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H. R. 4251

[Report No. 112-521]

To authorize, enhance, and reform certain port security programs through increased efficiency and risk-based coordination within the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 2012

Mrs. MILLER of Michigan (for herself, Mr. KING of New York, Mr. CUELLAR, Mr. McCAUL, and Mr. CLARKE of Michigan) introduced the following bill; which was referred to the Committee on Homeland Security

JUNE 12, 2012

Additional sponsors: Mr. RIGELL, Mr. THOMPSON of Mississippi, Ms. JACKSON LEE of Texas, Ms. LORETTA SANCHEZ of California, Ms. HAHN, and Ms. RICHARDSON

JUNE 12, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 22, 2012]

A BILL

To authorize, enhance, and reform certain port security programs through increased efficiency and risk-based coordination within the Department of Homeland 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 “Securing Maritime Ac-*
 5 *tivities through Risk-based Targeting for Port Security*
 6 *Act” or the “SMART Port Security Act”.*

7 **SEC. 2. TABLE OF CONTENTS.**

8 *The table of contents for this Act is the following:*

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

TITLE I—DEPARTMENT OF HOMELAND SECURITY PORT SECURITY PROGRAMS

Sec. 101. Updates of maritime operations coordination plan.

Sec. 102. U.S. Customs and Border Protection Office of Air and Marine Asset Deployment.

Sec. 103. Cost-benefit analysis of co-locating operational entities.

Sec. 104. Study of maritime security redundancies.

Sec. 105. Acquisition and strategic sourcing of marine and aviation assets.

Sec. 106. Port security grant program management.

Sec. 107. Port security grant funding for mandated security personnel.

Sec. 108. Interagency operational centers for port security.

Sec. 109. Report on DHS aviation assets.

Sec. 110. Small vessel threat analysis.

Sec. 111. U.S. Customs and Border Protection workforce plan.

Sec. 112. Integrated cross-border maritime operations between the United States and Canada.

Sec. 113. Training and certification of training for port security.

Sec. 114. Northern border unmanned aerial vehicle pilot project.

Sec. 115. Recognition of port security assessments conducted by other entities.

Sec. 116. Use of port security grant funds for replacement of security equipment or facilities.

TITLE II—MARITIME SUPPLY CHAIN SECURITY

Sec. 201. Strategic plan to enhance the security of the international supply chain.

Sec. 202. Customs-Trade Partnership Against Terrorism.

Sec. 203. Recognition of other countries’ trusted shipper programs.

Sec. 204. Pilot program for inclusion of non-asset based third party logistics providers in the Customs-Trade Partnership Against Terrorism.

Sec. 205. Transportation Worker Identification Credential process reform.

Sec. 206. Expiration of certain transportation worker identification credentials.

Sec. 207. Securing the Transportation Worker Identification Credential against use by unauthorized aliens.

Sec. 208. Report on Federal transportation security credentialing programs.

1 **SEC. 3. DEFINITIONS.**

2 *In this Act:*

3 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
4 *TEES.—The term “appropriate congressional commit-*
5 *tees” has the meaning given such term in section 2*
6 *of the Homeland Security Act of 2002 (6 U.S.C. 101).*

7 (2) *DEPARTMENT.—The term “Department”*
8 *means the Department of Homeland Security.*

9 (3) *FUNCTION.—The term “function” includes*
10 *authorities, powers, rights, privileges, immunities,*
11 *programs, projects, activities, duties, and responsibil-*
12 *ities.*

13 (4) *LOCAL GOVERNMENT.—The term “local gov-*
14 *ernment” means—*

15 (A) *a county, municipality, city, town,*
16 *township, local public authority, school district,*
17 *special district, intrastate district, council of*
18 *governments (regardless of whether the council of*
19 *governments is incorporated as a nonprofit cor-*
20 *poration under State law), regional or interstate*
21 *government entity, or agency or instrumentality*
22 *of a local government;*

23 (B) *an Indian tribe or authorized tribal or-*
24 *ganization, or in Alaska a Native village or*
25 *Alaska Regional Native Corporation; and*

1 (C) a rural community, unincorporated
2 town or village, or other public entity.

3 (5) *PERSONNEL*.—The term “personnel” means
4 officers and employees.

5 (6) *SECRETARY*.—The term “Secretary” means
6 the Secretary of Homeland Security.

7 (7) *STATE*.—The term “State” means any State
8 of the United States, the District of Columbia, the
9 Commonwealth of Puerto Rico, the United States Vir-
10 gin Islands, Guam, American Samoa, the Common-
11 wealth of the Northern Mariana Islands, and any
12 possession of the United States.

13 (8) *TERRORISM*.—The term “terrorism” has the
14 meaning given such term in section 2 of the Home-
15 land Security Act of 2002 (6 U.S.C. 101).

16 (9) *UNITED STATES*.—The term “United States”,
17 when used in a geographic sense, means any State of
18 the United States, the District of Columbia, the Com-
19 monwealth of Puerto Rico, the Virgin Islands, Guam,
20 American Samoa, the Commonwealth of the Northern
21 Mariana Islands, any possession of the United States,
22 and any waters within the jurisdiction of the United
23 States.

