

111TH CONGRESS
2D SESSION

S. 3639

To provide for greater maritime transportation security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2010

Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for greater maritime 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Maritime Transpor-
5 tation Security Act of 2010”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—SMALL VESSEL SECURITY

Sec. 101. Recreational vessel operator education.

Sec. 102. America's Waterways Watch.

TITLE II—TRANSPORTATION OF ESPECIALLY HAZARDOUS CARGO

Sec. 201. International measures for the safe and secure transportation of especially hazardous cargo.

Sec. 202. Port security zones.

TITLE III—PORT AND FACILITY SECURITY

Sec. 301. Foreign port assessment, assistance, and training.

Sec. 302. Foreign ports assistance strategic plan.

Sec. 303. International port and facility inspection coordination.

Sec. 304. Regional transportation security incident mitigation plan.

Sec. 305. National tactical plans.

Sec. 306. Interagency operational centers for port security.

Sec. 307. Pre-positioning interoperable communications equipment at interagency operational centers.

Sec. 308. Establishment of a security individual.

Sec. 309. Seaman shoreside access.

Sec. 310. Risk based resource allocation.

Sec. 311. Use of maritime security risk assessment model.

Sec. 312. Integration of security plans and systems with local port authorities, State harbor divisions, and law enforcement agencies.

Sec. 313. Written agreements required between the Department of Homeland Security and public or private marine terminal operators.

Sec. 314. Port security training and certification.

Sec. 315. Maritime Security Advisory Committee extension.

Sec. 316. Vessel security plans for supply and similar vessels.

Sec. 317. Protection and fair treatment of seafarers.

TITLE IV—INTERNATIONAL INTERMODAL SUPPLY CHAIN SECURITY

Sec. 401. Single electronic window for filing vessel, crew, and passenger information.

Sec. 402. Maritime and cargo security integrated project teams.

Sec. 403. Risk based alignment of maritime security scanning requirements.

TITLE V—U.S. MARINER PROTECTION

Sec. 501. Use of force against piracy.

Sec. 502. Agreements.

TITLE VI—CREDENTIALING

Sec. 601. Authorization to extend the duration of licenses, certificates of registry, and merchant mariners' documents.

Sec. 602. Animal-propelled vessels.

TITLE VII—PORT SECURITY GRANTS

Sec. 701. Continuation of pilot program authority.

Sec. 702. Grants to tier 1 and tier 2 ports require regional strategic risk management assessment.

1 **TITLE I—SMALL VESSEL**
2 **SECURITY**

3 **SEC. 101. RECREATIONAL VESSEL OPERATOR EDUCATION.**

4 (a) IN GENERAL.—Section 4302(a) of title 46,
5 United States Code, is amended—

6 (1) by striking “and” after the semicolon in
7 paragraph (2);

8 (2) by striking “equipment.” in paragraph (3)
9 and inserting “equipment; and”; and

10 (3) by adding at the end the following:

11 “(4) establishing education standards for an op-
12 erator of a recreational vessel equipped with propul-
13 sion machinery of any kind, and requiring such op-
14 erator to carry a certificate, card, or other proof of
15 successful completion of a recreational boating safe-
16 ty course or test that conforms to the National
17 Boating Education Standards as recognized by the
18 United States Coast Guard.”.

19 (b) EXEMPTION AUTHORITY.—Section 4302 of title
20 46, United States Code, is amended—

21 (1) by redesignating subsection (d) as sub-
22 section (e); and

23 (2) by inserting after subsection (c) the fol-
24 lowing:

1 “(d) EXEMPTIONS.—The Secretary, in promulgating
2 regulations under this section, may consider providing ex-
3 emptions from complying with its requirements, including
4 such exemptions for—

5 “(1) any person who has purchased the rec-
6 reational vessel within the last 30 days and has a
7 bill of sale in his or her possession to document the
8 date of purchase,

9 “(2) any person renting, chartering, or leasing
10 for a period of less than 60 days, a recreational ves-
11 sel equipped with propulsion machinery of any kind
12 who has a lease or rental agreement in his or her
13 possession indicating completion of a minimum level
14 of boating safety awareness and education recog-
15 nized by the Secretary, and

16 “(3) any person who possesses a valid merchant
17 mariner credential issued by the United States Coast
18 Guard,

19 except that when operating a vessel for recreational pur-
20 poses, the operator must carry either such a valid mer-
21 chant mariner credential or a boater education certificate
22 or card required under subsection (a)(4).”.

23 (c) FEDERAL PREEMPTION.—Section 4306 of title
24 46, United States Code, is amended—

1 (1) by inserting “an operator education stand-
2 ard, or” after “law or regulations establishing”; and

3 (2) by adding at the end “A valid merchant
4 mariner credential or a boater education certificate
5 or card required under section 4302(a)(4) issued by
6 a State shall be recognized and accepted by any
7 other State.”.

8 (d) LIMITATION.—Section 4302(a)(4) of title 46,
9 United States Code, shall not be construed or interpreted
10 to require, authorize, or permit any officer or employee
11 of the United States, whether civilian or military, or that
12 officer’s agent to issue identification to an operator of a
13 recreational vessel.

14 (e) PHASE-IN OF CERTIFICATION REQUIREMENT.—
15 The regulations promulgated under section 4302(a)(4) of
16 title 46, United States Code, shall apply—

17 (1) beginning 3 years after the date of enact-
18 ment of this Act to operators of recreation vessels
19 who are 18 years of age or younger; and

20 (2) beginning 7 years after the date of enact-
21 ment of this Act to all operators of recreation ves-
22 sels.

1 **SEC. 102. AMERICA'S WATERWAYS WATCH.**

2 (a) IN GENERAL.—There is hereby established, with-
3 in the Coast Guard, the America's Waterway Watch Pro-
4 gram.

5 (b) PURPOSE.—The Secretary, acting through the
6 Commandant of the Coast Guard, shall administer the
7 Program in a manner that—

8 (1) encourages the public and industry to recog-
9 nize a covered activity; and

10 (2) promotes voluntary reporting of such activ-
11 ity.

12 (c) INFORMATION; TRAINING.—

13 (1) INFORMATION.—The Secretary may estab-
14 lish, as an element of the Program, a network of in-
15 dividuals, entities, and community-based organiza-
16 tions—

17 (A) to encourage the public and industry
18 to recognize and report a covered activity;

19 (B) to promote voluntary reporting of such
20 activity; and

21 (C) to enhance the situational awareness
22 within the Nation's ports and waterways.

23 (2) LAW ENFORCEMENT COOPERATION.—The
24 Secretary shall conduct the network, to the extent
25 practicable, in cooperation with Federal, State, and
26 local law enforcement agencies.

1 (3) TRAINING.—The Secretary, acting through
2 the Commandant, may provide training in—

3 (A) recognizing and reporting a covered
4 activity; and

5 (B) sharing such reports and coordinating
6 the response by Federal, State, and local law
7 enforcement agencies.

8 (d) VOLUNTARY PARTICIPATION.—Participation in
9 the Program—

10 (1) shall be wholly voluntary;

11 (2) shall not be a prerequisite to eligibility for,
12 or receipt of, any other service or assistance from,
13 or to participation in, any other program of any
14 kind; and

15 (3) shall not require disclosure of information
16 regarding the individual reporting a covered activity
17 or, for proprietary purposes, the location of such in-
18 dividual.

19 (e) IMMUNITY.—

20 (1) IMMUNITY FOR REPORTS OF SUSPECTED
21 TERRORIST ACTIVITY OR SUSPICIOUS BEHAVIOR.—

22 (A) IN GENERAL.—Any individual who, in
23 good faith and based on objectively reasonable
24 suspicion, makes or causes to be made a vol-
25 untary report of covered activity to an author-

1 ized official shall be immune from civil liability
2 under Federal, State, and local law for that re-
3 port.

4 (B) FALSE REPORTS.—Subparagraph (A)
5 does not apply to any report that the individual
6 knew to be false or that was made with reckless
7 disregard for the truth at the time the indi-
8 vidual made the report.

9 (2) IMMUNITY FOR RESPONSE.—

10 (A) IN GENERAL.—Any authorized official
11 who observes, or receives a report of, a covered
12 activity and takes reasonable action in good
13 faith to respond to such activity shall have
14 qualified immunity from civil liability for such
15 action, consistent with applicable law in the rel-
16 evant jurisdiction. An authorized official not en-
17 titled to assert the defense of qualified immu-
18 nity shall nevertheless be immune from civil li-
19 ability under Federal, State, and local law if
20 such authorized official takes reasonable action,
21 in good faith, to respond to the reported activ-
22 ity.

