

Intermodal Shipping Container Security Act (Introduced in Senate)
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S. 376

To improve intermodal shipping container transportation security.

IN THE SENATE OF THE UNITED STATES

February 15, 2005

Mrs. HUTCHISON introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To improve intermodal shipping container transportation security.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Intermodal Shipping Container Security Act'.

SEC. 2. NATIONAL TRANSPORTATION SECURITY STRATEGY.

In carrying out section 114(f) of title 49, United States Code, the Under Secretary of Homeland Security for Border and Transportation Security shall take into account the National Maritime Transportation Security Plan prepared under section 70103 of title 46, United States Code, by the Secretary of the department in which the Coast Guard is operating when the plan is prepared in order to ensure that the strategy for dealing with threats to transportation security developed under section 114(f)(3) of title 49, United States Code, incorporates relevant aspects of the National Maritime Transportation Security Plan and addresses all modes of commercial transportation to, from, and within the United States.

SEC. 3. COMPREHENSIVE STRATEGIC PLAN FOR INTERMODAL SHIPPING CONTAINER SECURITY.

(a) Strategic Plan-

(1) IN GENERAL- Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and

Transportation and the House of Representatives Committee on Transportation and Infrastructure a strategic plan for integrating security for all modes of transportation by which intermodal shipping containers arrive, depart, or move in interstate commerce in the United States that--

(A) takes into account the security-related authorities and missions of all Federal, State, and local law enforcement agencies that relate to the movement of intermodal shipping containers via air, rail, maritime, or highway transportation in the United States; and

(B) establishes as a goal the creation of a comprehensive, integrated strategy for intermodal shipping container security that encompasses the authorities and missions of all those agencies and sets forth specific objectives, mechanisms, and a schedule for achieving that goal.

(2) UPDATES- The Secretary shall revise the plan from time to time.

(b) IDENTIFICATION OF PROBLEM AREAS- In developing the strategic plan required by subsection (a), the Secretary shall consult with all Federal, State, and local government agencies responsible for security matters that affect or relate to the movement of intermodal shipping containers via air, rail, maritime, or highway transportation in the United States in order to--

(1) identify changes, including legislative, regulatory, jurisdictional, and organizational changes, necessary to improve coordination among those agencies;

(2) reduce overlapping capabilities and responsibilities; and

(3) streamline efforts to improve the security of such intermodal shipping containers.

(c) ESTABLISHMENT OF STEERING GROUP- The Secretary shall establish, organize, and provide support for an advisory committee, to be known as the Senior Steering Group, of senior representatives of the agencies described in subsection (c). The Group shall meet from time to time, at the call of the Secretary or upon its own motion, for the purpose of developing solutions to jurisdictional and other conflicts among the represented agencies with respect to the security of intermodal shipping containers, improving coordination and information-sharing among the represented agencies, and addressing such other, related matters, as the Secretary may request.

(d) ANNUAL REPORT- The Secretary, after consulting the Senior Steering Group, shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the activities of the Senior Steering Group and the Secretary under this section, describing the progress made during the year toward achieving the objectives of the plan, and including any recommendations, including legislative recommendations, if appropriate for further improvements in dealing with security-issues related to intermodal shipping containers and related transportation security issues.

(e) Biennial Expert Critique-

(1) EXPERT PANEL- A panel of experts shall be convened once every 2 years by the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure to review plans submitted by the Secretary under subsection (a).

(2) MEMBERSHIP- The panel shall consist of--

(A) 4 individuals selected by the chairman and ranking member of the Senate Committee on Commerce, Science, and Transportation and by the chairman and ranking member of House of Representatives Committee on Transportation and Infrastructure, respectively; and

(B) 1 individual selected by the 4 individuals selected under subparagraph (A).

(3) QUALIFICATIONS- Individuals selected under paragraph (2) shall be chosen from among individuals with professional expertise and experience in security-related issues involving shipping or transportation and without regard to political affiliation.

(4) COMPENSATION AND EXPENSES- An individual serving as a member of the panel shall not receive any compensation or other benefits from the Federal Government for serving on the panel or be considered a Federal employee as a result of such service. Panel members shall be reimbursed by the Committees for expenses, including travel and lodging, they incur while actively engaged in carrying out the functions of the panel.

(5) FUNCTION- The panel shall review plans submitted by the Secretary under subsection (a), evaluate the strategy set forth in the plan, and make such recommendations to the Secretary for modifying or otherwise improving the strategy as may be appropriate.

SEC. 4. SHIPPING CONTAINER INTEGRITY INITIATIVE.

(a) IN GENERAL- Chapter 701 of title 46, United States Code, is amended--

(1) by redesignating section 70117 as section 70118; and

(2) by inserting after section 70116 the following:

Sec. 70117. Enhanced container-related security measures.

(a) TRACKING INTERMODAL CONTAINER SHIPMENTS IN THE UNITED STATES- The Secretary, in cooperation with the Under Secretary of Border and Transportation Security, shall develop a system to increase the number of intermodal

shipping containers physically inspected (including nonintrusive inspection by scanning technology), monitored, and tracked within the United States.

`(b) SMART BOX TECHNOLOGY- Under regulations to be prescribed by the Secretary, beginning with calendar year 2007 no less than 50 percent of all ocean-borne shipping containers entering the United States during any calendar year shall incorporate `Smart Box' or equivalent technology developed, approved, or certified by the Under Secretary of Homeland Security for Border and Transportation Security.