1 **TITLE I—DEPARTMENT OF**
2 **HOMELAND SECURITY PORT**
3 **SECURITY PROGRAMS**

4 **SEC. 101. UPDATES OF MARITIME OPERATIONS COORDINA-**
5 **TION PLAN.**

6 (a) *IN GENERAL.*—Not later than July 1, 2014, the
7 Secretary shall submit to the appropriate congressional
8 committees a maritime operations coordination plan for the
9 coordination and cooperation of maritime operations un-
10 dertaken by the agencies within the Department. Such plan
11 shall update the maritime operations coordination plan re-
12 leased by the Department in July 2011, and shall address
13 the following:

14 (1) *Coordination of planning, integration of*
15 *maritime operations, and development of joint situa-*
16 *tional awareness of any office or agency of the De-*
17 *partment with responsibility for maritime homeland*
18 *security missions.*

19 (2) *Maintaining effective information sharing*
20 *and, as appropriate, intelligence integration, with*
21 *Federal, State, and local officials and the private sec-*
22 *tor, regarding threats to maritime security.*

23 (3) *Leveraging existing departmental coordina-*
24 *tion mechanisms, including the Interagency Oper-*
25 *ational Centers, as authorized under section 70107A*

1 of title 46, United States Code, the U.S. Customs and
2 Border Protection Air and Marine Operations Center,
3 the U.S. Customs and Border Protection Operational
4 Integration Center, and other regional maritime oper-
5 ational command centers.

6 (4) Cooperation and coordination with other
7 agencies of the Federal Government, and State and
8 local agencies, in the maritime environment, in sup-
9 port of maritime homeland security missions.

10 (5) Work conducted within the context of other
11 national and Department maritime security strategic
12 guidance.

13 (b) *ADDITIONAL UPDATES.*—Not later than July 1,
14 2019, the Secretary, acting through the Department’s Office
15 of Operations Coordination and Planning, shall submit to
16 the appropriate congressional committees an additional up-
17 date to the maritime operations coordination plan.

18 **SEC. 102. U.S. CUSTOMS AND BORDER PROTECTION OFFICE**

19 **OF AIR AND MARINE ASSET DEPLOYMENT.**

20 (a) *IN GENERAL.*—Any new asset deployment by the
21 U.S. Customs and Border Protection’s Office of Air and
22 Marine, following the date of the enactment of this Act,
23 shall, to the greatest extent practicable, occur in accordance
24 with a risk-based assessment that considers mission needs,
25 performance results, threats, costs, and any other relevant

1 *factors identified by the Secretary. Specific factors to be in-*
2 *cluded in such assessment shall include, at a minimum, the*
3 *following:*

4 (1) *Mission requirements that prioritize the*
5 *operational needs of field commanders to secure the*
6 *United States border and ports.*

7 (2) *Other Department assets available to help*
8 *address any unmet border and port security mission*
9 *needs.*

10 (3) *Risk analysis showing positioning of the*
11 *asset at issue to respond to intelligence on emerging*
12 *terrorist and other threats.*

13 (4) *Cost-benefit analysis showing the relative*
14 *ability to use the asset at issue in the most cost-effec-*
15 *tive way to reduce risk and achieve mission success.*

16 (b) *CONSIDERATIONS.—An assessment required under*
17 *subsection (a) shall consider applicable Federal guidance,*
18 *standards, and agency strategic and performance plans, in-*
19 *cluding the following:*

20 (1) *The most recent Departmental Quadrennial*
21 *Homeland Security Review, and any follow-up guid-*
22 *ance related to such Review.*

23 (2) *The Department's Annual Performance*
24 *Plans.*

1 *locating aviation and maritime operational assets of the*
2 *different agencies of the Department. In analyzing the po-*
3 *tential cost savings achieved by sharing aviation and mari-*
4 *time facilities, the study shall consider at a minimum the*
5 *following factors:*

6 (1) *Potential enhanced cooperation derived from*
7 *Department personnel being co-located.*

8 (2) *Potential cost of, and savings derived*
9 *through, shared maintenance and logistics facilities*
10 *and activities.*

11 (3) *Joint use of base and facility infrastructure,*
12 *such as runways, hangars, control towers, operations*
13 *centers, piers and docks, boathouses, and fuel depots.*

14 (4) *Short term moving costs required in order to*
15 *co-locate facilities.*

16 (5) *Acquisition and infrastructure costs for en-*
17 *larging current facilities as needed.*

18 (b) *REPORT.—Not later than one year after the date*
19 *of the enactment of this Act, the Secretary shall submit to*
20 *the appropriate congressional committees a report summa-*
21 *rizing the results of the cost-benefit analysis required under*
22 *subsection (a) and any planned actions based upon such*
23 *results.*

1 **SEC. 104. STUDY OF MARITIME SECURITY REDUNDANCIES.**

2 *The Comptroller General of the United States shall by*
3 *not later than 1 year after the date of enactment of this*
4 *Act—*

5 *(1) conduct a review of port security and mari-*
6 *time law enforcement operations within the Depart-*
7 *ment to identify initiatives and programs with dupli-*
8 *cative, overlapping, or redundant goals and activities,*
9 *including the cost of such duplication; and*

10 *(2) submit to the appropriate congressional com-*
11 *mittees a report on the findings of the study, includ-*
12 *ing—*

13 *(A) recommendations for consolidation,*
14 *elimination, or increased cooperation to reduce*
15 *unnecessary duplication found in the study; and*

16 *(B) an analysis of personnel, maintenance,*
17 *and operational costs related to unnecessarily*
18 *duplicative, overlapping, or redundant goals and*
19 *activities found in the study.*

20 **SEC. 105. ACQUISITION AND STRATEGIC SOURCING OF MA-**
21 **RINE AND AVIATION ASSETS.**

22 *(a) IN GENERAL.—Before initiating the acquisition of*
23 *any new boat or aviation asset, the Secretary shall coordi-*
24 *nate across the agencies of the Department, as appropriate,*
25 *to—*

1 (1) *identify common mission requirements before*
2 *initiating a new acquisition program; and*

3 (2) *standardize, to the extent practicable, equip-*
4 *ment purchases, streamline the acquisition process,*
5 *and conduct best practices for strategic sourcing to*
6 *improve control, reduce cost, and facilitate oversight*
7 *of asset purchases prior to issuing a Request for Pro-*
8 *posal.*