23 (B) SAVINGS CLAUSE.—Nothing in this
24 paragraph shall affect the ability of any author-
25 ized official to assert any defense, privilege, or

1 immunity that would otherwise be available,
2 and this paragraph shall not be construed as
3 affecting any such defense, privilege, or immu-
4 nity.

5 (3) ATTORNEY FEES AND COSTS.—Any indi-
6 vidual or authorized official found to be immune
7 from civil liability under this section shall be entitled
8 to recover from the plaintiff all reasonable costs and
9 attorney fees.

10 (f) DEFINITIONS.—In this section:

11 (1) AUTHORIZED OFFICIAL.—The term “au-
12 thorized official” means—

13 (A) any employee or agent of a vessel, fa-
14 cility, port, or waterway, or other person with
15 responsibilities relating to the security of such
16 systems;

17 (B) any officer, employee, or agent of the
18 Department of Homeland Security, the Depart-
19 ment of Transportation, or the Department of
20 Justice with responsibilities related to the secu-
21 rity of vessels, facilities, ports, or waterways; or

22 (C) any Federal, State, or local law en-
23 forcement officer.

24 (2) COVERED ACTIVITY.—The term “covered
25 activity” means any suspicious transaction, activity,

1 or occurrence that involves, or is directed against, a
2 vessel or facility (as that term is defined in section
3 70101(2) of title 46, United States Code) indicating
4 that an individual or individuals may be preparing
5 to engage, or engaging, in a violation of law relating
6 to—

7 (A) a threat to a vessel, facility, port, or
8 waterway; or

9 (B) an act of terrorism (as that term is de-
10 fined in section 3077 of title 18, United States
11 Code).

12 (3) FACILITY.—The term “facility” has the
13 meaning given that term in section 70101(2) of title
14 46, United States Code.

15 (4) SECRETARY.—The term “Secretary” means
16 the Secretary of the Department in which the Coast
17 Guard is operating.

18 (g) COORDINATION.—The Secretary shall coordinate
19 the program with other similar watch programs. The sec-
20 retary shall submit, concurrent with the President’s budg-
21 et submission for each fiscal year, a report on coordination
22 of the program with other similar programs within the De-
23 partment in which the Coast Guard is operating to the
24 Senate Committee on Commerce, Science, and Transpor-
25 tation, the Senate Committee on Homeland Security and

1 Governmental Affairs, the House of Representatives Com-
 2 mittee on Homeland Security, and the House of Rep-
 3 resentatives Committee on Transportation and Infrastruc-
 4 ture.

5 (h) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated to the Secretary to carry
 7 out this section \$3,000,000 for each of fiscal years 2011
 8 through 2016. Such funds shall remain available until ex-
 9 pended.

10 **TITLE II—TRANSPORTATION OF**
 11 **ESPECIALLY HAZARDOUS**
 12 **CARGO**

13 **SEC. 201. INTERNATIONAL MEASURES FOR THE SAFE AND**
 14 **SECURE TRANSPORTATION OF ESPECIALLY**
 15 **HAZARDOUS CARGO.**

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

19 **“§ 70109A. International committee for the safe and**
 20 **secure transportation of especially haz-**
 21 **ardous cargo**

22 “(a) IN GENERAL.—The Secretary, in consultation
 23 with the Secretary of State and other appropriate entities,
 24 is authorized and encouraged to promote, in a manner

1 consistent with international treaties, conventions, and
2 agreements to which the United States is a party, to ini-
3 tiate a work item within the International Maritime Orga-
4 nization that addresses the safe and secure transportation
5 of especially hazardous cargoes and includes representa-
6 tives of United States trading partners that supply tank,
7 bulk, or break-bulk vessel shipments of especially haz-
8 ardous cargo to the United States.

9 “(b) SAFE AND SECURE LOADING, UNLOADING, AND
10 TRANSPORTATION OF ESPECIALLY HAZARDOUS CAR-
11 GOES.—In carrying out this section, the Secretary, pursu-
12 ant to any work item initiated under subsection (a) of this
13 section, in cooperation with the International Maritime
14 Organization and in consultation with the International
15 Standards Organization and shipping industry stake-
16 holders, is authorized and encouraged to develop protocols,
17 procedures, standards, and requirements for receiving,
18 handling, loading, unloading, vessel crewing, and transpor-
19 tation of especially hazardous cargo to promote the safe
20 and secure operation of ports, facilities, and vessels that
21 transport especially hazardous cargo to the United States.

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

23 “(1) initiate the development of the committee
24 within 180 days after the date of enactment of the
25 Maritime Transportation Security Act of 2010; and

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

5 “(d) REPORTS.—The Secretary shall report annually
6 to the Senate Committee on Commerce, Science, and
7 Transportation, the House of Representatives Committee
8 on Transportation and Infrastructure, and the House of
9 Representatives Committee on Homeland Security on the
10 development, implementation, and administration of the
11 protocols, procedures, standards, and requirements devel-
12 oped by the committee established under subsection (a).”.

13 (b) CONFORMING AMENDMENT.—The table of con-
14 tents for chapter 701 of title 46, United States Code, is
15 amended by inserting after the item relating the section
16 70109 the following:

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

17 **SEC. 202. PORT SECURITY ZONES.**

18 (a) IN GENERAL.—Chapter 701 of title 46, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

21 “SUBCHAPTER II. PORT SECURITY ZONES

22 “§ 70131. **Definitions**

23 “In this subchapter:

1 “(1) LAW ENFORCEMENT AGENCY.—The term
2 ‘law enforcement agency’—

3 “(A) means an agency of a State, a polit-
4 ical subdivision of a State, or a Federally recog-
5 nized tribe that is authorized by law to super-
6 vise the prevention, detection, investigation, or
7 prosecution of any violation of criminal law; and

8 “(B) for the purposes of entering into a
9 cooperative enforcement agreement pursuant to
10 section 70132 of this title, includes a State, a
11 political subdivision of a State, or a Federally
12 recognized tribe.

13 “(2) SECURITY ZONE.—The term ‘security
14 zone’ includes a security zone, established pursuant
15 to section 1 of title II of the Act of June 15, 1917
16 (50 U.S.C. 191) or section 7(b) of the Ports and
17 Waterways Safety Act (33 U.S.C. 1226(b)), about a
18 vessel carrying especially hazardous cargo when such
19 vessel—

20 “(A) enters, or operates within, the inter-
21 nal waters of the United States and the terri-
22 torial sea of the United States, extending 3
23 nautical miles seaward of the baseline; or

24 “(B) transfers such cargo or residue in
25 any port or place, under the jurisdiction of the

1 United States, within the territorial sea of the
2 United States, extending 3 nautical miles sea-
3 ward of the baseline, or the internal waters of
4 the United States.

5 “(3) SHIPOWNER.—The term ‘shipowner’
6 means any person that owns, has an ownership in-
7 terest in, or operates a vessel subject to the jurisdic-
8 tion of the United States, for which the Com-
9 mandant of the Coast Guard, under the direction of
10 the Secretary, has established a security zone.

11 “(4) VESSEL SUBJECT TO THE JURISDICTION
12 OF THE UNITED STATES.—The term ‘vessel subject
13 to the jurisdiction of the United States’ has the
14 meaning given that term in section 70502(c) of this
15 title.

16 **“§ 70132. Cooperative enforcement agreement**

17 “(a) IN GENERAL.—The Commandant of the Coast
18 Guard, under the direction of the Secretary, may execute
19 a cooperative enforcement agreement with a law enforce-
20 ment agency under which the law enforcement agency
21 shall place—

22 “(1) personnel who are deputized pursuant to
23 subsection (b) and credentialed pursuant to section
24 70133, and

1 “(2) assets, identified by the Commandant as
2 necessary to enforce a security zone,
3 under the command and control of the Coast Guard for
4 the duration and purpose of enforcing that security zone.