`(c) DEVELOPMENT OF INTERNATIONAL STANDARD FOR SMART CONTAINERS- The Secretary shall--

`(1) develop, and seek international acceptance of, a standard for `smart' maritime shipping containers that incorporate technology for tracking the location and assessing the integrity of those containers as they move through the intermodal transportation system; and

`(2) implement an integrated tracking and technology system for such containers.

`(d) REPORT- Within 1 year after the date of enactment of the Intermodal Shipping Container Security Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report that contains--

`(1) a cost analysis for implementing this section; and

`(2) a strategy for implementing the system described in subsection (c)(3).'

(b) CONFORMING AMENDMENT- The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70117 and inserting the following:

`70117. Enhanced container-related security measures.

`70118. Civil penalties.'

SEC. 5. ADDITIONAL RECOMMENDATIONS.

Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report that contains the following:

(1) Recommendations about what analysis must be performed and the cost to develop and field a cargo container tracking and monitoring system within the United States which

tracks all aviation, rail, maritime, and highway cargo containers equipped with smart container technology.

(2) Recommendations on how the Department of Homeland Security could help support the deployment of such a system.

(3) Recommendations as to how current efforts by the Department of Homeland Security and other Federal agencies could be incorporated into the physical screening or inspection of aviation, rail, maritime, and highway cargo containers within the United States.

(4) Recommendations about operating systems and standards for those operating systems, to support the tracking of aviation, rail, maritime, and highway cargo containers within the United States that would include the location of regional, State, and local operations centers.

(5) A description of what contingency actions, measures, and mechanisms should be incorporated in the deployment of a nationwide aviation, rail, maritime, and highway cargo containers tracking and monitoring system which would allow the United States maximum flexibility in responding quickly and appropriately to increased terrorist threat levels at the local, State, or regional level.

(6) A description of what contingency actions, measures, and mechanisms must be incorporated in the deployment of such a system which would allow for the quick reconstitution of the system in the event of a catastrophic terrorist attack which affected part of the system.

(7) Recommendations on how to leverage existing information and operating systems within State or Federal agencies to assist in the fielding of the system.

(8) Recommendations on co-locating local, State, and Federal agency personnel to streamline personnel requirements, minimize costs, and avoid redundancy.

(9) An initial assessment of the availability of private sector resources which could be utilized, and incentive systems developed, to support the fielding of the system, and the maintenance and improvement as technology or terrorist threat dictate.

(10) Recommendations on how this system that is focused on the continental United States would be integrated into any existing or planned system, or process, which is designed to monitor the movement of cargo containers outside the continental United States.

SEC. 6. IMPROVEMENTS TO CONTAINER TARGETING SYSTEMS.

(a) IN GENERAL- Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Senate Committee on Commerce,

Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that provides a preliminary plan for strengthening the Bureau of Customs and Border Protection's container targeting system. The plan shall identify the cost and feasibility of requiring additional non-manifest documentation for each container, including purchase orders, shipper's letters of instruction, commercial invoices, letters of credit, or certificates of origin.

(b) REDUCTION OF MANIFEST REVISION WINDOW- Within 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall issue regulations under which the time period for revisions to a container cargo manifest submitted to the Bureau of Customs and Border Protection shall be reduced from 60 days to 45 days after arrival at a United States port.

(c) SUPPLY CHAIN INFORMATION- Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall develop a system to share threat and vulnerability information with all of the industries in the supply chain that will allow ports, carriers, and shippers to report on security lapses in the supply chain and have access to unclassified maritime threat and security information such as piracy incidents.

SEC. 7. INCREASE IN NUMBER OF CUSTOMS INSPECTORS ASSIGNED OVERSEAS.

(a) IN GENERAL- The Secretary of Homeland Security shall substantially increase the number of United States Customs Service inspectors assigned to duty outside the United States under the Container Security Initiative of the United States Customs Service with responsibility for inspecting intermodal shipping containers being shipped to the United States.

(b) STAFFING CRITERIA- In carrying out subsection (a) the Secretary of Homeland Security shall determine the appropriate level for assignment and density of customs inspectors at selected international port facilities by a threat, vulnerability, and risk analysis which, at a minimum, considers--

- (1) the volume of containers shipped;
- (2) the ability of the host government to assist in both manning and providing equipment and resources;
- (3) terrorist intelligence known of importer vendors, suppliers or manufactures; and
- (4) other criteria as determined in consult with experts in the shipping industry, terrorism, and shipping container security.

(c) MINIMUM NUMBER- The total number of customs inspectors assigned to international port facilities shall not be less than the number determined as a result of the threat, vulnerability, and risk assessment analysis which is validated by the Administrator

of the Transportation Security Administration within 180 days after the date of enactment of this Act.

(d) PLAN- The Secretary shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, with timelines, for phasing inspectors into selected port facilities within 180 days after the enactment of this Act.

SEC. 8. RANDOM INSPECTION OF CONTAINERS.

(a) IN GENERAL- The Under Secretary of Homeland Security for Border and Transportation Security shall develop and implement a plan for random inspection of shipping containers in addition to any targeted or pre-shipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Under Secretary.

(b) CIVIL PENALTY FOR ERRONEOUS MANIFEST-

(1) IN GENERAL- Except as provided in paragraph (2), if the Under Secretary determines on the basis of an inspection conducted under subsection (a) that there is a discrepancy between the contents of a shipping container and the manifest for that container, the Under Secretary may impose a civil penalty of not more than \$1,000 for the discrepancy.

(2) MANIFEST DISCREPANCY REPORTING- The Under Secretary may not impose a civil penalty under paragraph (1) if a manifest discrepancy report is filed with respect to the discrepancy within the time limits established by Customs Directive No. 3240-067A (or any subsequently issued directive governing the matters therein) for filing a manifest discrepancy report.