9 (b) *ESTABLISHMENT OF AVIATION AND MARITIME CO-*
10 *ORDINATION MECHANISM.—Not later than 180 days after*
11 *the date of the enactment of this Act, the Secretary shall*
12 *establish a coordinating mechanism for aviation and mari-*
13 *time issues, including issues related to the acquisition, ad-*
14 *ministration, operations, maintenance, and joint manage-*
15 *ment across the Department, in order to decrease procure-*
16 *ment and operational costs and increase efficiencies.*

17 (c) *SPECIAL RULE.—For the purposes of this section,*
18 *a boat shall be considered any vessel less than 65 feet in*
19 *length.*

20 **SEC. 106. PORT SECURITY GRANT PROGRAM MANAGEMENT.**

21 (a) *DETERMINATION OF APPLICATIONS.—Section*
22 *70107(g) of title 46, United States Code, is amended*

23 (1) *by striking “Any entity” and inserting the*
24 *following:*

25 “(1) *IN GENERAL.—Any entity*”; and

1 (2) *by adding at the end the following:*

2 “(2) *DETERMINATION.—Notwithstanding any*
3 *other provision of law, the Secretary shall, not later*
4 *than 60 days after the date on which an applicant*
5 *submits a complete application for a grant under this*
6 *section, either approve or disapprove the applica-*
7 *tion.”.*

8 (b) *ADMINISTRATION OF COST SHARE DETERMINA-*
9 *TIONS.—Section 70107(c)(2) of title 46, United States Code,*
10 *is amended—*

11 (1) *by striking subparagraph (B) and inserting*
12 *the following:*

13 “(B) *HIGHER LEVEL OF SUPPORT RE-*
14 *QUIRED.—If the Secretary or the Secretary’s des-*
15 *ignee determines that a proposed project merits*
16 *support and cannot be undertaken without a*
17 *higher rate of Federal support, then the Sec-*
18 *retary or the Secretary’s designee may approve*
19 *grants under this section for that project with a*
20 *matching requirement other than that specified*
21 *in paragraph (1).”;* and

22 (2) *by inserting after subparagraph (C) the fol-*
23 *lowing:*

24 “(D) *COST SHARE DETERMINATIONS.—Not-*
25 *withstanding any other provision of law, not*

1 *later than 60 days after the date on which an*
2 *applicant submits a complete application for a*
3 *matching requirement waiver under this para-*
4 *graph the Secretary shall either approve or dis-*
5 *approve the application.”.*

6 (c) *ADMINISTRATION.—Section 70107(i) of title 46,*
7 *United States Code, is amended by adding after paragraph*
8 *(4) the following:*

9 “(5) *RELEASE OF FUNDS.—To the maximum ex-*
10 *tent practicable, the Secretary shall complete all nec-*
11 *essary programmatic reviews and release grant funds*
12 *awarded under this section to the appropriate entity*
13 *not later than 180 days after the date on which an*
14 *applicant submits a complete application.*

15 “(6) *PERFORMANCE PERIOD.—The Secretary*
16 *shall utilize a period of performance of not less than*
17 *3 years for expenditure of grant funds awarded under*
18 *this section.*

19 “(7) *EXTENSION DETERMINATIONS.—Notwith-*
20 *standing any other provision of law, not later than*
21 *60 days after the date on which an applicant submits*
22 *a complete application for an extension of the period*
23 *of performance for a grant, the Secretary shall either*
24 *approve or disapprove the application.”.*

1 **SEC. 107. PORT SECURITY GRANT FUNDING FOR MANDATED**
2 **SECURITY PERSONNEL.**

3 *Section 70107(b)(1) of title 46, United States Code, is*
4 *amended by striking the period and inserting the following:*
5 *“, including overtime and backfill costs incurred in support*
6 *of other expenditures authorized under this subsection, ex-*
7 *cept that not more than 50 percent of amounts received by*
8 *a grantee under this section for a fiscal year may be used*
9 *under this paragraph.”.*

10 **SEC. 108. INTERAGENCY OPERATIONAL CENTERS FOR PORT**
11 **SECURITY.**

12 (a) *PARTICIPATING PERSONNEL.—Section*
13 *70107A(b)(1)(B) of title 46, United States Code, is amend-*
14 *ed—*

15 (1) *by inserting “, not less than part-time rep-*
16 *resentation from U. S. Customs and Border Protec-*
17 *tion and U.S. Immigration and Customs Enforce-*
18 *ment,” after “the Coast Guard”; and*

19 (2) *by striking “the United States Customs and*
20 *Border Protection, the United States Immigration*
21 *and Customs Enforcement,”.*

22 (b) *ASSESSMENT.—Not later than one year after the*
23 *date of enactment of this Act the Secretary (as that term*
24 *is used in that section) shall transmit to the appropriate*
25 *congressional committees an assessment of—*

1 (1) *interagency operational centers under such*
2 *section and the implementation of the amendments*
3 *made by this section;*

4 (2) *participation in such centers and by Federal*
5 *agencies, State and local law enforcement agencies,*
6 *port security agencies, and other public and private*
7 *sector entities, including joint daily operational co-*
8 *ordination, training and certifying of non-Federal*
9 *law enforcement personnel, and joint training exer-*
10 *cises;*

11 (3) *deployment of interoperable communications*
12 *equipment under subsection (e) of such section, in-*
13 *cluding—*

14 (A) *an assessment of the cost-effectiveness*
15 *and utility of such equipment for Federal agen-*
16 *cies, State and local law enforcement agencies,*
17 *port security agencies, and other public and pri-*
18 *ivate sector entities;*