5 “(b) DEPUTATION.—

6 “(1) IN GENERAL.—The Commandant of the
7 Coast Guard, under the direction of the Secretary,
8 may deputize a law enforcement officer, credentialed
9 pursuant to section 70133 of this title, who is placed
10 under the command and control of the Coast Guard
11 for the duration and purpose of enforcing a security
12 zone. A law enforcement officer, deputized pursuant
13 to this subsection, shall be treated as an employee
14 of the Government for purposes of section 1346(b),
15 section 2401(b), and chapter 171 of title 28 while
16 under the command and control of the Coast Guard
17 for the duration and purpose of enforcing the secu-
18 rity zone.

19 “(2) AUTHORITIES.—

20 “(A) In addition to the authorities set
21 forth in section 70118 of this title, a law en-
22 forcement officer, credentialed pursuant to sec-
23 tion 70133 of this title and deputized pursuant
24 to this section, who is placed under the com-
25 mand and control of the Coast Guard, may, for

1 the duration and purpose of enforcing such se-
2 curity zone only—

3 “(i) carry a firearm;

4 “(ii) with or without a warrant or
5 other process—

6 “(I) arrest any person, if such of-
7 ficer has reasonable cause to believe
8 that such person has violated, at-
9 tempted to violate, is violating, or is
10 attempting to violate a security zone,
11 if such violation is a felony; and

12 “(II) board, search, or seize any
13 vessel, if such officer has reasonable
14 cause to believe that such vessel has
15 been used or employed in, or is being
16 used or employed in, the violation of
17 a security zone;

18 “(iii) use force in accordance with
19 Coast Guard policy governing the use of
20 force; and

21 “(iv) exercise any other lawful author-
22 ity.

23 “(B) Nothing in the provision shall affect
24 or diminish the authority of a law enforcement
25 officer under section 70118 of this title.

1 “(c) LIMITATION.—Nothing in this section shall af-
2 fect or diminish—

3 “(1) Federal authority or responsibility to en-
4 force a security zone; or

5 “(2) the authority or responsibility of any other
6 Federal agency.

7 “(d) CONDITIONAL COOPERATIVE ENFORCEMENT
8 AGREEMENT.—The Commandant may execute a condi-
9 tional cooperative enforcement agreement with a law en-
10 forcement agency for the purposes of establishing or in-
11 creasing the capacity of such agency to place personnel,
12 either credentialed or to be credentialed pursuant to sec-
13 tion 70133 of this title, and assets, identified by the Com-
14 mandant as necessary to enforce the security zone, under
15 the command and control of the Coast Guard for the pur-
16 pose of enforcing such security zone. A conditional cooper-
17 ative enforcement agreement shall be deemed a coopera-
18 tive enforcement agreement for the purpose of qualifying
19 for a grant awarded under section 70107 of this title.

1 **“§ 70133. Credentialing standards, training, and cer-**
2 **tification for State and local support for**
3 **the enforcement of security zones for the**
4 **transportation of especially hazardous**
5 **cargo**

6 “(a) STANDARD.—The Commandant of the Coast
7 Guard, under the direction of the Secretary, shall estab-
8 lish, by regulation, national standards for training, quali-
9 fication, credentialing, and typing of—

10 “(1) law enforcement personnel—

11 “(A) to enforce a security zone, pursuant
12 to a cooperative enforcement agreement; or

13 “(B) to assist in the enforcement of a se-
14 curity zone; and

15 “(2) personnel who are employed or retained by
16 a shipowner to assist in the enforcement of a secu-
17 rity zone.

18 “(b) TRAINING.—

19 “(1) The Commandant of the Coast Guard, act-
20 ing under the direction of the Secretary—

21 “(A) shall develop and publish a training
22 curriculum for—

23 “(i) law enforcement personnel to en-
24 force a security zone, pursuant to a coop-
25 erative enforcement agreement;

1 “(ii) law enforcement personnel to as-
2 sist in the enforcement of a security zone;
3 and

4 “(iii) personnel who are employed or
5 retained by a shipowner to assist in the en-
6 forcement of a security zone; and

7 “(B) may—

8 “(i) test and deliver such training;

9 “(ii) enter into an agreement under
10 which a public entity (including a Federal
11 agency) or private entity may test and de-
12 liver such training; and

13 “(iii) may endorse a program, con-
14 ducted by a public entity (including a fed-
15 eral agency) or private entity, through
16 which such training is delivered.

17 “(2) Any Federal agency that provides such
18 training, and any public or private entity that re-
19 ceives moneys, pursuant to section 70107(b)(8) of
20 this title, to provide such training, shall provide the
21 training—

22 “(A) on a priority basis to law enforcement
23 personnel who are employed by a law enforce-
24 ment agency that has entered into a cooperative
25 enforcement agreement or a conditional cooper-

1 ative enforcement agreement under section
2 70132 of this title; and

3 “(B) on an availability basis to—

4 “(i) law enforcement personnel who
5 assist in the enforcement of a security
6 zone; and

7 “(ii) personnel who are employed or
8 retained by a vessel owner or operator to
9 assist in the enforcement of a security
10 zone.

11 “(3) If a Federal agency provides the training,
12 the head of such agency may, notwithstanding any
13 other provision of law, accept payment from any
14 source for such training, and any amount received
15 as payment shall be credited to the appropriation,
16 current at the time of collection, charged with the
17 cost thereof and shall be merged with, and available
18 for, the same purposes of such appropriation.

19 “(4) Notwithstanding any other provision of
20 law, any moneys, awarded by any Federal agency in
21 the form of awards or grants, may be used by the
22 recipient to pay for training of personnel to assist in
23 the enforcement of security zones and limited access
24 areas.

1 “(c) CREDENTIALING.—The Commandant of the
2 Coast Guard, under the direction of the Secretary, may
3 issue a credential to an individual, upon the successful
4 completion of training that the Commandant may pre-
5 scribe, as evidence that the individual qualifies—

6 “(1) to enforce a security zone, pursuant to a
7 cooperative enforcement agreement, pursuant to sec-
8 tion 70132 of this title; or

9 “(2) to assist in the enforcement of such a se-
10 curity zone.”.

11 (d) GRANTS; ADMINISTRATION.—

12 (1) GRANTS.—Section 70107 of title 46, United
13 States Code, is amended—

14 (A) by striking “services.” in subsection
15 (a) and inserting “services, to implement coop-
16 erative enforcement agreements with law en-
17 forcement agencies, to enforce a security zone,
18 pursuant to a cooperative enforcement agree-
19 ment pursuant to section 70132 of this title or
20 to assist in the enforcement of a security zone,
21 and to train law enforcement personnel under
22 section 70133 of this title.”;

23 (B) in subsection (b)—

24 (i) by striking paragraph (1) and in-
25 serting the following:

1 “(1) Salary, benefits, overtime compensation,
2 retirement contributions, and other costs for—

3 “(A) law enforcement personnel who are
4 employed by a law enforcement agency that has
5 executed a cooperative enforcement agreement
6 or conditional cooperative enforcement agree-
7 ment under section 70132 of this title;

8 “(B) law enforcement personnel who assist
9 in the enforcement of a security zone; and

10 “(C) other law enforcement personnel, re-
11 sponse personnel, and port authority per-
12 sonnel.”;

13 (ii) by striking “crewmembers.” in
14 paragraph (2) and inserting “crew mem-
15 bers, or the cost of acquisition, operation,
16 and maintenance of assets necessary to en-
17 force a security zone, pursuant to a coop-
18 erative enforcement agreement or condi-
19 tional cooperative enforcement agreement
20 under section 70132 of this title, or to as-
21 sist in the enforcement of a security
22 zone.”; and

23 (iii) by adding at the end the fol-
24 lowing:

1 “(8) The cost of training law enforcement per-
2 sonnel—

3 “(A) to enforce a security zone pursuant to
4 a cooperative enforcement agreement or a con-
5 ditional cooperative enforcement agreement exe-
6 cuted under section 70132 of this title; or

7 “(B) assist in the enforcement of a secu-
8 rity zone.”;

9 (C) by adding at the end of subsection
10 (c)(2) the following:

11 “(C) TRAINING.—There are no matching
12 requirements for grants under subsection (a) to
13 train law enforcement agency personnel in the
14 enforcement of security zones under a coopera-
15 tive enforcement agreement under section
16 70132 of this title or in assisting in the en-
17 forcement of such security zones.”; and

18 (D) by striking subsection (l) and inserting
19 the following:

20 “(l) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated \$510,000,000 for each
22 of the fiscal years 2011 through 2017 to carry out this
23 section, of which—

1 “(1) not less than \$100,000,000 each fiscal
2 year or 20 percent of the amount appropriated for
3 a fiscal year, whichever is greater, shall be—

4 “(A) awarded, on a priority basis, to law
5 enforcement agencies that have executed coop-
6 erative enforcement agreements under section
7 70131(b)(4) of this title; and

8 “(B) prioritized according to risk-based
9 methodology; and

10 “(2) not more than \$10,000,000 each fiscal
11 year or 2 percent of the amount appropriated in a
12 given fiscal year, whichever is greater, may be
13 awarded to law enforcement agencies that have exe-
14 cuted cooperative enforcement agreements under
15 section 70132 of this title, based solely on the mis-
16 sion needs of the Coast Guard, as determined by the
17 Commandant.”.

