

109TH CONGRESS
2^D SESSION

S. 2367

To provide a cause of action for United States port operators with respect to the potential change of ownership of a terminal operator to a foreign entity, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 2006

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide a cause of action for United States port operators with respect to the potential change of ownership of a terminal operator to a foreign entity, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Port Security
5 Act of 2006”.

6 **SEC. 2. FEDERAL CAUSE OF ACTION ESTABLISHED.**

7 The owner of a United States port may file an action
8 seeking relief, including nullification of any contractual

1 obligation with any terminal operator within the port, in
2 any appropriate United States district court if a merger,
3 acquisition, or takeover transaction would result in a
4 change in the ownership of the terminal operator, and the
5 new owner would be a foreign controlled entity. Such relief
6 may be granted upon a showing by the owner of the port
7 of a demonstrated increase in the security risk to the port
8 or the port community as a result of such change in own-
9 ership.

10 **SEC. 3. REVIEW BY SECRETARY OF HOMELAND SECURITY.**

11 The Secretary of Homeland Security shall review any
12 proposed change in the ownership of a terminal operator
13 within a United States port to a foreign controlled entity
14 to determine the existence of any potential security con-
15 cerns raised by such change, and shall transmit the find-
16 ings of such review to the owner of the United States port
17 and to the President, or the President's designee, for pur-
18 poses of any investigation under section 721(b) of the De-
19 fense Production Act of 1950 (50 U.S.C. App. 2170(b)).

20 **SEC. 4. RULE OF CONSTRUCTION.**

21 Nothing in this Act may be construed to affect or
22 otherwise alter the requirements of section 721 of the De-
23 fense Production Act of 1950 (50 U.S.C. App. 2170), or
24 any rule, regulation, or order issued thereunder.

1 **SEC. 5. DEFINITIONS.**

2 As used in this Act—

3 (1) the term “United States port” means all
4 piers, wharves, docks, and similar structures, adja-
5 cent to any waters subject to the jurisdiction of the
6 United States, to which a vessel may be secured, in-
7 cluding areas of land, water, or land and water
8 under and in immediate proximity to such struc-
9 tures, buildings, on or contiguous to such structures,
10 and the equipment and materials on such structures
11 or in such buildings; and

12 (2) the term “marine terminal operator”—

13 (A) means the operator of the wharves,
14 bulkheads, quays, piers, docks, and other berth-
15 ing locations, and adjacent storage or adjacent
16 areas and structures associated with the pri-
17 mary movement of cargo or materials from ves-
18 sel to shore or shore to vessel, including struc-
19 tures which are devoted to receiving, handling,
20 holding, consolidating, and loading or delivery
21 of waterborne shipments or passengers, includ-
22 ing areas devoted to the maintenance of the ter-
23 minal or equipment; and

24 (B) does not include the operator of any
25 production or manufacturing areas, or any stor-

1 age facility directly associated with any such
2 production or manufacturing area;

3 (3) the term “port community” means the land
4 adjacent to and within 10 miles of a United States
5 port on which persons reside or work who could suf-
6 fer injury or death in the event of a terrorist attack
7 on or at the port; and

8 (4) the term “foreign controlled entity” means
9 any entity in which a foreign entity owns a majority
10 interest, or otherwise controls or manages the entity.

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