19 (B) *data showing which Federal agencies,*
20 *State and local law enforcement agencies, port*
21 *security agencies, and other public and private*
22 *sector entities are utilizing such equipment;*

23 (C) *an explanation of the process in place*
24 *to obtain and incorporate feedback from Federal*
25 *agencies, State and local law enforcement agen-*

1 *cies, port security agencies, and other public and*
2 *private sector entities that are utilizing such*
3 *equipment in order to better meet their needs;*
4 *and*

5 *(D) an updated deployment schedule and*
6 *life cycle cost estimate for the deployment of such*
7 *equipment; and*

8 *(4) mission execution and mission support ac-*
9 *tivities of such centers, including daily coordination*
10 *activities, information sharing, intelligence integra-*
11 *tion, and operational planning.*

12 **SEC. 109. REPORT ON DHS AVIATION ASSETS.**

13 *(a) IN GENERAL.—Not later than one year after the*
14 *date of the enactment of this Act, the Comptroller General*
15 *of the United States shall submit to the appropriate con-*
16 *gressional committees a report that analyzes and compares*
17 *the costs, capabilities, and missions of different aviation as-*
18 *sets, including unmanned aerial vehicles, utilized by the De-*
19 *partment to assess the relative costs of unmanned aerial ve-*
20 *hicles as compared to manned aerial vehicles, and any in-*
21 *creased operational benefits offered by unmanned aerial ve-*
22 *hicles as compared to manned aviation assets.*

23 *(b) REQUIRED DATA.—The report required under sub-*
24 *section (a) shall include a detailed assessment of costs for*

1 *operating each type of asset described in such report, in-*
2 *cluding—*

3 *(1) fuel costs;*

4 *(2) crew and staffing costs;*

5 *(3) maintenance costs;*

6 *(4) communication and satellite bandwidth costs;*

7 *(5) costs associated with the acquisition of each*
8 *type of such asset; and*

9 *(6) any other relevant costs necessary to provide*
10 *a holistic analysis and to identify potential cost sav-*
11 *ings.*

12 **SEC. 110. SMALL VESSEL THREAT ANALYSIS.**

13 *Not later than 1 year after the date of enactment of*
14 *this Act, the Secretary shall submit to the appropriate con-*
15 *gressional committees a report analyzing the threat of, vul-*
16 *nerability to, and consequence of an act of terrorism using*
17 *a small vessel to attack United States vessels, ports, or mar-*
18 *itime interests.*

19 **SEC. 111. U.S. CUSTOMS AND BORDER PROTECTION WORK-**
20 **FORCE PLAN.**

21 *(a) IN GENERAL.—Not later than one year after the*
22 *date of the enactment of this Act, the Secretary shall submit*
23 *to the appropriate congressional committees a plan for opti-*
24 *mizing staffing levels for U.S. Customs and Border Protec-*
25 *tion personnel to carry out the mission of the Department,*

1 *including optimal levels of U.S. Customs and Border Pro-*
2 *tection staffing required to conduct all border security func-*
3 *tions.*

4 (b) *CONSIDERATION OF PRIOR STAFFING RE-*
5 *SOURCES.—The staffing plan required under subsection (a)*
6 *shall consider previous staffing models prepared by the De-*
7 *partment and assessments of threat and vulnerabilities.*

8 **SEC. 112. INTEGRATED CROSS-BORDER MARITIME OPER-**
9 **ATIONS BETWEEN THE UNITED STATES AND**
10 **CANADA.**

11 (a) *IN GENERAL.—Subtitle C of title IV of the Home-*
12 *land Security Act of 2002 (6 U.S.C. 201 et seq.) is amended*
13 *by adding at the end the following:*

14 **“SEC. 432. INTEGRATED CROSS-BORDER MARITIME OPER-**
15 **ATIONS BETWEEN THE UNITED STATES AND**
16 **CANADA.**

17 *“(a) AUTHORIZATION.—The Secretary is authorized to*
18 *establish an Integrated Cross-Border Maritime Operations*
19 *Program to coordinate maritime security operations be-*
20 *tween the United States and Canada (in this section re-*
21 *ferred to as the ‘Program’).*

22 *“(b) PURPOSE.—The Secretary, acting through the*
23 *Commandant of the Coast Guard, shall administer the Pro-*
24 *gram in a manner that results in a cooperative approach*
25 *between the United States and Canada to strengthen border*

1 *security and detect, prevent, suppress, investigate, and re-*
2 *spond to terrorism and violations of law related to border*
3 *security.*

4 “(c) *TRAINING.—The Secretary, acting through the*
5 *Commandant of the Coast Guard, in consultation with the*
6 *Secretary of State, may—*

7 “(1) *establish, as an element of the Program, a*
8 *training program to create designated maritime law*
9 *enforcement officers;*

10 “(2) *conduct training jointly with Canada, in-*
11 *cluding training—*

12 “(A) *on the detection and apprehension of*
13 *suspected terrorists and individuals attempting*
14 *to unlawfully cross or unlawfully use the inter-*
15 *national maritime border between the United*
16 *States and Canada, to enhance border security;*

17 “(B) *on the integration, analysis, and dis-*
18 *semination of port security information between*
19 *the United States and Canada;*

20 “(C) *on the respective policy, regulatory,*
21 *and legal considerations related to the Program;*

22 “(D) *on the use of force and maritime secu-*
23 *rity;*

1 “(E) in operational procedures and protec-
2 tion of information and other sensitive informa-
3 tion; and

4 “(F) on preparedness and response to mari-
5 time terrorist incidents.

6 “(d) COORDINATION.—The Secretary, acting through
7 the Commandant of the Coast Guard, shall coordinate the
8 Program with other similar border security and
9 antiterrorism programs within the Department.