18 (2) LIMITATION.—

19 (A) A grant under section 70107 of title
20 46, United States Code, shall not result in the
21 impairment or reduction of a State recreational
22 boating safety program for which a law enforce-
23 ment agency receives an allocation, made pursu-
24 ant to the Dingell-Johnson Sport Fish Restora-
25 tion Act (16 U.S.C. 777 et seq.).

1 (B) The Commandant of the Coast Guard,
2 acting under the direction of the Secretary, may
3 require a law enforcement agency that receives
4 such a grant and an allocation to submit such
5 documentation as the Commandant may require
6 to ensure that the grant did not result in such
7 an impairment or reduction.

8 (C) If the Commandant finds that such a
9 grant has resulted in such an impairment or re-
10 duction, the Commandant may limit or reduce
11 future grants under section 70107 of title 46,
12 United States Code, to such law enforcement
13 agency or disqualify the agency as a recipient
14 of a grant for security zone training under that
15 section for a period not more than 5 years.

16 (e) DELEGATION.—The Commandant may delegate
17 to a subordinate commander the authority under sub-
18 chapter II of chapter 701 of title 46, United States
19 Code—

20 (1) to enter into cooperative enforcement agree-
21 ments or conditional cooperative enforcement agree-
22 ments; and

23 (2) to deputize law enforcement officers.

24 (f) REGULATIONS.—If the Commandant of the Coast
25 Guard, under the direction of the Secretary, deems regula-

1 tions necessary to implement this section or subchapter
2 II of chapter 701 of title 46, United States Code—

3 (1) the requirements of chapters 5 and 6 of
4 title 5, United States Code, or any other law or pol-
5 icy relating to rulemaking, information collection, or
6 publication in the Federal Register, shall not apply
7 in the promulgation of such regulations; and

8 (2) the Secretary shall not be required to pre-
9 pare an economic analysis of the cost and benefits
10 of the final rule.

11 (g) CONFORMING AMENDMENTS.—

12 (1) SUBCHAPTER I DESIGNATION.—Chapter
13 701 of title 46, United States Code, is amended by
14 inserting before section 70101 the following:

15 **“SUBCHAPTER I. GENERAL”.**

16 (2) TABLE OF CONTENTS AMENDMENTS.—The
17 table of contents for chapter 701 of title 46, United
18 States Code, is amended—

19 (A) by inserting before the item relating to
20 section 70101 the following:

21 “SUBCHAPTER I. GENERAL”; and

22 (B) by adding at the end the following:

“SUBCHAPTER II. PORT SECURITY ZONES

“70131. Definitions

“70132. Cooperative enforcement agreement

“70133. Credentialing standards, training, and certification for State and local support for the enforcement of security zones for the transportation of especially hazardous cargo”.

1 **TITLE III—PORT AND FACILITY**
2 **SECURITY**

3 **SEC. 301. FOREIGN PORT ASSESSMENT, ASSISTANCE, AND**
4 **TRAINING.**

5 (a) FOREIGN PORT ASSESSMENT.—Chapter 701 of
6 title 46, United States Code, is amended—

7 (1) by adding at the end of section 70108 the
8 following:

9 “(e) LIMITATION ON STATUTORY CONSTRUCTION.—

10 “(1) Nothing in this section shall be construed
11 either to compel the Secretary to inspect a foreign
12 port, or to affect or limit the Secretary’s ability to
13 use information or indicia, other than an inspection
14 of such port, when assessing the effectiveness of the
15 antiterrorism measures of such port.

16 “(2) The absence of an inspection of a foreign
17 port shall not bar the Secretary from making a find-
18 ing that a port in a foreign country does not main-
19 tain effective antiterrorism measures.”;

20 (2) by striking “If the Secretary, after con-
21 ducting an assessment under section 70108, finds
22 that a port in a foreign country does not maintain
23 effective antiterrorism measures,” in section
24 70109(a) and inserting “Unless the Secretary, after
25 conducting an assessment under section 70108,

1 finds that a port in a foreign country maintains ef-
2 fective antiterrorism measures,”; and

3 (3) by striking “If the Secretary finds that a
4 port does not maintain effective antiterrorism meas-
5 ures,” in section 70110(a) and inserting “Unless the
6 Secretary finds that a foreign port does not main-
7 tain effective antiterrorism measures,”.

8 (b) ASSISTANCE FOR FOREIGN PORTS.—Section
9 70110 of such title is further amended—

10 (1) by striking “the Secretary finds to lack ef-
11 fective antiterrorism measures.” in subsection (e)
12 and inserting “pose unique security and safety
13 threats to the United States.”; and

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

15 “(f) COAST GUARD ASSISTANCE PROGRAM.—

16 “(1) IN GENERAL.—The Secretary may lend,
17 lease, donate, or otherwise provide equipment, and
18 provide technical training and support, to the owner
19 or operator of a foreign port or facility—

20 “(A) to assist in bringing the port or facil-
21 ity into compliance with applicable International
22 Ship and Port Facility Code requirements;

23 “(B) to assist the port or facility in meet-
24 ing requirements established under section
25 70109A of this chapter; and

1 “(C) to assist the port or facility in exceed-
2 ing the standards described in subparagraph
3 (2) (A) and (B).

4 “(2) CONDITIONS.—The Secretary—

5 “(A) may provide such assistance based
6 upon an assessment of the risks to the security
7 of the United States and the inability of the
8 owner or operator of the port or facility to
9 bring the port or facility into compliance with
10 those standards and to maintain or exceed com-
11 pliance with them;

12 “(B) may not provide such assistance un-
13 less the facility or port has been subjected to a
14 comprehensive port security assessment by the
15 Coast Guard pursuant to section 70108; and

16 “(C) may only lend, lease, or otherwise
17 provide equipment that the Secretary has first
18 determined is not required by the Coast Guard
19 for the performance of its missions.”.

20 (c) TECHNICAL AMENDMENT.—Section 70108(c) of
21 such title is amended—

22 (1) by striking paragraph (2); and

23 (2) by redesignating paragraphs (3) and (4) as
24 paragraphs (2) and (3), respectively.

1 **SEC. 302. FOREIGN PORTS ASSISTANCE STRATEGIC PLAN.**

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

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 70110 of title 46, United States
12 Code, is amended—

13 (A) by inserting “**or facilities**” after
14 “**ports**” in the section heading;

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

17 (C) by striking “PORTS” in the heading
18 for subsection (e) and inserting “PORTS, FA-
19 CILITIES,”.

20 (2) The table of contents for chapter 701 of
21 title 46, United States Code, is amended by striking
22 the item relating to section 70110 and inserting the
23 following:

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

1 **SEC. 303. INTERNATIONAL PORT AND FACILITY INSPEC-**
2 **TION COORDINATION.**

3 (a) COORDINATION.—The Secretary of Homeland se-
4 curity shall, to the extent practicable, conduct the assess-
5 ments required by the following provisions of law concur-
6 rently, or develop a process by which they are integrated
7 and conducted by the Coast Guard:

8 (1) Section 205 of the SAFE Port Act (6
9 U.S.C. 945).

10 (2) Section 213 of that Act (6 U.S.C. 964).

11 (3) Section 70108 of title 46, United States
12 Code.

13 (b) LIMITATION.—Nothing in subsection (a) shall be
14 construed to affect or diminish the Secretary's authority
15 or discretion—

16 (1) to conduct an assessment of a foreign port
17 at any time;

18 (2) to compel the Secretary to conduct an as-
19 sessment of a foreign port so as to ensure that 2 or
20 more assessments are conducted concurrently; or

21 (3) to cancel an assessment of a foreign port if
22 the Secretary is unable to conduct 2 or more assess-
23 ments concurrently.

