sub-
24 section (c) to the owner or operator of a port.”; and
25 (2) by adding at the end thereof the following:

1 “(c) CONVEYANCE TO PORT AUTHORITY.—The Sec-
2 retary, after consultation with the Maritime Administra-
3 tion, may convey a vessel described in subsection (a) to
4 the owner or operator of a United States or foreign port—
5 “(1) for use in safety or security operations at
6 that port;

7 “(2) with or without compensation; and
8 “(3) subject to such limitations on its use and
9 further disposition as the Secretary determines to be
10 appropriate.”.

11 **SEC. 11. PRE-POSITIONING INTEROPERABLE COMMUNICA-**
12 **TIONS EQUIPMENT AT INTERAGENCY OPER-**
13 **ATIONAL CENTERS.**

14 Section 70107A of title 46, United States Code, is
15 amended—

16 (1) by redesignating subsections (e) and (f) as
17 subsections (f) and (g), respectively; and
18 (2) by inserting after subsection (d) the fol-
19 lowing:

20 “(e) DEPLOYMENT OF INTEROPERABLE COMMUNICA-
21 TIONS EQUIPMENT AT INTERAGENCY OPERATIONAL CEN-
22 TERS.—

23 “(1) IN GENERAL.—The Secretary shall ensure
24 that interoperable communications technology is de-

1 ployed at all interagency operational centers estab-
2 lished under subsection (a).

3 “(2) CONSIDERATIONS.—In carrying out para-
4 graph (1), the Secretary shall consider the con-
5 tinuing technological evolution of communications
6 technologies and devices, with its implicit risk of ob-
7 solescence, and shall ensure, to the maximum extent
8 feasible, that a substantial part of the technology de-
9 ployed involves prenegotiated contracts and other ar-
10 rangements for rapid deployment of equipment, sup-
11 plies, and systems rather than the warehousing or
12 storage of equipment and supplies currently avail-
13 able at the time the technology is deployed.

14 “(3) REQUIREMENTS AND CHARACTERISTICS.—
15 The interoperable communications technology de-
16 ployed under paragraph (1) shall—

17 “(A) be capable of re-establishing commu-
18 nications when existing infrastructure is dam-
19 aged or destroyed in an emergency or a major
20 disaster;

21 “(B) include appropriate current, widely-
22 used equipment, such as Land Mobile Radio
23 Systems, cellular telephones and satellite equip-
24 ment, Cells-On-Wheels, Cells-On-Light-Trucks,
25 or other self-contained mobile cell sites that can

1 be towed, backup batteries, generators, fuel,
2 and computers;

3 “(C) include contracts (including
4 prenegotiated contracts) for rapid delivery of
5 the most current technology available from
6 commercial sources;

7 “(D) include arrangements for training to
8 ensure that personnel are familiar with the op-
9 eration of the equipment and devices to be de-
10 livered pursuant to such contracts; and

11 “(E) be utilized as appropriate during live
12 area exercises conducted by the United States
13 Coast Guard.

14 “(4) ADDITIONAL CHARACTERISTICS.—Portions
15 of the communications technology deployed under
16 paragraph (1) may be virtual and may include items
17 donated on an in-kind contribution basis.

18 “(5) RULE OF CONSTRUCTION.—Nothing in
19 this subsection shall be construed or interpreted to
20 preclude the use of funds under this section by the
21 Secretary for interim or long-term Internet Protocol-
22 based interoperable solutions, notwithstanding com-
23 pliance with the Project 25 standard.”.

24 **SEC. 12. DEFINITIONS.**

25 In this Act:

10 (3) SECRETARY.—The term “Secretary” means
11 the Secretary of the department in which the Coast
12 Guard is operating.