10 “(e) MEMORANDA OF AGREEMENT.—The Secretary
11 may enter into any memorandum of agreement necessary
12 to carry out the Program.

13 “(f) AUTHORIZATION OF APPROPRIATIONS.—To carry
14 out this section there is authorized to be appropriated to
15 the Secretary \$2,000,000 for each of fiscal years 2013 and
16 2014.”.

17 “(b) CLERICAL AMENDMENT.—The table of contents in
18 section 1(b) of such Act is amended by adding at the end
19 of the items relating to such subtitle the following new item:

 “Sec. 432. Integrated cross-border maritime operations between the United States
 and Canada.”.

20 **SEC. 113. TRAINING AND CERTIFICATION OF TRAINING FOR**
21 **PORT SECURITY.**

22 “(a) USE OF PORT SECURITY GRANT FUNDS.—Section
23 70107(b)(8) of title 46, United States Code, is amended to
24 read as follows:

1 “(8) *The cost of training and certifying a law*
2 *enforcement officer employed by a law enforcement*
3 *agency under section 70132 of this title.*”.

4 (b) *MATCHING REQUIREMENT.*—Section
5 70107(c)(2)(C) of such title is amended to read as follows:

6 “(C) *TRAINING AND CERTIFICATION.*—There
7 *are no matching requirements for grants under*
8 *subsection (a) to train and certify law enforce-*
9 *ment personnel under section 70132 of this*
10 *title.*”.

11 (c) *CREDENTIALING STANDARDS, TRAINING, AND CER-*
12 *TIFICATION.*—Section 70132 of such title is amended as fol-
13 *lows:*

14 (1) *In the section heading, by striking “**for***
15 ***State and local support for the enforce-***
16 ***ment of security zones for the transpor-***
17 ***tation of especially hazardous cargo” and***
18 *inserting “**of maritime law enforcement per-***
19 ***sonnel**”.*

20 (2) *By amending subsection (a) to read as fol-*
21 *lows:*

22 “(a) *STANDARDS.*—*The Commandant of the Coast*
23 *Guard shall establish standards for training, qualification,*
24 *and certification of a law enforcement officer employed by*
25 *a law enforcement agency, to conduct or execute, pursuant*

1 *to a cooperative enforcement agreement, maritime security,*
2 *maritime law enforcement, and maritime surge capacity*
3 *activities.”.*

4 (3) *In subsection (b)(1), by amending subpara-*
5 *graphs (A) and (B) to read as follows:*

6 “(A) *after notice and opportunity for public*
7 *comment, may develop and publish training cur-*
8 *ricula for the standards established under sub-*
9 *section (a); and*

10 “(B) *may—*

11 “(i) *test and deliver training for which*
12 *the curriculum is developed under subpara-*
13 *graph (A);*

14 “(ii) *enter into an agreement under*
15 *which any Federal, State, local, tribal, or*
16 *private sector entity may test and deliver*
17 *such training; and*

18 “(iii) *accept the results of training*
19 *conducted by any Federal, State, local, trib-*
20 *al, or private sector entity under such an*
21 *agreement.”.*

22 (4) *By striking subsection (b)(2) and inserting*
23 *the following:*

24 “(2) *Any training developed under paragraph*
25 *(1) after the date of enactment of the SMART Port*

1 *Security Act shall be developed in consultation with*
2 *the Federal Law Enforcement Training Center.”.*

3 (5) *In subsection (b)(4)—*

4 (A) *by inserting after “any moneys,” the*
5 *following: “other than an allocation made under*
6 *the Dingell-Johnson Sport Fish Restoration Act*
7 *(16 U.S.C. 777 et seq.),”;* and

8 (B) *by striking “training of personnel to as-*
9 *sist in the enforcement of security zones and lim-*
10 *ited access areas” and inserting “training and*
11 *certifying personnel under this section”.*

12 (6) *By striking subsection (c) and inserting the*
13 *following:*

14 “(c) *CERTIFICATION OF PERSONNEL.—The Com-*
15 *mandant of the Coast Guard may issue a certificate to law*
16 *enforcement officer employed by a law enforcement agency,*
17 *who has successfully completed training that the Com-*
18 *mandant has developed under this section.”.*

19 (7) *By adding at the end the following:*

20 “(d) *TACTICAL TRAINING FOR LAW ENFORCEMENT*
21 *PERSONNEL.—The Commandant of the Coast Guard may*
22 *make such training developed under this section available*
23 *to law enforcement officers employed by a law enforcement*
24 *agency, on either a reimbursable or a non-reimbursable*
25 *basis, if the Commandant determines that—*

1 “(1) a member of the Coast Guard is unable or
2 unavailable to undertake tactical training the author-
3 ization of which had been previously approved, and
4 no other member of the Coast Guard is reasonably
5 available to undertake such training;

6 “(2) the inability or unavailability of Coast
7 Guard personnel to undertake such training creates
8 training capacity within the training program; and

9 “(3) such training, if made available to such law
10 enforcement officers, would contribute to achievement
11 of the purposes of this section.”.

12 (d) *CONFORMING AMENDMENT.*—Chapter 701 of such
13 title is amended—

14 (1) by striking the heading for subchapter II and
15 inserting the following:

16 **“Subchapter II—Port Security Training and**
17 **Certification”**; and

18 (2) in the table of sections at the beginning of the
19 chapter—

20 (A) by striking the item relating to the
21 heading for subchapter II and inserting the fol-
22 lowing:

 “SUBCHAPTER II—PORT SECURITY TRAINING AND CERTIFICATION”; AND

23 (B) by striking the item relating to section
24 70132 and inserting the following:

“70132. *Credentialing standards, training, and certification of maritime law enforcement personnel.*”.