24 (c) MULTIPLE ASSESSMENT REPORT.—The Sec-
25 retary shall provide written notice to the Senate Com-
26 mittee on Commerce, Science, and Transportation and the

1 House of Representatives Committee on Transportation
2 and Infrastructure whenever the Secretary conducts 2 or
3 more assessments of the same port within a 3-year period.

4 (d) EFFECTIVE DATE.—This section shall take effect
5 6 months after the date of enactment of this Act.

6 **SEC. 304. REGIONAL TRANSPORTATION SECURITY INCI-**
7 **DENT MITIGATION 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 recov-
16 ery protocols to prepare for, respond to, miti-
17 gate against, and recover from a transportation
18 security incident consistent with section 202 of
19 the Security and Accountability for Every Port
20 Act of 2006 (6 U.S.C. 942) and subsection (a)
21 of this section;”.

22 **SEC. 305. NATIONAL TACTICAL PLANS.**

23 The Secretary of the department in which the Coast
24 Guard is operating shall ensure that the National Tactical
25 Plan is shared with the Area Maritime Security Commit-

1 tees established under section 70112 of title 46, United
2 States Code. The Area Maritime Security Committees
3 shall use the plan in developing regional and local plans
4 for port security training and exercises.

5 **SEC. 306. INTERAGENCY OPERATIONAL CENTERS FOR**
6 **PORT SECURITY.**

7 Section 70107A(b) of title 46, United States Code,
8 is amended—

9 (1) by striking paragraph (3);

10 (2) by redesignating paragraphs (1) and (2) as
11 paragraphs (2) and (3), respectively;

12 (3) by inserting before paragraph (2), as so re-
13 designated, the following:

14 “(1)(A) include—

15 “(i) information management systems, and

16 “(ii) sensor management systems; and

17 “(B) where practicable, provide for the physical
18 co-location of the Coast Guard and, as the Secretary
19 determines appropriate, representatives of the
20 United States Customs and Border Protection, the
21 United States Immigration and Customs Enforce-
22 ment, the Transportation Security Administration,
23 the Department of Justice, the Department of De-
24 fense, and other Federal agencies, State and local
25 law enforcement or port security personnel, members

1 of the Area Maritime Security Committee, and other
 2 public and private sector stakeholders adversely af-
 3 fected by a transportation security incident or trans-
 4 portation disruption;” and

5 (4) in paragraph (2), as so redesignated—

6 (A) by striking “existing centers, includ-
 7 ing—” and inserting “existing centers;”; and

8 (B) by striking subparagraph (A) and (B);
 9 and

10 (5) by adding “and” at the end of paragraph
 11 (3), as so redesignated.

12 **SEC. 307. PRE-POSITIONING INTEROPERABLE COMMUNICA-**
 13 **TIONS EQUIPMENT AT INTERAGENCY OPER-**
 14 **ATIONAL CENTERS.**

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

17 (1) by redesignating subsections (e) and (f) as
 18 subsections (f) and (g), respectively; and

19 (2) by inserting after subsection (d) the fol-
 20 lowing:

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

24 “(1) IN GENERAL.—The Secretary shall ensure
 25 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.”.

1 **SEC. 308. ESTABLISHMENT OF A SECURITY INDIVIDUAL.**

2 Under regulations prescribed by the Secretary of the
3 department in which the Coast Guard is operating, each
4 vessel documented under chapter 121 of title 46, United
5 States Code, and each foreign vessel entering a United
6 States port or a facility on or adjacent to the waterways
7 of the United States, engaged in the commercial transpor-
8 tation of goods or passengers shall—

9 (1) designate a United States person that is re-
10 sponsible for responding to a transportation security
11 incident involving the vessel while in the United
12 States to notify appropriate emergency response en-
13 tities and facilitating vessel response activities; and

14 (2) provide notice to the Coast Guard Captain
15 of the Port of the identity of, and contact for such
16 person.

17 **SEC. 309. SEAMAN SHORESIDE ACCESS.**

18 Each facility security plan approved under section
19 70103(c) of title 46, United State Code, shall provide a
20 system for seamen assigned to a vessel at that facility,
21 pilots, and representatives of seamen's welfare and labor
22 organizations, to board and depart the vessel through the
23 facility in a timely manner at no cost to the individual.
24 Nothing in this section shall be construed to affect the
25 requirement for or the fees associated with applying for
26 and receiving a Transportation Worker Identification Cre-

1 denial pursuant to section 70107 of title 46, United
2 States Code.

3 **SEC. 310. RISK BASED RESOURCE ALLOCATION.**

4 (a) NATIONAL STANDARD.—Within 1 year after the
5 date of enactment of this Act, in carrying out chapter 701
6 of title 46, United States Code, the Secretary of the de-
7 partment in which the Coast Guard is operating shall de-
8 velop and utilize a national standard and formula for
9 prioritizing and addressing assessed security risks at
10 United State ports and facilities on or adjacent to the wa-
11 terways of the United States, such as the Maritime As-
12 sessment Strategy Tool that has been tested by the De-
13 partment of Homeland Security.

14 (b) USE BY MARITIME SECURITY COMMITTEES.—
15 Within 2 years after the date of enactment of this Act,
16 the Secretary shall require each Area Maritime Security
17 Committee to use this standard to regularly evaluate each
18 port's assessed risk and prioritize how to mitigate the
19 most significant risks.

20 (c) OTHER USES OF STANDARD.—The Secretary
21 shall utilize the standard when considering departmental
22 resource allocations and grant making decisions.

1 **SEC. 311. USE OF MARITIME SECURITY RISK ASSESSMENT**
2 **MODEL.**

3 Within 180 days after the date of enactment of this
4 Act, the Secretary of the department in which the Coast
5 Guard is operating shall make the United States Coast
6 Guard’s Maritime Security Risk Assessment Model tool
7 available, in an unclassified version, on a limited basis to
8 regulated vessels and facilities to conduct true risk assess-
9 ments of their own facilities and vessels using the same
10 criteria employed by the United States Coast Guard when
11 evaluating a port area, facility, or vessel.

12 **SEC. 312. INTEGRATION OF SECURITY PLANS AND SYSTEMS**
13 **WITH LOCAL PORT AUTHORITIES, STATE**
14 **HARBOR DIVISIONS, AND LAW ENFORCE-**
15 **MENT AGENCIES.**

16 Section 70102 of title 46, United States Code, is
17 amended by adding at the end thereof the following:

18 “(c) SHARING OF ASSESSMENT INTEGRATION OF
19 PLANS AND EQUIPMENT.—The owner or operator of a fa-
20 cility shall—

21 “(1) make a current copy of the vulnerability
22 assessment conducted under subsection (b) available
23 to the port authority with jurisdiction of the facility
24 and appropriate State or local law enforcement
25 agencies; and

1 “(2) integrate, to the maximum feasible extent,
2 any security system for the facility with compatible
3 systems operated or maintained by the appropriate
4 State, law enforcement agencies, and the Coast
5 Guard.”.

6 **SEC. 313. WRITTEN AGREEMENTS REQUIRED BETWEEN**
7 **THE DEPARTMENT OF HOMELAND SECURITY**
8 **AND PUBLIC OR PRIVATE MARINE TERMINAL**
9 **OPERATORS.**

10 (a) IN GENERAL.—The Secretary of Homeland Secu-
11 rity shall negotiate and execute a written agreement sepa-
12 rately with each private or public marine terminal operator
13 governing the use and placement of screening devices on
14 the marine terminal. At a minimum—

15 (1) each such agreement shall—

16 (A) cover the terms and conditions for use
17 of the screening devices, including operations
18 and safety procedures (as established by the
19 Occupational Health and Safety Administra-
20 tion); and

21 (B) include an indemnification and hold-
22 harmless clause to protect the marine terminal
23 operator from liability for injuries or damage to
24 individuals or property caused by the Depart-

1 that would lead to certification of such officers. In estab-
2 lishing the requirements, the Secretary shall—

3 “(1) work with affected industry stakeholders;

4 and

5 “(2) evaluate—

6 “(A) the requirements of subsection (b);

7 “(B) existing security training programs
8 employed at marine terminal facilities; and

9 “(C) existing port security training pro-
10 grams developed by the Federal Government.