1 (e) *TECHNICAL CORRECTIONS.—Chapter 701 of such*
2 *title is amended—*

3 (1) *by moving sections 70122, 70123, 70124, and*
4 *70125 so as to appear at the end of subchapter I of*
5 *such chapter;*

6 (2) *in the table of sections at the beginning of the*
7 *chapter, in the item relating to section 70107A, by*
8 *adding at the end a period; and*

9 (3) *by striking the heading for section 70124 and*
10 *inserting the following:*

11 **“§ 70124. Regulations”.**

12 **SEC. 114. NORTHERN BORDER UNMANNED AERIAL VEHICLE**
13 **PILOT PROJECT.**

14 (a) *RESEARCH AND DEVELOPMENT.—The Secretary*
15 *shall research and develop technologies to allow routine op-*
16 *eration of medium-sized unmanned aerial vehicles, includ-*
17 *ing autonomously piloted drones, within the national air-*
18 *space for border and maritime security missions without*
19 *any degradation of existing levels of security-related sur-*
20 *veillance or of safety for all national airspace system users.*

21 (b) *PILOT PROJECT.—No later than 180 days after the*
22 *date of enactment of this Act, the Secretary shall commence*
23 *a pilot project in segregated airspace along the northern*
24 *border to conduct experiments and collect data in order to*

1 *accelerate the safe integration of medium-sized unmanned*
2 *aircraft systems into the national airspace system.*

3 **SEC. 115. RECOGNITION OF PORT SECURITY ASSESSMENTS**

4 **CONDUCTED BY OTHER ENTITIES.**

5 *Section 70108 of title 46, United States Code, is*
6 *amended by adding at the end the following new subsection:*

7 *“(f) RECOGNITION OF ASSESSMENT CONDUCTED BY*
8 *OTHER ENTITIES.—*

9 *“(1) CERTIFICATION AND TREATMENT OF AS-*
10 *SESSMENTS.—For the purposes of this section and*
11 *section 70109, the Secretary may treat an assessment*
12 *conducted by a foreign government or international*
13 *organization as an assessment by the Secretary re-*
14 *quired by subsection (a), if the Secretary certifies that*
15 *the assessment was conducted in accordance with sub-*
16 *section (b).*

17 *“(2) AUTHORIZATION TO ENTER INTO AGREE-*
18 *MENTS OR ARRANGEMENTS.—The Secretary may*
19 *enter into an agreement or arrangement with a for-*
20 *foreign government or international organization, under*
21 *which—*

22 *“(A) such government or organization may,*
23 *on behalf of the Secretary, conduct an assessment*
24 *required under subsection (a), or share with the*

1 *Secretary information pertaining to such assess-*
2 *ments; and*

3 “(B) *the Secretary may, on behalf of such*
4 *foreign government or organization, conduct an*
5 *assessment described in subsection (a), or share*
6 *with such foreign government or organization in-*
7 *formation pertaining to such assessments.*

8 “(3) *LIMITATIONS.—Nothing in this subsection—*

9 “(A) *requires the Secretary to recognize an*
10 *assessment that a foreign government or an*
11 *international organization conducts pursuant to*
12 *this subsection; or*

13 “(B) *limits the discretion or ability of the*
14 *Secretary to conduct an assessment under this*
15 *section.*

16 “(4) *NOTIFICATION.—Not later than 30 days be-*
17 *fore entering into an agreement or arrangement with*
18 *a foreign government under paragraph (2), the Sec-*
19 *retary shall notify the appropriate congressional com-*
20 *mittees of the proposed terms of such agreement or ar-*
21 *rangement.”.*

1 **SEC. 116. USE OF PORT SECURITY GRANT FUNDS FOR RE-**
2 **PLACEMENT OF SECURITY EQUIPMENT OR**
3 **FACILITIES.**

4 *Section 70107(b)(2) of title 46, United States Code, is*
5 *amended by inserting “(including replacement)” after “ac-*
6 *quisition”.*

7 **TITLE II—MARITIME SUPPLY**
8 **CHAIN SECURITY**

9 **SEC. 201. STRATEGIC PLAN TO ENHANCE THE SECURITY OF**
10 **THE INTERNATIONAL SUPPLY CHAIN.**

11 *Section 201 of the SAFE Port Act (6 U.S.C. 941) is*
12 *amended—*

13 *(1) by amending subsection (b) to read as fol-*
14 *lows:*

15 *“(b) REQUIREMENTS.—The strategic plan required*
16 *under subsection (a), and any updates to the strategic plan*
17 *required under subsection (g), shall—*

18 *“(1) identify and address gaps and unnecessary*
19 *redundancies or overlaps in the roles, responsibilities,*
20 *or authorities of the agencies responsible for securing*
21 *the supply chain, including—*

22 *“(A) any unnecessary redundancies or over-*
23 *laps in Federal transportation security*
24 *credentialing programs; and*

1 “(B) any unnecessary redundancies or over-
2 laps in Federal trusted shipper or trusted trader
3 programs;

4 “(2) review ongoing efforts to align activities
5 throughout the Federal Government to—

6 “(A) improve coordination among the agen-
7 cies referred to in paragraph (1);

8 “(B) facilitate the efficient flow of legiti-
9 mate commerce;

10 “(C) enhance the security of the inter-
11 national supply chain; or

12 “(D) address any gaps or overlaps described
13 in paragraph (1);

14 “(3) identify further regulatory or organiza-
15 tional changes necessary to —

16 “(A) improve coordination among the agen-
17 cies referred to in paragraph (1);

18 “(B) facilitate the efficient flow of legiti-
19 mate commerce;

20 “(C) enhance the security of the inter-
21 national supply chain; or

22 “(D) address any gaps or overlaps described
23 in paragraph (1);

24 “(4) provide measurable goals, including objec-
25 tives, mechanisms, and a schedule, for furthering the

1 *security of commercial operations from point of ori-*
2 *gin to point of destination;*

3 *“(5) build on available resources and consider*
4 *costs and benefits;*

5 *“(6) recommend additional incentives for vol-*
6 *untary measures taken by private sector entities to*
7 *enhance supply chain security, including additional*
8 *incentives for such entities participating in the Cus-*
9 *tom-Trade Partnership Against Terrorism in accord-*
10 *ance with sections 214, 215, and 216;*

11 *“(7) consider the impact of supply chain security*
12 *requirements on small- and medium- sized companies;*

13 *“(8) identify a framework for prudent and meas-*
14 *ured response in the event of a transportation secu-*
15 *rity incident involving the international supply*
16 *chain;*

17 *“(9) provide updated protocols for the expedi-*
18 *tious resumption of the flow of trade in accordance*
19 *with section 202;*

20 *“(10) review and address implementation of les-*
21 *sons learned from recent exercises conducted under*
22 *sections 114 and 115, and other international supply*
23 *chain security, response, or recovery exercises that the*
24 *Department participates in, as appropriate;*

1 “(11) consider the linkages between supply chain
2 security and security programs within other systems
3 of movement, including travel security and terrorism
4 finance programs;

5 “(12) be informed by technologies undergoing re-
6 search, development, testing, and evaluation by the
7 Department; and

8 “(13) expand upon and relate to existing strate-
9 gies and plans for securing supply chains, including
10 the National Response Plan, the National Maritime
11 Transportation Security Plan, the National Strategy
12 for Maritime Security, and the eight supporting
13 plans of such National Strategy for Maritime Secu-
14 rity, as required by Homeland Security Presidential
15 Directive 13.”;

16 (2) in subsection (g)—

17 (A) in the heading for paragraph (2), by
18 striking “FINAL” and inserting “UPDATED”; and

19 (B) by adding at the end the following new
20 paragraphs:

21 “(3) FINAL REPORT.—Not later than two years
22 after the date on which the update of the strategic
23 plan is submitted under paragraph (2), the Secretary
24 shall submit to the appropriate congressional commit-

1 *tees a report that contains a further update of the*
 2 *strategic plan.*

3 “(4) *IMPLEMENTATION PLAN.*—*Not later than*
 4 *one year after the date on which the final update of*
 5 *the strategic plan is submitted under paragraph (3),*
 6 *the Secretary shall submit to the appropriate congress-*
 7 *sional committees an implementation plan for car-*
 8 *rying out the strategic plan.”; and*

9 (3) *by adding at the end the following new sub-*
 10 *section:*

11 “(h) *THREAT ASSESSMENT.*—*In developing the reports*
 12 *and implementation plan required under subsection (g), the*
 13 *Secretary shall take into account an assessment of the cur-*
 14 *rent threats to the global supply chain.”.*

15 **SEC. 202. CUSTOMS-TRADE PARTNERSHIP AGAINST TER-**
 16 **RORISM.**

17 (a) *UNANNOUNCED INSPECTIONS.*—*Section 217(a) of*
 18 *the SAFE Port Act (6 U.S.C. 967(a)) is amended—*

19 (1) *by striking “If at any time” and inserting*
 20 *the following:*

21 “(1) *FAILURE TO MEET REQUIREMENTS.*—*If at*
 22 *any time”;* and

23 (2) *by inserting after paragraph (1), as redesign-*
 24 *ated, the following new paragraph:*

1 “(2) *UNANNOUNCED INSPECTIONS.*—*The Sec-*
2 *retary, acting through the Commissioner, may con-*
3 *duct an unannounced inspection of a C-TPAT par-*
4 *ticipant’s security measures and supply chain secu-*
5 *rity practices if the Commissioner determines, based*
6 *on previously identified deficiencies in security meas-*
7 *ures and supply chain security practices of the C-*
8 *TPAT participant, that there is a likelihood that such*
9 *an inspection would assist in confirming the security*
10 *measures in place and further the validation proc-*
11 *ess.*”.

12 (b) *PRIVATE SECTOR INFORMATION SHARING ON SE-*
13 *CURITY AND TERRORISM THREATS.*—*Subsection (d) of sec-*
14 *tion 216 of the SAFE Port Act (6 U.S.C. 966) is amended*
15 *to read as follows:*

16 “(d) *PRIVATE SECTOR INFORMATION SHARING ON SE-*
17 *CURITY AND TERRORISM THREATS.*—

18 “(1) *IN GENERAL.*—*The Secretary shall promote*
19 *information sharing, as appropriate, between and*
20 *among the Department and C-TPAT participants*
21 *and other private entities regarding—*

22 “(A) *potential vulnerabilities, attacks, and*
23 *exploitations of the international supply chain;*
24 *and*

1 “(B) means and methods of preventing, re-
2 sponding to, and mitigating consequences from
3 the vulnerabilities, attacks, and exploitations de-
4 scribed in subparagraph (A).

5 “(2) CONTENTS.—The information sharing re-
6 quired under paragraph (1) may include—

7 “(A) the creation of classified and unclassi-
8 fied means of accessing information that may be
9 used by appropriately cleared personnel and that
10 will provide, as appropriate, ongoing situational
11 awareness of the security of the international
12 supply chain; and

13 “(B) the creation of guidelines to establish
14 a mechanism by which owners and operators of
15 international supply chain infrastructure may
16 report actual or potential security breaches.”.