11 “(b) REQUIREMENTS.—The training program shall
12 provide validated training that—

13 “(1) provides training at the awareness, per-
14 formance, management, and planning levels;

15 “(2) utilizes multiple training mediums and
16 methods;

17 “(3) establishes a validated provisional on-line
18 certification methodology;

19 “(4) addresses port security topics, including—

20 “(A) facility security plans and procedures,
21 including how to develop security plans and se-
22 curity procedure requirements when threat lev-
23 els are elevated;

24 “(B) facility security force operations and
25 management;

1 “(C) physical security and access control
2 at facilities;

3 “(D) methods of security for preventing
4 and countering cargo theft;

5 “(E) container security;

6 “(F) recognition and detection of weapons,
7 dangerous substances, and devices;

8 “(G) operation and maintenance of secu-
9 rity equipment and systems;

10 “(H) security threats and patterns;

11 “(I) security incident procedures, including
12 procedures for communicating with govern-
13 mental and nongovernmental emergency re-
14 sponse providers; and

15 “(J) evacuation procedures;

16 “(5) is consistent with, and supports implemen-
17 tation of, the National Incident Management Sys-
18 tem, the National Response Plan, the National In-
19 frastructure Protection Plan, the National Prepared-
20 ness Guidance, the National Preparedness Goal, the
21 National Maritime Transportation Security Plan,
22 and other such national initiatives;

23 “(6) is evaluated against clear and consistent
24 performance measures; and

1 “(7) addresses security requirements under fa-
2 cility security plans.

3 “(c) CONTINUING SECURITY TRAINING.—The Sec-
4 retary of Transportation, in conjunction with the Sec-
5 retary of the department in which the Coast Guard is op-
6 erating, shall work with State and local law enforcement
7 agencies and industry stakeholders to develop and certify
8 the following additional security training requirements for
9 Federal, State, and local officials with security responsibil-
10 ities at United States seaports:

11 “(1) A program to familiarize them with port
12 and shipping operations, requirements of the Mari-
13 time Transportation Security Act, and other port
14 and cargo security programs that educates and
15 trains them with respect to their roles and respon-
16 sibilities.

17 “(2) A program to familiarize them with dan-
18 gers and potential issues with respect to shipments
19 of hazardous and especially hazardous cargoes.

20 “(3) A program of continuing education as
21 deemed necessary by the Secretary.

22 “(d) TRAINING PARTNERS.—In developing and deliv-
23 ering training under the training program and continuing
24 security training, the Secretary, in coordination with the
25 Maritime Administration of the Department of Transpor-

1 tation, and consistent with section 109 of the Maritime
2 Transportation Security Act of 2002 (46 U.S.C. 70101
3 note), shall—

4 “(1) work with government training facilities,
5 academic institutions, private organizations, em-
6 ployee organizations, and other entities that provide
7 specialized, state-of-the-art training for govern-
8 mental and non-governmental emergency responder
9 providers or commercial seaport personnel and man-
10 agement; and

11 “(2) utilize, as appropriate, government train-
12 ing facilities, courses provided by community col-
13 leges, public safety academies, State and private uni-
14 versities, and other facilities.

15 “(e) CONSULTATION.—In carrying out this section,
16 the Secretary of Transportation shall ensure that activities
17 surrounding the development of curriculum and the provi-
18 sion of training are eligible to receive grant funds.

19 “(f) GRANT PROGRAM.—The Secretary of Transpor-
20 tation shall establish a grant program to provide funds
21 to industry stakeholders to help underwrite their assist-
22 ance in the development of curriculum and training under
23 this section.

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

1 Transportation \$3,000,000 for each of fiscal years 2011
2 and 2012 to carry out this section.”.

3 (b) TABLE OF CONTENTS AMENDMENT.—The table
4 of contents for chapter 701 of title 46, United States
5 Code, is amended by inserting after section 70122 the fol-
6 lowing:

“70123. Port security training for facility security officers”.

7 **SEC. 315. MARITIME SECURITY ADVISORY COMMITTEE EX-**
8 **TENSION.**

9 Section 70112 of title 46, United States Code, is
10 amended—

11 (1) by striking subsection (b)(5) and inserting
12 the following:

13 “(5)(A) The National Maritime Security Advi-
14 sory Committee shall be composed of—

15 “(i) at least 1 individual who represents
16 the interests of the port authorities;

17 “(ii) at least 1 individual who represents
18 the interests of the facilities owners or opera-
19 tors;

20 “(iii) at least 1 individual who represents
21 the interests of the terminal owners or opera-
22 tors;

23 “(iv) at least 1 individual who represents
24 the interests of the vessel owners or operators;

1 “(v) at least 1 individual who represents
2 the interests of the maritime labor organiza-
3 tions;

4 “(vi) at least 1 individual who represents
5 the interests of the academic community;

6 “(vii) at least 1 individual who represents
7 the interests of State or local governments; and

8 “(viii) at least 1 individual who represents
9 the interests of the maritime industry.

10 “(B) The Area Maritime Security Advisory
11 Committee shall be composed of individuals who rep-
12 resent the interests of the port industry, terminal
13 operators, port labor organizations, and other users
14 of the port areas.”; and

15 (2) in subsection (g)—

16 (A) in paragraph (1)(A), by striking “Sep-
17 tember 30, 2008;” and inserting “September
18 30, 2020;”; and

19 (B) in paragraph (2), by striking “Sep-
20 tember 30, 2006,” and inserting “September
21 30, 2018,”.

22 **SEC. 316. VESSEL SECURITY PLANS FOR SUPPLY AND SIMI-**
23 **LAR VESSELS.**

24 (a) IN GENERAL.—Section 70103(c)(2)(A) of title
25 46, United States Code, is amended by striking “inci-

1 dent;” and inserting “incident (including supply vessels,
 2 bunker and fuel deliver and launch vessels conducting ac-
 3 tivities or providing services to other vessels at anchor-
 4 age;”.

5 (b) TWICS REQUIRED FOR CREW.—Section
 6 70105(b)(2)(F) of title 46, United States Code, is amend-
 7 ed by inserting “personnel working on board vessels de-
 8 scribed in section 70103(c)(2)(A) of this title and” after
 9 “(F)”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect 1 year after the date of enact-
 12 ment of this Act.

13 **SEC. 317. PROTECTION AND FAIR TREATMENT OF SEA-**
 14 **FARERS.**

15 (a) IN GENERAL.—Chapter 111 of title 46, United
 16 States Code, is amended by adding at the end the fol-
 17 lowing new section:

18 **“§ 11113. Protection and fair treatment of seafarers**

19 “(a) PURPOSE.—The purpose of this section is to en-
 20 sure the protection and fair treatment of seafarers.

21 “(b) FUND.—

22 “(1) ESTABLISHMENT.—There is established in
 23 the Treasury a special fund known as the ‘Support
 24 of Seafarers Fund’.

1 “(2) USE OF AMOUNTS IN FUND.—The
2 amounts covered into the Fund shall be available to
3 the Secretary, without further appropriation and
4 without fiscal year limitation, to—

5 “(A) pay necessary support, pursuant to
6 subsection (c)(1)(A) of this section; and

7 “(B) reimburse a shipowner for necessary
8 support, pursuant to subsection (c)(1)(B) of
9 this section.

10 “(3) AMOUNTS CREDITED TO FUND.—Notwith-
11 standing any other provision of law, the Fund may
12 receive—

13 “(A) any moneys ordered to be paid to the
14 Fund in the form of community service pursu-
15 ant to section 3563(b) of title 18;

16 “(B) amounts reimbursed or recovered
17 pursuant to subsection (d) of this section;

18 “(C) amounts appropriated to the Fund
19 pursuant to subsection (g) of this section; and

20 “(D) appropriations available to the Sec-
21 retary for transfer.

22 “(4) PREREQUISITE FOR COMMUNITY SERVICE
23 CREDITS.—The Fund may receive credits pursuant
24 to paragraph (3)(A) of this subsection only when the

1 unobligated balance of the Fund is less than
2 \$5,000,000.

3 “(5) REPORT REQUIRED.—

4 “(A) Except as provided in subparagraph
5 (B) of this paragraph, the Secretary shall not
6 obligate any amount in the Fund in a given fis-
7 cal year unless the Secretary has submitted to
8 Congress, concurrent with the President’s budg-
9 et submission for that fiscal year, a report that
10 describes—

11 “(i) the amounts credited to the
12 Fund, pursuant to paragraph (3) of this
13 subsection, for the preceding fiscal year;

14 “(ii) a detailed description of the ac-
15 tivities for which amounts were charged;
16 and

17 “(iii) the projected level of expendi-
18 tures from the Fund for the coming fiscal
19 year, based on—

20 “(I) on-going activities; and

21 “(II) new cases, derived from his-
22 toric data.

23 “(B) The limitation in subparagraph (A)
24 of this paragraph shall not apply to obligations

1 during the first fiscal year during which
2 amounts are credited to the Fund.

3 “(6) FUND MANAGER.—The Secretary shall
4 designate a Fund manager, who shall—

5 “(A) ensure the visibility and account-
6 ability of transactions utilizing the Fund;

7 “(B) prepare the report required by para-
8 graph (5); and

9 “(C) monitor the unobligated balance of
10 the Fund and provide notice to the Secretary
11 and the Attorney General whenever the unobli-
12 gated balance of the Fund is less than
13 \$5,000,000.

14 “(c) IN GENERAL.—

15 “(1) AUTHORITY.—The Secretary is author-
16 ized—

17 “(A) to pay, in whole or in part, without
18 further appropriation and without fiscal year
19 limitation, from amounts in the Fund, nec-
20 essary support of—

21 “(i) any seafarer who enters, remains,
22 or has been paroled into the United States
23 and is involved in an investigation, report-
24 ing, documentation, or adjudication of any
25 matter that is related to the administration

1 or enforcement of any treaty, law, or regu-
2 lation by the Coast Guard; and

3 “(ii) any seafarer whom the Secretary
4 finds to have been abandoned in the
5 United States; and

6 “(B) to reimburse, in whole or in part,
7 without further appropriation and without fiscal
8 year limitation, from amounts in the Fund, a
9 shipowner, who has filed a bond or surety satis-
10 factory pursuant to subparagraph (A) and pro-
11 vide necessary support of a seafarer who has
12 been paroled into the United States to facilitate
13 an investigation, reporting, documentation, or
14 adjudication of any matter that is related to the
15 administration or enforcement of any treaty,
16 law, or regulation by the Coast Guard, for costs
17 of necessary support, when the Secretary deems
18 reimbursement necessary to avoid serious injus-
19 tice.

20 “(2) LIMITATION.—Nothing in this section
21 shall be construed—

22 “(A) to create a right, benefit, or entitle-
23 ment to necessary support; or

24 “(B) to compel the Secretary to pay, or re-
25 imburse the cost of, necessary support.

1 “(d) REIMBURSEMENTS; RECOVERY.—

2 “(1) IN GENERAL.—Any shipowner shall reim-
3 burse the Fund an amount equal to the total
4 amount paid from the Fund for necessary support of
5 the seafarer, plus a surcharge of 25 percent of such
6 total amount if—

7 “(A)(i) the shipowner, during the course of
8 an investigation, reporting, documentation, or
9 adjudication of any matter that the Coast
10 Guard referred to a United States Attorney or
11 the Attorney General, fails to provide necessary
12 support of a seafarer who has been paroled into
13 the United States to facilitate the investigation,
14 reporting, documentation, or adjudication; and

15 “(ii) a criminal penalty is subsequently im-
16 posed against the shipowner; or

17 “(B) the shipowner, under any cir-
18 cumstance, abandons a seafarer in the United
19 States, as decided by the Secretary.

20 “(2) ENFORCEMENT.—If a shipowner fails to
21 reimburse the Fund as required under paragraph
22 (1) of this subsection, the Secretary may—

23 “(A) proceed in rem against any vessel of
24 the shipowner in the Federal district court for
25 the district in which such vessel is found; and

1 “(B) withhold or revoke the clearance, re-
2 quired by section 60105 of this title, of any ves-
3 sel of the shipowner wherever such vessel is
4 found.

5 “(3) Whenever clearance is withheld or revoked
6 pursuant to paragraph (2)(B) of this subsection,
7 clearance may be granted if the shipowner reim-
8 burses the Fund the amount required under para-
9 graph (1) of this subsection.

10 “(e) SURETY; ENFORCEMENT OF TREATIES, LAWS,
11 AND REGULATIONS.—

12 “(1) BOND AND SURETY AUTHORITY.—The
13 Secretary is authorized to require a bond or surety
14 satisfactory as an alternative to withholding or re-
15 voking clearance required under section 60105 of
16 this title if, in the opinion of the Secretary, such
17 bond or surety satisfactory is necessary to facilitate
18 an investigation, reporting, documentation, or adju-
19 dication of any matter that is related to the adminis-
20 tration or enforcement of any treaty, law, or regula-
21 tion by the Coast Guard if the surety corporation
22 providing the bond is authorized by the Secretary of
23 the Treasury under section 9305 of title 31 to pro-
24 vide surety bonds under section 9304 of that title.

1 “(2) APPLICATION.—The authority to require a
2 bond or a surety satisfactory or to request the with-
3 holding or revocation of the clearance required under
4 section 60105 of this title applies to any investiga-
5 tion, reporting, documentation, or adjudication of
6 any matter that is related to the administration or
7 enforcement of any treaty, law, or regulation by the
8 Coast Guard.

9 “(f) DEFINITIONS.—In this section:

10 “(1) ABANDONS; ABANDONED.—The term
11 ‘abandons’ or ‘abandoned’ means a shipowner’s uni-
12 lateral severance of ties with a seafarer or the ship-
13 owner’s failure to provide necessary support of a
14 seafarer.

15 “(2) BOND OR SURETY SATISFACTORY.—The
16 term ‘bond or surety satisfactory’ means a nego-
17 tiated instrument, the terms of which may, at the
18 discretion of the Secretary, include provisions that
19 require the shipowner to—

20 “(A) provide necessary support of a sea-
21 farer who has or may have information perti-
22 nent to an investigation, reporting, documenta-
23 tion, or adjudication of any matter that is re-
24 lated to the administration or enforcement of
25 any treaty, law, or regulation by the Secretary;

1 “(B) facilitate an investigation, reporting,
2 documentation, or adjudication of any matter
3 that is related to the administration or enforce-
4 ment of any treaty, law, or regulation by the
5 Secretary;

6 “(C) stipulate to certain incontrovertible
7 facts, including, but not limited to, the owner-
8 ship or operation of the vessel, or the authen-
9 ticity of documents and things from the vessel;

10 “(D) facilitate service of correspondence
11 and legal papers;

12 “(E) enter an appearance in United States
13 district court;

14 “(F) comply with directions regarding pay-
15 ment of funds;

16 “(G) name an agent in the United States
17 for service of process;

18 “(H) make stipulations as to the authen-
19 ticity of certain documents in United States dis-
20 trict court;

21 “(I) provide assurances that no discrimina-
22 tory or retaliatory measures will be taken
23 against a seafarer involved in an investigation,
24 reporting, documentation, or adjudication of
25 any matter that is related to the administration

1 or enforcement of any treaty, law, or regulation
2 by the Secretary;

3 “(J) provide financial security in the form
4 of cash, bond, or other means acceptable to the
5 Secretary; and

6 “(K) provide for any other appropriate
7 measures as the Secretary considers necessary
8 to ensure the Government is not prejudiced by
9 granting the clearance required by section
10 60105 of this title.

11 “(3) FUND.—The term ‘Fund’ means the Sup-
12 port of Seafarers Fund, established pursuant to this
13 section.

14 “(4) NECESSARY SUPPORT.—The term ‘nec-
15 essary support’ means normal wages, lodging, sub-
16 sistence, clothing, medical care (including hos-
17 pitalization), repatriation, and any other expense the
18 Secretary deems appropriate.

19 “(5) SEAFARER.—The term ‘seafarer’ means an
20 alien crewman who is employed or engaged in any
21 capacity on board a vessel subject to the jurisdiction
22 of the United States.

23 “(6) SHIPOWNER.—The term ‘shipowner’
24 means the individual or entity that owns, has an

1 ownership interest in, or operates a vessel subject to
2 the jurisdiction of the United States.

3 “(7) VESSEL SUBJECT TO THE JURISDICTION
4 OF THE UNITED STATES.—The term ‘vessel subject
5 to the jurisdiction of the United States’ has the
6 same meaning it has in section 70502(c) of this
7 title, except that it excludes a vessel owned or
8 bareboat chartered and operated by the United
9 States, by a State or political subdivision thereof, or
10 by a foreign nation, except when that vessel is en-
11 gaged in commerce.

12 “(g) REGULATIONS.—The Secretary may prescribe
13 regulations to implement this section.

14 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to the Fund \$1,500,000
16 for each of fiscal years 2011, 2012, and 2013.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 for chapter 111 of title 46, United States Code, is amend-
19 ed by adding at the end the following new item:

“11113. Protection and fair treatment of seafarers.”.

1 **TITLE** **IV—INTERNATIONAL**
2 **INTERMODAL SUPPLY CHAIN**
3 **SECURITY**

4 **SEC. 401. SINGLE ELECTRONIC WINDOW FOR FILING VES-**
5 **SEL, CREW, AND PASSENGER INFORMATION.**

6 Within one year after the date of enactment of this
7 Act, the Secretary of the department in which the Coast
8 Guard is operating shall—

9 (1) develop a strategic plan to prevent the un-
10 authorized importation of radioactive, chemical, bio-
11 logical, or nuclear agents for all modal pathways
12 coming into the country and to identify and har-
13 monize the entry document filing and entry require-
14 ments where appropriate;

15 (2) undertake the necessary programming
16 changes to the electronic Notice of Arrival and De-
17 parture system under subpart C of part 160 of title
18 33, Code of Federal Regulations, so that the system
19 electronically captures all the data elements collected
20 on Form I-418 (Passenger List—Crew List) under
21 part 251 of title 8, Code of Federal Regulations; and

22 (3) phase-out entirely the collection of the
23 paper Form I-418 from the master or agent of
24 every vessel arriving in the United States from or

1 departing to a foreign place or an outlying posses-
2 sion of the United States.

3 **SEC. 402. MARITIME AND CARGO SECURITY INTEGRATED**
4 **PROJECT TEAMS.**

5 The Secretary of Homeland Security shall—

6 (1) establish integrated project teams within
7 the science and technology directorate to assist the
8 Department of Homeland Security in product re-
9 search, development, transition, and acquisition ac-
10 tivities for cargo security; and

11 (2) provide for participation by port authorities
12 or the appropriate State agency responsible for over-
13 sight of port areas in such activities.

14 **SEC. 403. RISK BASED ALIGNMENT OF MARITIME SECURITY**
15 **SCANNING REQUIREMENTS.**

16 Section 232 of the SAFE Port Act (6 U.S.C. 982)
17 is amended—

18 (1) by striking “and” in subsection (b)(1) and
19 inserting “or”;

20 (2) by striking “2012” in subsection (b)(2)(A)
21 and inserting “2015”;

22 (3) by inserting “MILITARY” in the heading for
23 subsection (b)(5) and inserting “CERTAIN”;

24 (4) by inserting “cargo shipped by the Sec-
25 retary of State and transported in accordance with

1 applicable law,” in subsection (b)(5) after “Code,”;
2 and
3 (5) by striking “6 months” in subsection (c)
4 and inserting “year”.

5 **TITLE V—U.S. MARINER**
6 **PROTECTION**

7 **SEC. 501. USE OF FORCE AGAINST PIRACY.**

8 (a) IN GENERAL.—Chapter 81 of title 46, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 **“§ 8107. Use of force against piracy**

12 “A person who uses force at sea to defend a vessel
13 against an act of piracy shall not be liable for monetary
14 damages in any action brought with respect to harm
15 caused by such use of force to anyone engaging in such
16 act of piracy, unless the person using such force knew at
17 the time that it was substantially in excess of what was
18 reasonable in defending the vessel against such act of pi-
19 racy.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 for such chapter is amended by adding at the end the fol-
22 lowing:

“8107. Use of force against piracy”.

23 **SEC. 502. AGREEMENTS.**

24 The Secretary of the department in which the Coast
25 Guard is operating shall work through the International

1 Maritime Organization to establish agreements to promote
 2 coordinated action among flag- and port-states to deter,
 3 protect against, and rapidly respond to acts of piracy
 4 against the vessels of, and in the waters under the juris-
 5 diction of, those Nations, and to ensure limitations on li-
 6 ability similar to those established by section 8107 of title
 7 46, United States Code.

8 **TITLE VI. CREDENTIALING**

9 **SEC. 601. AUTHORIZATION TO EXTEND THE DURATION OF** 10 **LICENSES, CERTIFICATES OF REGISTRY, AND** 11 **MERCHANT MARINERS' DOCUMENTS.**

12 (a) MERCHANT MARINER LICENSES AND DOCU-
 13 MENTS.—Chapter 75 of title 46, United States Code, is
 14 amended by adding at the end the following:

15 **“§ 7507. Authority to extend the duration of licenses,**
 16 **certificates of registry, and merchant**
 17 **mariner documents**

18 **“(a) LICENSES AND CERTIFICATES OF REGISTRY.—**
 19 Notwithstanding sections 7106 and 7107, the Secretary
 20 of the department in which the Coast Guard is operating
 21 may extend for up to one year an expiring license or cer-
 22 tificate of registry issued for an individual under chapter
 23 71 if the Secretary determines that extension is re-
 24 quired—

1 “(1) to enable the Coast Guard to eliminate a
2 backlog in processing applications for those licenses
3 or certificates of registry;

4 “(2) because necessary records have been de-
5 stroyed or are unavailable due to a natural disaster;
6 or

7 “(3) to align the expiration date of a license or
8 certificate of registry with the expiration date of a
9 transportation worker identification credential under
10 section 70501.

11 “(b) MERCHANT MARINER DOCUMENTS.—Notwith-
12 standing section 7302(g), the Secretary may extend for
13 one year an expiring merchant mariner’s document issued
14 for an individual under chapter 71 if the Secretary deter-
15 mines that extension is required—

16 “(1) to enable the Coast Guard to eliminate a
17 backlog in processing applications for those licenses
18 or certificates of registry;

19 “(2) because necessary records have been de-
20 stroyed or are unavailable due to a natural disaster;
21 or

22 “(3) to align the expiration date of a license or
23 certificate of registry with the expiration date of a
24 transportation worker identification credential under
25 section 70501.

1 “(c) MANNER OF EXTENSION.—Any extensions
2 granted under this section may be granted to individual
3 seamen or a specifically identified group of seamen.

4 “(d) EXPIRATION OF AUTHORITY.—The authority
5 for providing an extension under this section shall expire
6 on December 31, 2011.”.

7 (b) CLERICAL AMENDMENT.—The table of contents
8 for such chapter is amended by adding at the end the fol-
9 lowing:

“7507. Authority to extend the duration of licenses, certificates of registry, and
merchant mariner documents”.

10 **SEC. 602. ANIMAL-PROPELLED VESSELS.**

11 Notwithstanding section 70105 of title 46, United
12 States Code, the Secretary of Homeland Security may not
13 require an individual to hold a transportation security
14 card, or be accompanied by another individual who holds
15 such a card if—

16 (1) the individual has been issued a license, cer-
17 tificate of registry, or merchant mariner’s document
18 under part E of subtitle II of title 46, United States
19 Code;

20 (2) the individual is not allowed unescorted ac-
21 cess to a secure area designated in a vessel or facil-
22 ity security plan approved by the Secretary; and

23 (3) the individual is engaged in the operation of
24 a live animal-propelled vessel.

1 **TITLE VII—PORT SECURITY**
2 **GRANTS**

3 **SEC. 701. CONTINUATION OF PILOT PROGRAM AUTHORITY.**

4 Section 70107(m)(2)(B) of title 46, United States
5 Code, is amended by striking “2005 through 2009” and
6 inserting “2011 through 2014”.

7 **SEC. 702. GRANTS TO TIER 1 AND TIER 2 PORTS REQUIRE**
8 **REGIONAL STRATEGIC RISK MANAGEMENT**
9 **ASSESSMENT.**

10 Section 70107(a) of title 46, United States Code, is
11 amended by adding at the end “The Secretary shall estab-
12 lish regional strategic risk management priorities for tier
13 1 and tier 2 ports and take such priorities into account
14 in awarding grants under this section.”.

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