17 **SEC. 203. RECOGNITION OF OTHER COUNTRIES’ TRUSTED**
18 **SHIPPER PROGRAMS.**

19 Section 218 of the SAFE Port Act (6 U.S.C. 968) is
20 amended by adding at the end the following new subsection:

21 “(j) RECOGNITION OF OTHER COUNTRIES’ TRUSTED
22 SHIPPER PROGRAMS.—Not later than 30 days before sign-
23 ing an arrangement between the United States and a for-
24 eign government providing for mutual recognition of supply
25 chain security practices which might result in the utiliza-

1 tion of benefits described in section 214, 215, or 216, the
2 Secretary shall—

3 “(1) notify the appropriate congressional com-
4 mittees of the proposed terms of such arrangement;
5 and

6 “(2) determine, in consultation with the Com-
7 missioner, that the foreign government’s supply chain
8 security program provides comparable security as
9 that provided by C-TPAT.”.

10 **SEC. 204. PILOT PROGRAM FOR INCLUSION OF NON-ASSET**
11 **BASED THIRD PARTY LOGISTICS PROVIDERS**
12 **IN THE CUSTOMS-TRADE PARTNERSHIP**
13 **AGAINST TERRORISM.**

14 (a) *IN GENERAL.*—Not later than 180 days after the
15 date of the enactment of this Act, the Secretary shall develop
16 a pilot program to determine whether allowing non-asset
17 based third party logistics providers that arrange inter-
18 national transportation of freight to participate in the *Cus-*
19 *toms-Trade Partnership Against Terrorism* program, as de-
20 scribed in section 211 of the *SAFE Port Act* (6 U.S.C. 961),
21 would enhance port security, combat terrorism, prevent
22 supply chain security breaches, or meet the goals of the *Cus-*
23 *toms-Trade Partnership Against Terrorism* established pur-
24 suant to section 211 of the *SAFE Port Act* (6 U.S.C. 961).

25 (b) *REQUIREMENTS.*—

1 *is urgent that the Transportation Worker Identification*
2 *Credential (in this section referred to as the “TWIC”) ap-*
3 *plication process be reformed by not later than the end of*
4 *2012, when hundreds of thousands of current TWIC holders*
5 *will begin to face the requirement to renew their TWICs.*

6 **(b) TWIC APPLICATION REFORM.**—*Not later than 270*
7 *days after the date of the enactment of this Act, the Sec-*
8 *retary shall reform the process for the enrollment, activa-*
9 *tion, issuance, and renewal of a TWIC to require, in total,*
10 *not more than one in-person visit to a designated enroll-*
11 *ment center except in cases in which there are extenuating*
12 *circumstances, as determined by the Secretary, requiring*
13 *more than one such in-person visit.*

14 **SEC. 206. EXPIRATION OF CERTAIN TRANSPORTATION**
15 **WORKER IDENTIFICATION CREDENTIALS.**

16 **(a) IN GENERAL.**—*A valid Transportation Worker*
17 *Identification Credential required under part 101.514 of*
18 *title 33, Code of Federal Regulations, that was issued before*
19 *the date of enactment of this Act shall not expire before the*
20 *earlier of—*

21 **(1)** *the deadline for full implementation of a*
22 *final rule issued by the Secretary for electronic read-*
23 *ers designed to work with Transportation Worker*
24 *Identification Credentials as an access control and se-*
25 *curity measure issued pursuant to the advanced no-*

1 *tice of proposed rulemaking published March 27, 2009*
2 *(74 Fed. Reg. 58), as established by the final rule; or*
3 *(2) June 30, 2014.*

4 *(b) REVOCATION AUTHORITY NOT AFFECTED.—This*
5 *section shall not be construed to affect the authority of the*
6 *Secretary to revoke a Transportation Worker Identification*
7 *Credential—*

8 *(1) based on information that the holder is not*
9 *qualified to hold such credential; or*

10 *(2) if the credential is lost, damaged, or stolen.*

11 **SEC. 207. SECURING THE TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL AGAINST USE BY UNAUTHORIZED ALIENS.**

12 **PROCESS.—**

13 *(1) IN GENERAL.—Not later than 180 days after*
14 *the date of enactment of this Act, the Secretary shall*
15 *establish a process to ensure, to the maximum extent*
16 *practicable, that an individual who is not lawfully*
17 *present in the United States cannot obtain or con-*
18 *tinue to use a Transportation Worker Identification*
19 *Credential (in this section referred to as the*
20 *“TWIC”).*

21 *(2) COMPONENTS.—In establishing the process*
22 *under subsection (a), the Secretary shall—*

1 (A) publish a list of documents that will
2 identify non-United States citizen TWIC appli-
3 cants and verify their immigration statuses by
4 requiring each such applicants to produce a doc-
5 ument or documents that demonstrate—

6 (i) identity; and

7 (ii) proof of lawful presence in the
8 United States; and

9 (B) establish training requirements to en-
10 sure that trusted agents at TWIC enrollment cen-
11 ters receive training to identify fraudulent docu-
12 ments.

13 (b) *EXPIRATION OF TWICs.*—A TWIC expires on the
14 date of its expiration, or in the date on which the indi-
15 vidual to whom such a TWIC is issued is no longer lawfully
16 present in the United States, whichever is earlier.

17 **SEC. 208. REPORT ON FEDERAL TRANSPORTATION SECU-**
18 **RITY CREDENTIALING PROGRAMS.**

19 Not later than 180 days after the date of the enactment
20 of this Act, the Secretary shall submit to the appropriate
21 congressional committees a report that identifies unneces-
22 sary redundancies or overlaps in Federal transportation se-
23 curity credentialing programs, including recommendations
24 to reduce or eliminate such redundancies or overlaps.

Union Calendar No. 369

112TH CONGRESS
2^D SESSION

H. R. 4251

[Report No. 112-521]

A BILL

To authorize, enhance, and reform certain port security programs through increased efficiency and risk-based coordination within the Department of Homeland Security, and for other purposes.

JUNE 12, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed