

103^D CONGRESS
1ST SESSION

S. 106

To modernize the United States Customs Service.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. HATCH (for himself, Mr. ROCKEFELLER, Mr. ROTH, Mr. GRASSLEY, and Mr. DANFORTH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To modernize the United States Customs Service.

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; REFERENCE; TABLE OF CON-**
4 **TENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Customs Modernization and Informed Compliance Act”.

7 (b) REFERENCE.—Whenever in title I, II, or III of
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to, or repeal of, a part, section, sub-
10 section, or other provision, the reference shall be consid-
11 ered to be made to a part, section, subsection, or other

1 provision of the Tariff Act of 1930 (19 U.S.C. 1202 et
2 seq.).

3 (c) TABLE OF CONTENTS.—The table of contents is
4 as follows:

Section 1. Short title; reference; table of contents.

TITLE I—IMPROVEMENTS IN CUSTOMS ENFORCEMENT

- Sec. 101. Penalties for violations of arrival, reporting, entry, and clearance requirements.
- Sec. 102. Failure to declare.
- Sec. 103. Customs testing laboratories; detention of merchandise.
- Sec. 104. Recordkeeping.
- Sec. 105. Examination of books and witnesses.
- Sec. 106. Judicial enforcement.
- Sec. 107. Review of protests.
- Sec. 108. Repeal of provision relating to reliquidation on account of fraud.
- Sec. 109. Penalties relating to manifests.
- Sec. 110. Unlawful unloading or transshipment.
- Sec. 111. Penalties for fraud, gross negligence, and negligence; prior disclosure.
- Sec. 112. Penalties for false drawback claims.
- Sec. 113. Interpretive rulings and decisions; public information.
- Sec. 114. Seizure authority.

TITLE II—NATIONAL CUSTOMS AUTOMATION PROGRAM

- Sec. 201. National customs automation program.
- Sec. 202. Drawback and refunds.
- Sec. 203. Effective date of rates of duty.
- Sec. 204. Definitions.
- Sec. 205. Manifests.
- Sec. 206. Invoice contents.
- Sec. 207. Entry of merchandise.
- Sec. 208. Appraisal and other procedures.
- Sec. 209. Voluntary reliquidations.
- Sec. 210. Appraisal regulations.
- Sec. 211. Limitation on liquidation.
- Sec. 212. Payment of duties and fees.
- Sec. 213. Abandonment and damage.
- Sec. 214. Customs officer's immunity.
- Sec. 215. Protests.
- Sec. 216. Refunds and errors.
- Sec. 217. Bonds and other security.
- Sec. 218. Customhouse brokers.
- Sec. 219. Conforming amendments.

TITLE III—MISCELLANEOUS AMENDMENTS TO THE TARIFF ACT OF 1930

- Sec. 301. Administrative exemptions.
- Sec. 302. Report of arrival.
- Sec. 303. Entry of vessels.

- Sec. 304. Unlawful return of foreign vessel papers.
- Sec. 305. Vessels not required to enter.
- Sec. 306. Unlading.
- Sec. 307. Declarations.
- Sec. 308. General orders.
- Sec. 309. Unclaimed merchandise.
- Sec. 310. Destruction of merchandise.
- Sec. 311. Proceeds of sale.
- Sec. 312. Entry under regulations.
- Sec. 313. American trademarks.
- Sec. 314. Seizure.
- Sec. 315. Customs Forfeiture Fund.
- Sec. 316. Limitation on actions.
- Sec. 317. Collection of fees on behalf of other agencies.
- Sec. 318. Authority to settle claims.
- Sec. 319. Use of private collection agencies.

TITLE IV—MISCELLANEOUS PROVISIONS AND CONSEQUENTIAL
AND CONFORMING AMENDMENTS TO OTHER LAWS

- Sec. 401. Amendments to the Harmonized Tariff Schedule.
- Sec. 402. Amendment to the Internal Revenue Code of 1986.
- Sec. 403. Amendments to title 28, United States Code.
- Sec. 404. Amendments to the revised statutes of the United States.
- Sec. 405. Amendments to title 18, United States Code.
- Sec. 406. Amendment to the Act to Prevent Pollution from Ships.
- Sec. 407. Amendments to the Act of November 6, 1966.
- Sec. 408. Repeal of obsolete provisions of law.
- Sec. 409. Reports to Congress.
- Sec. 410. Applicability of amendments to entry or withdrawal of goods.

1 **TITLE I—IMPROVEMENTS IN**
2 **CUSTOMS ENFORCEMENT**

3 **SEC. 101. PENALTIES FOR VIOLATIONS OF ARRIVAL, RE-**
4 **PORTING, ENTRY, AND CLEARANCE REQUIRE-**
5 **MENTS.**

6 Section 436 (19 U.S.C. 1436) is amended—

7 (1) by amending subsection (a)—

8 (A) by striking out “433” in paragraph (1)

9 and inserting “431, 433, or 434 of this Act or

10 section 4197 of the Revised Statutes of the

11 United States (46 U.S.C. App. 91)”,

1 (B) by amending paragraph (2) to read as
2 follows:

3 “(2) to present or transmit, electronically or
4 otherwise, any forged, altered, or false document,
5 paper information, data or manifest to the Customs
6 Service under section 431(e), 433(d), or 434 of this
7 Act or section 4197 of the Revised Statutes of the
8 United States (46 U.S.C. App. 91) without revealing
9 the facts; or”, and

10 (C) by amending paragraph (3) to read as
11 follows:

12 “(3) to fail to make entry or to obtain clearance
13 as required by section 434 or 644 of this Act, sec-
14 tion 4197 of the Revised Statutes of the United
15 States (46 U.S.C. App. 91), or section 1109 of the
16 Federal Aviation Act of 1958 (49 U.S.C. App.
17 1509); or”; and

18 (2) by striking out “**AND ENTRY**” in the sec-
19 tion heading and inserting “**ENTRY, AND CLEAR-**
20 **ANCE**”.

21 **SEC. 102. FAILURE TO DECLARE.**

22 Section 497(a) (19 U.S.C. 1497(a)) is amended—

23 (1) by inserting “or transmitted” after “made”
24 in paragraph (1)(A); and

1 (2) by amending paragraph (2)(A) to read as
2 follows:

3 “(A) if the article is a controlled sub-
4 stance, either \$500 or an amount equal to
5 1,000 percent of the value of the article, which-
6 ever amount is greater; and”.

7 **SEC. 103. CUSTOMS TESTING LABORATORIES; DETENTION**
8 **OF MERCHANDISE.**

9 (a) AMENDMENT.—Section 499 (19 U.S.C. 1499) is
10 amended to read as follows:

11 **“SEC. 499. EXAMINATION OF MERCHANDISE.**

12 “(a) ENTRY EXAMINATION.—

13 “(1) IN GENERAL.—Imported merchandise that
14 is required by law or regulation to be inspected, ex-
15 amined, or appraised shall not be delivered from cus-
16 toms custody (except under such bond or other secu-
17 rity as may be prescribed by the Secretary to assure
18 compliance with all applicable laws, regulations, and
19 instructions which the Secretary or the Customs
20 Service is authorized to enforce) until the merchan-
21 dise has been inspected, appraised, or examined and
22 is reported by the Customs Service to have been
23 truly and correctly invoiced and found to comply
24 with the requirements of the laws of the United
25 States.

1 “(2) EXAMINATION.—The Customs Service—

2 “(A) shall designate the packages or quan-
3 tities of merchandise covered by any invoice or
4 entry which are to be opened and examined for
5 the purpose of appraisalment or otherwise;

6 “(B) shall order such packages or quan-
7 tities to be sent to such place as is designated
8 by the Secretary by regulation for such pur-
9 pose;

10 “(C) may require such additional packages
11 or quantities as the Secretary considers nec-
12 essary for such purpose; and

13 “(D) shall inspect a sufficient number of
14 shipments, and shall examine a sufficient num-
15 ber of entries, to ensure compliance with the
16 laws enforced by the Customs Service.

17 “(3) UNSPECIFIED ARTICLES.—If any package
18 contains any article not specified in the invoice or
19 entry and, in the opinion of the Customs Service, the
20 article was omitted from the invoice or entry—

21 “(A) with fraudulent intent on the part of
22 the seller, shipper, owner, agent, importer of
23 record, or entry filer, the contents of the entire
24 package in which such article is found shall be
25 subject to seizure; or

1 “(B) without fraudulent intent, the value
2 of the article shall be added to the entry and
3 the duties, fees, and taxes thereon paid accord-
4 ingly.

5 “(4) DEFICIENCY.—If a deficiency is found in
6 quantity, weight, or measure in the examination of
7 any package, the person finding the deficiency shall
8 make a report thereof to the Customs Service. The
9 Customs Service shall make allowance for the defi-
10 ciency in the liquidation of duties.

11 “(5) INFORMATION REQUIRED FOR RELEASE.—
12 If an examination is conducted, any information re-
13 quired for release shall be provided, either electroni-
14 cally or in paper form, to the Customs Service at the
15 port of examination. The absence of such informa-
16 tion does not limit the authority of the Customs
17 Service to conduct an examination.

18 “(b) TESTING LABORATORIES.—

19 “(1) ACCREDITATION OF PRIVATE TESTING
20 LABORATORIES.—The Customs Service shall estab-
21 lish and implement a procedure, under regulations
22 promulgated by the Secretary, for accrediting pri-
23 vate laboratories within the United States which
24 may be used to perform tests (that would otherwise
25 be performed by Customs Service laboratories) to es-

1 establish the characteristics, quantities, or composition
2 of imported merchandise. Such regulations—

3 “(A) shall establish the conditions required
4 for the laboratories to receive and maintain ac-
5 creditation for purposes of this subsection;

6 “(B) shall establish the conditions regard-
7 ing the suspension and revocation of accredita-
8 tion, which may include the imposition of a
9 monetary penalty not to exceed \$100,000 and
10 such penalty is in addition to the recovery, from
11 a gauger or laboratory accredited under para-
12 graph (1), of any loss of revenue that may have
13 occurred, but the Customs Service—

14 “(i) may seek to recover lost revenue
15 only in cases where the gauger or labora-
16 tory intentionally falsified the analysis or
17 gauging report in collusion with the im-
18 porter; and

19 “(ii) shall neither assess penalties nor
20 seek to recover lost revenue because of a
21 good faith difference of professional opin-
22 ion; and

23 “(C) may provide for the imposition of a
24 reasonable charge for accreditation and periodic
25 reaccreditation.

1 The collection of any charge for accreditation and
2 reaccreditation under this section is not prohibited
3 by section 13031(e)(6) of the Consolidated Omnibus
4 Budget Reconciliation Act of 1985 (19 U.S.C.
5 58c(e)(6)).

6 “(2) APPEAL OF ADVERSE ACCREDITATION DE-
7 CISIONS.—A laboratory applying for accreditation,
8 or that is accredited, under this section may contest
9 any decision or order of the Customs Service deny-
10 ing, suspending, or revoking accreditation, or impos-
11 ing a monetary penalty, by commencing an action in
12 accordance with chapter 169 of title 28, United
13 States Code, in the Court of International Trade
14 within 60 days after issuance of the decision or
15 order.

16 “(3) TESTING BY ACCREDITED LABORA-
17 TORIES.—When requested by an importer of record
18 of merchandise, the Customs Service shall authorize
19 the release to the importer of a representative sam-
20 ple of the merchandise for testing, at the expense of
21 the importer, by a laboratory accredited under para-
22 graph (1). The testing results from a laboratory ac-
23 credited under paragraph (1) that are submitted by
24 an importer of record with respect to merchandise in
25 an entry shall, in the absence of testing results ob-

1 tained from a Customs Service laboratory, be accept-
2 ed by the Customs Service if the importer of record
3 certifies that the sample tested was taken from the
4 merchandise in the entry. Nothing in this subsection
5 shall be construed to limit in any way or preclude
6 the authority of the Customs Service to test or ana-
7 lyze any sample or merchandise independently.

8 “(4) AVAILABILITY OF TESTING PROCEDURE,
9 METHODOLOGIES, AND INFORMATION.—Testing pro-
10 cedures and methodologies used by the Customs
11 Service, and information resulting from any testing
12 conducted by the Customs Service, shall be made
13 available as follows:

14 “(A) Testing procedures and methodologies
15 shall be made available upon request to any
16 person unless the procedures or methodologies
17 are—

18 “(i) proprietary to the holder of a
19 copyright or patent related to such proce-
20 dures or methodologies; or

21 “(ii) developed by the Customs Serv-
22 ice for enforcement purposes.

23 “(B) Information resulting from testing
24 shall be made available upon request to the im-

1 porter of record and any agent thereof unless
2 the information—

3 “(i) is proprietary to the holder of a
4 copyright or patent related to the proce-
5 dures or methodologies; or

6 “(ii) reveals information developed by
7 the Customs Service for enforcement pur-
8 poses.

9 “(5) MISCELLANEOUS PROVISIONS.—For pur-
10 poses of this subsection—

11 “(A) any reference to a private laboratory
12 includes a reference to a private gauger; and

13 “(B) accreditation of private laboratories
14 extends only to the performance of functions by
15 such laboratories that are within the scope of
16 those responsibilities for determinations of the
17 elements relating to admissibility, quantity,
18 composition, or characteristics of imported mer-
19 chandise that are vested in, or delegated to, the
20 Customs Service.

21 “(c) DETENTIONS.—Except in the case of merchan-
22 dise with respect to which the determination of admissibil-
23 ity is vested in an agency other than the Customs Service,
24 the following apply:

1 “(1) IN GENERAL.—Within the 5-day period
2 (excluding weekends and holidays) following the date
3 on which merchandise is presented for customs ex-
4 amination, the Customs Service shall decide whether
5 to release or detain the merchandise. Merchandise
6 which is not released within such 5-day period shall
7 be considered to be detained merchandise.

8 “(2) NOTICE OF DETENTION.—The Customs
9 Service shall issue a notice to the importer or other
10 party having an interest in detained merchandise no
11 later than 5 days, excluding weekends and holidays,
12 after the decision to detain the merchandise is made.
13 The notice shall advise the importer or other inter-
14 ested party of—

15 “(A) the initiation of the detention;

16 “(B) the specific reason for the detention;

17 “(C) the anticipated length of the deten-
18 tion;

19 “(D) the nature of the tests or inquiries to
20 be conducted; and

21 “(E) the nature of any information which,
22 if supplied to the Customs Service, may acceler-
23 ate the disposition of the detention.

24 “(3) TESTING RESULTS.—Upon request by the
25 importer or other party having an interest in de-

1 tained merchandise, the Customs Service shall pro-
2 vide the party with copies of the results of any test-
3 ing conducted by the Customs Service on the mer-
4 chandise and a description of the testing procedures
5 and methodologies (unless such procedures or meth-
6 odologies are proprietary to the holder of a copyright
7 or patent or were developed by the Customs Service
8 for enforcement purposes). The results and test de-
9 scription shall be in sufficient detail to permit the
10 duplication and analysis of the testing and the re-
11 sults.

12 “(4) SEIZURE AND FORFEITURE.—If otherwise
13 provided by law, detained merchandise may be seized
14 and forfeited.

15 “(5) EFFECT OF FAILURE TO MAKE DETER-
16 MINATION.—

17 “(A) The failure by the Customs Service to
18 make a final determination with respect to the
19 admissibility of detained merchandise within 30
20 days after the merchandise has been presented
21 for customs examination, or such longer period
22 if specifically authorized by law, shall be treated
23 as a decision of the Customs Service to exclude
24 the merchandise for purposes of section
25 514(a)(4).

1 “(B) For purposes of section 1581 of title
2 28, United States Code, a protest against the
3 decision to exclude the merchandise which has
4 not been allowed or denied in whole or in part
5 before the 30th day after the day on which the
6 protest was filed shall be treated as having been
7 denied on such 30th day.

8 “(C) Notwithstanding section 2639 of title
9 28, United States Code, once an action respect-
10 ing a detention is commenced, unless the Cus-
11 toms Service establishes by a preponderance of
12 the evidence that an admissibility decision has
13 not been reached for good cause, the court shall
14 grant the appropriate relief which may include,
15 but is not limited to, an order to cancel the de-
16 tention and release the merchandise.”.

17 (b) EXISTING LABORATORIES.—Accreditation under
18 section 499(b) of the Tariff Act of 1930 (as added by sub-
19 section (a)) is not required for any private laboratory (in-
20 cluding any gauger) that was accredited or approved by
21 the Customs Service as of the day before the date of the
22 enactment of this Act; but any such laboratory is subject
23 to reaccreditation under the provisions of such section and
24 the regulations promulgated thereunder.

1 **SEC. 104. RECORDKEEPING.**

2 Section 508 (19 U.S.C. 1508) is amended—

3 (1) by amending subsection (a) to read as fol-
4 lows:

5 “(a) REQUIREMENTS.—Any—

6 “(1) owner, importer, consignee, importer of
7 record, entry filer, or other party who—

8 “(A) imports, files a drawback claim, or
9 transports or stores merchandise carried or held
10 under bond, or

11 “(B) knowingly causes the importation or
12 transportation or storage of merchandise car-
13 ried or held under bond into or from the cus-
14 toms territory of the United States;

15 “(2) agent of any party described in paragraph
16 (1); or

17 “(3) person whose activities require the filing of
18 a declaration or entry, or both;

19 shall make, keep, and render for examination and inspec-
20 tion such records (including, but not limited to, state-
21 ments, declarations, documents and electronically gen-
22 erated or machine readable data) which—

23 “(A) pertain to any such activity, or to the in-
24 formation contained in the documents, records or
25 electronically generated or machine readable data re-

1 quired by this Act in connection with such activity;
2 and

3 “(B) are normally kept in the ordinary course
4 of business.”; and

5 (2) by amending subsection (c) to read as fol-
6 lows:

7 “(c) PERIOD OF TIME.—The records required by sub-
8 sections (a) and (b) shall be kept for such period of time,
9 not to exceed 5 years from the date of entry or expor-
10 tation, as appropriate, as the Secretary shall prescribe; ex-
11 cept that records for any drawback claim shall be kept
12 until the 3rd anniversary of the date of payment of the
13 claim.”.

14 **SEC. 105. EXAMINATION OF BOOKS AND WITNESSES.**

15 Section 509 (19 U.S.C. 1509) is amended as follows:

16 (1) Subsection (a) is amended—

17 (A) by striking out “and taxes” wherever
18 it appears and inserting “, fees and taxes”;

19 (B) by inserting “or electronically gen-
20 erated or machine readable data,” after “other
21 document,” in paragraph (1);

22 (C) by striking out the semicolon at the
23 end of paragraph (1) and inserting “, except
24 that—

1 “(A) if such record, statement, declaration,
2 document, or electronically stored or transmit-
3 ted information or data is required by law or
4 regulation for the entry of the merchandise
5 (whether or not the Customs Service required
6 its presentation at the time of entry) it shall be
7 provided to the Customs Service within a rea-
8 sonable time after demand for its production is
9 made, taking into consideration the number,
10 type, and age of the item demanded; and

11 “(B) if a person of whom demand is made
12 under subparagraph (A) fails to comply with
13 the demand, the person may be subject to pen-
14 alty under subsection (g);”;

15 (D) by amending that part of paragraph
16 (2) that precedes subparagraph (D) to read as
17 follows:

18 “(2) summon, upon reasonable notice—

19 “(A) the person who—

20 “(i) imported, or knowingly caused to
21 be imported, merchandise into the customs
22 territory of the United States,

23 “(ii) exported merchandise, or know-
24 ingly caused merchandise to be exported,
25 to Canada,

1 “(iii) transported or stored merchan-
2 dise that was or is carried or held under
3 customs bond, or knowingly caused such
4 transportation or storage, or

5 “(iv) filed a declaration, entry, or
6 drawback claim with the Customs Service;

7 “(B) any officer, employee, or agent of any
8 person described in subparagraph (A);

9 “(C) any person having possession, custody
10 or care of records (including electronically gen-
11 erated or machine readable data) relating to the
12 importation or other activity described in sub-
13 paragraph (A); or”; and

14 (E) by striking out the comma at the end
15 of subparagraph (D) and inserting a semicolon.

16 (2) Subsections (b) and (c) are redesignated as
17 subsections (c) and (d), respectively.

18 (3) The following new subsection is inserted
19 after subsection (a):

20 “(b) REGULATORY AUDIT PROCEDURES.—

21 “(1) In conducting a regulatory audit under
22 this section (which does not include a quantity ver-
23 ification for a customs bonded warehouse or general
24 purpose foreign trade zone), the Customs Service
25 auditor shall provide the person being audited, in

1 advance of the audit, with a reasonable estimate of
2 the time to be required for the audit. If in the
3 course of an audit it becomes apparent that addi-
4 tional time will be required, the Customs Service
5 auditor shall immediately provide a further estimate
6 of such additional time.

7 “(2) Before commencing an audit, the Customs
8 Service auditor shall inform the party to be audited
9 of his right to an entry conference at which time the
10 purpose will be explained and an estimated termi-
11 nation date set. Upon completion of on-site audit ac-
12 tivities, the Customs Service auditor shall schedule a
13 closing conference to explain the preliminary results
14 of the audit.

15 “(3) Except as provided in paragraph (5), if the
16 estimated or actual termination date for an audit
17 passes without the Customs Service auditor provid-
18 ing a closing conference to explain the results of the
19 audit, the person being audited may petition in writ-
20 ing for such a conference to the appropriate regional
21 commissioner, who, upon receipt of such a request,
22 shall provide for such a conference to be held within
23 15 days after the date of receipt.

24 “(4) Except as provided in paragraph (5), the
25 Customs Service auditor shall complete the formal

1 written audit report within 90 days following the
2 closing conference unless the appropriate regional
3 commissioner provides written notice to the person
4 being audited of the reason for any delay and the
5 anticipated completion date. After application of any
6 exemption contained in section 552 of title 5, United
7 States Code, a copy of the formal written audit re-
8 port shall be sent to the person audited no later
9 than 30 days following completion of the report.

10 “(5) Paragraphs (3) and (4) shall not apply
11 after the Customs Service commences a formal in-
12 vestigation with respect to the issue involved.”.

13 (4) Subsection (d) (as redesignated by para-
14 graph (2)) is amended—

15 (A) by striking out “or documents” in
16 paragraph (1)(A) and inserting “documents, or
17 electronically generated or machine readable
18 data”;

19 (B) by inserting “, unless such custom-
20 house broker is the importer of record on an
21 entry” after “broker” in paragraph (1)(C)(i);

22 (C) by striking out “import” in each of
23 paragraphs (2)(B) and (4)(B);

1 (D) by inserting “described in section
2 508” after “transactions” in each of para-
3 graphs (2)(B) and (4)(B); and

4 (E) by inserting “, fees,” after “duties” in
5 paragraph (4)(A).

6 (5) The following new subsections are added at
7 the end thereof:

8 “(e) LIST OF RECORDS AND INFORMATION.—The
9 Customs Service shall identify and publish a list of the
10 records or entry information that is required to be main-
11 tained and produced under subsection (a)(1)(A).

12 “(f) RECORDKEEPING COMPLIANCE PROGRAM.—

13 “(1) IN GENERAL.—After consultation with the
14 importing community, the Customs Service shall by
15 regulation establish a recordkeeping compliance pro-
16 gram which the parties listed in section 508(a) may
17 participate in after being certified by the Customs
18 Service under paragraph (2). Participation in the
19 recordkeeping compliance program by recordkeepers
20 is voluntary.

21 “(2) CERTIFICATION.—A recordkeeper may be
22 certified as a participant in the recordkeeping com-
23 pliance program after meeting the general record-
24 keeping requirements established under the program
25 or after negotiating an alternative program suited to

1 the needs of the recordkeeper and the Customs Serv-
2 ice. Certification requirements shall take into ac-
3 count the size and nature of the importing business
4 and the volume of imports. In order to be certified,
5 the recordkeeper must be able to demonstrate that
6 it—

7 “(A) understands the legal requirements
8 for recordkeeping, including the nature of the
9 records required to be maintained and produced
10 and the time periods involved;

11 “(B) has in place procedures to explain the
12 recordkeeping requirements to those employees
13 who are involved in the preparation, mainte-
14 nance, and production of required records;

15 “(C) has in place procedures regarding the
16 preparation and maintenance of required
17 records, and the production of such records to
18 the Customs Service;

19 “(D) has designated a dependable individ-
20 ual or individuals to be responsible for record-
21 keeping compliance under the program and
22 whose duties include maintaining familiarity
23 with the recordkeeping requirements of the
24 Customs Service;

1 “(E) has a record maintenance procedure
2 approved by the Customs Service for original
3 records, or, if approved by the Customs Service,
4 for alternative records or recordkeeping formats
5 other than the original records; and

6 “(F) has procedures for notifying the Customs Service of occurrences of variances to, and
7 violations of, the requirements of the record-
8 keeping compliance program or the negotiated
9 alternative programs, and for taking corrective
10 action when notified by the Customs Service of
11 violations or problems regarding such program.
12

13 “(g) PENALTIES.—

14 “(1) DEFINITION.—For purposes of this sub-
15 section, the term ‘information’ means any record,
16 statement, declaration, document, or electronically
17 stored or transmitted information or data referred to
18 in subsection (a)(1)(A).

19 “(2) EFFECTS OF FAILURE TO COMPLY WITH
20 DEMAND.—Except as provided in paragraph (4), if
21 a person fails to comply with a lawful demand for
22 information under subsection (a)(1)(A) the following
23 provisions apply:

24 “(A) If the failure to comply is a result of
25 the willful failure of the person to maintain,

1 store, or retrieve the demanded information,
2 such person shall be subject to a penalty, for
3 each release of merchandise, not to exceed
4 \$100,000, or an amount equal to 75 percent of
5 the appraised value of the merchandise, which-
6 ever amount is less.

7 “(B) If the failure to comply is a result of
8 the negligence of the person in maintaining,
9 storing, or retrieving the demanded informa-
10 tion, such person shall be subject to a penalty,
11 for each release of merchandise, not to exceed
12 \$10,000, or an amount equal to 40 percent of
13 the appraised value of the merchandise, which-
14 ever amount is less.

15 “(C) In addition to any penalty imposed
16 under subparagraph (A) or (B) regarding de-
17 manded information, if such information related
18 to the eligibility of merchandise for a column 1
19 special rate of duty under title I, the entry of
20 such merchandise—

21 “(i) if unliquidated, shall be liquidated
22 at the applicable column 1 general rate of
23 duty; or

24 “(ii) if liquidated within the 2-year
25 period preceding the date of the demand,

1 shall be reliquidated, notwithstanding the
2 time limitation in section 514 or 520, at
3 the applicable column 1 general rate of
4 duty;

5 except that any liquidation or reliquidation
6 under clause (i) or (ii) shall be at the applicable
7 column 2 rate of duty if the Customs Service
8 demonstrates that the merchandise should be
9 dutiable at such rate.

10 “(3) AVOIDANCE OF PENALTY.—No penalty
11 may be assessed under this subsection if the person
12 can show—

13 “(A) that the loss of the demanded infor-
14 mation was the result of an act of God or other
15 natural casualty or disaster beyond the fault of
16 such person or an agent of the person;

17 “(B) on the basis of other evidence satis-
18 factory to the Customs Service, that the de-
19 mand was substantially complied with; or

20 “(C) the information demanded was pre-
21 sented to and retained by the Customs Service
22 at the time of entry or submitted in response to
23 an earlier demand.

1 “(4) PENALTIES NOT EXCLUSIVE.—Any penalty
2 imposed under this subsection shall be in addition to
3 any other penalty provided by law except for—

4 “(A) a penalty imposed under section 592
5 for a material omission of the demanded infor-
6 mation, or

7 “(B) disciplinary action taken under sec-
8 tion 641.

9 “(5) REMISSION OR MITIGATION.—A penalty
10 imposed under this section may be remitted or miti-
11 gated under section 618.

12 “(6) CUSTOMS SUMMONS.—Nothing in this sub-
13 section shall limit or preclude the Customs Service
14 from issuing, or seeking the enforcement of, a cus-
15 toms summons.

16 “(7) ALTERNATIVES TO PENALTIES.—

17 “(A) IN GENERAL.—When a recordkeeper
18 who—

19 “(i) has been certified as a participant
20 in the recordkeeping compliance program
21 under subsection (f); and

22 “(ii) is generally in compliance with
23 the appropriate procedures and require-
24 ments of the program;

1 does not produce a demanded record or infor-
2 mation for a specific release or provide the in-
3 formation by acceptable alternative means, the
4 Customs Service, in the absence of willfulness
5 or repeated violations, shall issue a written no-
6 tice of the violation to the recordkeeper in lieu
7 of a monetary penalty. Repeated violations by
8 the recordkeeper may result in the issuance of
9 penalties and removal of certification under the
10 program until corrective action, satisfactory to
11 the Customs Service, is taken.

12 “(B) CONTENTS OF NOTICE.—A notice of
13 violation issued under subparagraph (A) shall—

14 “(i) state that the recordkeeper has
15 violated the recordkeeping requirements;

16 “(ii) indicate the record or informa-
17 tion which was demanded; and

18 “(iii) warn the recordkeeper that fu-
19 ture failures to produce demanded records
20 or information may result in the imposition
21 of monetary penalties.

22 “(C) RESPONSE TO NOTICE.—Within a
23 reasonable time after receiving written notice
24 under subparagraph (A), the recordkeeper shall

1 notify the Customs Service of the steps it has
2 taken to prevent a recurrence of the violation.

3 “(D) REGULATIONS.—The Secretary shall
4 promulgate regulations to implement this para-
5 graph. Such regulations may specify the time
6 periods for compliance with a demand for infor-
7 mation and provide guidelines which define re-
8 peated violations for purposes of this para-
9 graph. Any penalty issued for a recordkeeping
10 violation shall take into account the degree of
11 compliance compared to the total number of im-
12 portations, the nature of the demanded records
13 and the recordkeeper’s cooperation.”.

14 **SEC. 106. JUDICIAL ENFORCEMENT.**

15 The second sentence of section 510(a) (19 U.S.C.
16 1510(a)) is amended by inserting “and such court may
17 assess a monetary penalty” after “as a contempt thereof”.

18 **SEC. 107. REVIEW OF PROTESTS.**

19 Section 515 (19 U.S.C. 1515) is amended by insert-
20 ing at the end the following new subsections:

21 “(c) If a protesting party believes that an application
22 for further review was erroneously or improperly denied
23 or was denied without authority for such action, it may
24 file with the Commissioner of Customs a written request
25 that the denial of the application for further review be set

1 aside. Such request must be filed within 90 days after the
2 date of the notice of the denial. The Commissioner of Cus-
3 toms may review such request and, based solely on the
4 information before the Customs Service at the time the
5 application for further review was denied, may set aside
6 the denial of the application for further review and void
7 the denial of protest, if appropriate. If the Commissioner
8 of Customs fails to act within 30 days after the date of
9 the request, the request shall be considered denied. All de-
10 nials of protests are effective from the date of original de-
11 nial for purposes of section 2636 of title 28, United States
12 Code. If an action is commenced in the Court of Inter-
13 national Trade that arises out of a protest or an applica-
14 tion for further review, all administrative action pertaining
15 to such protest or application shall terminate and any ad-
16 ministrative action taken subsequent to the commence-
17 ment of the action is null and void.

18 “(d) If a protest is timely and properly filed, but is
19 denied contrary to proper instructions, the Customs Serv-
20 ice may on its own initiative, or pursuant to a written re-
21 quest by the protesting party filed with the appropriate
22 district director within 90 days after the date of the pro-
23 test denial, void the denial of the protest.”.

1 **SEC. 108. REPEAL OF PROVISION RELATING TO RELIQUIDA-**
2 **TION ON ACCOUNT OF FRAUD.**

3 Section 521 (19 U.S.C. 1521) is repealed.

4 **SEC. 109. PENALTIES RELATING TO MANIFESTS.**

5 Section 584 (19 U.S.C. 1584) is amended—

6 (1) by amending subsection (a)—

7 (A) by striking out “appropriate customs
8 officer” wherever it appears and inserting
9 “Customs Service”,

10 (B) by striking out “officer demanding the
11 same” in paragraph (1) and inserting “officer
12 (whether of the Customs Service or the Coast
13 Guard) demanding the same”, and

14 (C) by inserting “(electronically or other-
15 wise)” after “submission” in the last sentence
16 of paragraph (1); and

17 (2) by amending subsection (b)—

18 (A) by striking out “the appropriate cus-
19 toms officer”, “he” (except in paragraph
20 (1)(F)), and “such officer” wherever they ap-
21 pear and inserting “the Customs Service”,

22 (B) by striking out “written” wherever it
23 appears (other than paragraph (1)(F)),

24 (C) by inserting “or electronically trans-
25 mit” after “issue” wherever it appears, and

1 (D) by striking out “his intention” in the
2 first sentence of paragraph (1) and inserting
3 “intent”.

4 **SEC. 110. UNLAWFUL UNLADING OR TRANSSHIPMENT.**

5 Section 586 (19 U.S.C. 1586) is amended—

6 (1) by inserting “, or of a hovering vessel which
7 has received or delivered merchandise while outside
8 the territorial sea,” after “from a foreign port or
9 place” wherever it appears; and

10 (2) by amending subsection (f)—

11 (A) by striking out “the appropriate cus-
12 toms officer of the” and “the appropriate cus-
13 toms officer within the” and inserting “the
14 Customs Service at the”; and

15 (B) by striking out “the appropriate cus-
16 toms officer is” and inserting “the Customs
17 Service is”.

18 **SEC. 111. PENALTIES FOR FRAUD, GROSS NEGLIGENCE,**

19 **AND NEGLIGENCE; PRIOR DISCLOSURE.**

20 Section 592 (19 U.S.C. 1592) is amended—

21 (1) by inserting “or electronically transmitted
22 data or information” after “document” in subsection
23 (a)(1)(A)(i);

24 (2) by inserting “The mere nonintentional rep-
25 etition by an electronic system of an initial clerical

1 error does not constitute a pattern of negligent con-
2 duct.” at the end of subsection (a)(2);

3 (3) by amending subsection (b)—

4 (A) by amending the first sentence of
5 paragraph (1)(A)—

6 (i) by striking out “the appropriate
7 customs officer” and inserting “the Cus-
8 toms Service”,

9 (ii) by striking out “he” and inserting
10 “it”, and

11 (iii) by striking out “his” and insert-
12 ing “its”, and

13 (B) by amending paragraph (2)—

14 (i) by striking out “the appropriate
15 customs officer” wherever it appears and
16 inserting “the Customs Service”,

17 (ii) by striking out “such officer”
18 wherever it appears and inserting “the
19 Customs Service”, and

20 (iii) by striking out “he” wherever it
21 appears and inserting “it”;

22 (4) by amending subsection (c)(4)—

23 (A) by striking “time of disclosure or with-
24 in thirty days, or such longer period as the ap-
25 propriate customs officer may provide, after no-

1 tice by the appropriate customs officer of his”
2 in subparagraphs (A)(i) and (B), and inserting
3 “time of disclosure, or within 30 days (or such
4 longer period as the Customs Service may pro-
5 vide) after notice by the Customs Service of
6 its”; and

7 (B) by inserting after the last sentence the
8 following: “For purposes of this section, a for-
9 mal investigation of a violation is considered to
10 be commenced with regard to the disclosing
11 party and the disclosed information on the date
12 recorded in writing by the Customs Service as
13 the date on which facts and circumstances were
14 discovered or information was received which
15 caused the Customs Service to believe that a
16 possibility of a violation of subsection (a) ex-
17 isted.”; and

18 (5) by amending subsection (d)—

19 (A) by striking out “the appropriate cus-
20 toms officer” and inserting “the Customs Serv-
21 ice”,

22 (B) by striking out “duties” wherever it
23 appears and inserting “duties, taxes, or fees”,
24 and

1 (C) by inserting “, TAXES OR FEES” after
2 “DUTIES” in the sideheading.

3 **SEC. 112. PENALTIES FOR FALSE DRAWBACK CLAIMS.**

4 (a) AMENDMENT.—Part V of title IV is amended by
5 inserting after section 593 the following new section:

6 **“SEC. 593A. PENALTIES FOR FALSE DRAWBACK CLAIMS.**

7 “(a) PROHIBITION.—

8 “(1) GENERAL RULE.—No person, by fraud, or
9 negligence—

10 “(A) may seek, induce or affect, or at-
11 tempt to seek, induce, or affect, the payment or
12 credit to that person or others of any drawback
13 claim by means of—

14 “(i) any document, written or oral
15 statement, or electronically transmitted
16 data or information, or act which is mate-
17 rial and false, or

18 “(ii) any omission which is material;
19 or

20 “(B) may aid or abet any other person to
21 violate subparagraph (A).

22 “(2) EXCEPTION.—Clerical errors or mistakes
23 of fact are not violations of paragraph (1) unless
24 they are part of a pattern of negligent conduct. The
25 mere nonintentional repetition by an electronic sys-

1 tem of an initial clerical error does not constitute a
2 pattern of negligent conduct.

3 “(b) PROCEDURES.—

4 “(1) PREPENALTY NOTICE.—

5 “(A) IN GENERAL.—If the Customs Serv-
6 ice has reasonable cause to believe that there
7 has been a violation of subsection (a) and deter-
8 mines that further proceedings are warranted,
9 the Customs Service shall issue to the person
10 concerned a written notice of intent to issue a
11 claim for a monetary penalty. Such notice
12 shall—

13 “(i) identify the drawback claim;

14 “(ii) set forth the details relating to
15 the seeking, inducing, or affecting, or the
16 attempted seeking, inducing, or affecting,
17 or the aiding or procuring of, the drawback
18 claim;

19 “(iii) specify all laws and regulations
20 allegedly violated;

21 “(iv) disclose all the material facts
22 which establish the alleged violation;

23 “(v) state whether the alleged viola-
24 tion occurred as a result of fraud or neg-
25 ligence;

1 “(vi) state the estimated actual or po-
2 tential loss of revenue due to the drawback
3 claim, and, taking into account all cir-
4 cumstances, the amount of the proposed
5 monetary penalty; and

6 “(vii) inform such person that he shall
7 have a reasonable opportunity to make rep-
8 resentations, both oral and written, as to
9 why a claim for a monetary penalty should
10 not be issued in the amount stated.

11 “(B) EXCEPTIONS.—The Customs Service
12 may not issue a prepenalty notice if the amount
13 of the penalty in the penalty claim issued under
14 paragraph (2) is \$1,000 or less. In such cases,
15 the Customs Service may proceed directly with
16 a penalty claim.

17 “(C) PRIOR APPROVAL.—No prepenalty
18 notice in which the alleged violation occurred as
19 a result of fraud shall be issued without the
20 prior approval of Customs Headquarters.

21 “(2) PENALTY CLAIM.—After considering rep-
22 resentations, if any, made by the person concerned
23 pursuant to the notice issued under paragraph (1),
24 the Customs Service shall determine whether any
25 violation of subsection (a), as alleged in the notice,

1 has occurred. If the Customs Service determines
2 that there was no violation, the Customs Service
3 shall promptly issue a written statement of the de-
4 termination to the person to whom the notice was
5 sent. If the Customs Service determines that there
6 was a violation, Customs shall issue a written pen-
7 alty claim to such person. The written penalty claim
8 shall specify all changes in the information provided
9 under clauses (i) through (vii) of paragraph (1)(A).
10 Such person shall have a reasonable opportunity
11 under section 618 to make representations, both oral
12 and written, seeking remission or mitigation of the
13 monetary penalty. At the conclusion of any proceed-
14 ing under section 618, the Customs Service shall
15 provide to the person concerned a written statement
16 which sets forth the final determination, and the
17 findings of fact and conclusions of law on which
18 such determination is based.

19 “(c) MAXIMUM PENALTIES.—

20 “(1) FRAUD.—A fraudulent violation of sub-
21 section (a) of this section is punishable by a civil
22 penalty in an amount not to exceed 3 times the ac-
23 tual or potential loss of revenue.

24 “(2) NEGLIGENCE.—

1 “(A) IN GENERAL.—A negligent violation
2 of subsection (a) is punishable by a civil penalty
3 in an amount not to exceed 20 percent of the
4 actual or potential loss of revenue for the 1st
5 violation.

6 “(B) REPETITIVE VIOLATIONS.—If the
7 Customs Service determines that a repeat neg-
8 ligent violation occurs relating to the same
9 issue, the penalty amount for the 2d violation
10 shall be in an amount not to exceed 50 percent
11 of the total actual or potential loss of revenue.
12 The penalty amount for each succeeding repet-
13 itive negligent violation shall be in an amount
14 not to exceed the actual or potential loss of rev-
15 enue. If the same party commits a nonrepetitive
16 violation, that violation shall be subject to a
17 penalty not to exceed 20 percent of the actual
18 or potential loss of revenue.

19 “(3) PRIOR DISCLOSURE.—

20 “(A) IN GENERAL.—Subject to subpara-
21 graph (B), if the person concerned discloses the
22 circumstances of a violation of subsection (a)
23 before, or without knowledge of the commence-
24 ment of, a formal investigation of such viola-

1 tion, the monetary penalty assessed under this
2 subsection may not exceed—

3 “(i) if the violation resulted from
4 fraud, an amount equal to the actual or
5 potential revenue of which the United
6 States is or may be deprived as a result of
7 overpayment of the claim; or

8 “(ii) if the violation resulted from
9 negligence, an amount equal to the interest
10 computed on the basis of the prevailing
11 rate of interest applied under section 6621
12 of the Internal Revenue Code of 1986 on
13 the amount of actual revenue of which the
14 United States is or may be deprived during
15 the period that—

16 “(I) begins on the date of the
17 overpayment of the claim; and

18 “(II) ends on the date on which
19 the person concerned tenders the
20 amount of the overpayment.

21 “(B) CONDITION AFFECTING PENALTY
22 LIMITATIONS.—The limitations in subparagraph
23 (A) on the amount of the monetary penalty to
24 be assessed under subsection (c) apply only if
25 the person concerned tenders the amount of the

1 overpayment made on the claim at the time of
2 disclosure, or within 30 days (or such longer
3 period as the Customs Service may provide),
4 after notice by the Customs Service of its cal-
5 culation of the amount of the overpayment.

6 “(C) BURDEN OF PROOF.—The person as-
7serting lack of knowledge of the commencement
8 of a formal investigation has the burden of
9 proof in establishing such lack of knowledge.

10 “(4) COMMENCEMENT OF INVESTIGATION.—
11 For purposes of this section, a formal investigation
12 of a violation is considered to be commenced with re-
13 gard to the disclosing party and the disclosed infor-
14 mation on the date recorded in writing by the Cus-
15 toms Service as the date on which facts and cir-
16 cumstances were discovered or information was re-
17 ceived which caused the Customs Service to believe
18 that a possibility of a violation of subsection (a) ex-
19 isted.

20 “(5) EXCLUSIVITY.—Penalty claims under this
21 section shall be the exclusive civil remedy for any
22 drawback related violation of subsection (a).

23 “(d) DEPRIVATION OF LAWFUL REVENUE.—Not-
24 withstanding section 514, if the United States has been
25 deprived of lawful duties and taxes resulting from a viola-

1 tion of subsection (a), the Customs Service shall require
2 that such drawback claim be restored whether or not a
3 monetary penalty is assessed.

4 “(e) DRAWBACK COMPLIANCE PROGRAM.—

5 “(1) IN GENERAL.—After consultation with the
6 drawback trade community, the Customs Service
7 shall establish a drawback compliance program in
8 which claimants and other parties in interest may
9 participate after being certified by the Customs
10 Service under paragraph (2). Participation in the
11 drawback compliance program is voluntary.

12 “(2) CERTIFICATION.—A party may be certified
13 as a participant in the drawback compliance pro-
14 gram after meeting the general requirements estab-
15 lished under the program or after negotiating an al-
16 ternative program suited to the needs of the party
17 and the Customs Service. Certification requirements
18 shall take into account the size and nature of the
19 party’s drawback program and the volume of claims.
20 In order to be certified, the participant must be able
21 to demonstrate that it—

22 “(A) understands the legal requirements
23 for filing claims, including the nature of the
24 records required to be maintained and produced
25 and the time periods involved;

1 “(B) has in place procedures to explain the
2 Customs Service requirements to those employ-
3 ees that are involved in the preparation of
4 claims, and the maintenance and production of
5 required records;

6 “(C) has in place procedures regarding the
7 preparation of claims and maintenance of re-
8 quired records, and the production of such
9 records to the Customs Service;

10 “(D) has designated a dependable individ-
11 ual or individuals to be responsible for compli-
12 ance under the program and whose duties in-
13 clude maintaining familiarity with the drawback
14 requirements of the Customs Service;

15 “(E) has a record maintenance procedure
16 approved by the Customs Service for original
17 records, or, if approved by the Customs Service,
18 for alternate records or recordkeeping formats
19 other than the original records; and

20 “(F) has procedures for notifying the Cus-
21 toms Service of variances to, and violations of,
22 the requirements of the drawback compliance
23 program or any negotiated alternative pro-
24 grams, and for taking corrective action when

1 notified by the Customs Service for violations or
2 problems regarding such program.

3 “(f) ALTERNATIVES TO PENALTIES.—

4 “(1) IN GENERAL.—When a party that—

5 “(A) has been certified as a participant in
6 the drawback compliance program under sub-
7 section (e); and

8 “(B) is generally in compliance with the
9 appropriate procedures and requirements of the
10 program;

11 commits a violation of subsection (a), the Customs
12 Service, shall, in the absence of fraud or repeated
13 violations, and in lieu of a monetary penalty, issue
14 a written notice of the violation to the party. Re-
15 peated violations by a party may result in the issu-
16 ance of penalties and removal of certification under
17 the program until corrective action, satisfactory to
18 the Customs Service, is taken.

19 “(2) CONTENTS OF NOTICE.—A notice of viola-
20 tion issued under paragraph (1) shall—

21 “(A) state that the party has violated sub-
22 section (a);

23 “(B) explain the nature of the violation;
24 and

1 “(C) warn the party that future violations
2 of subsection (a) may result in the imposition
3 of monetary penalties.

4 “(3) RESPONSE TO NOTICE.—Within a reason-
5 able time after receiving written notice under para-
6 graph (1), the party shall notify the Customs Service
7 of the steps it has taken to prevent a recurrence of
8 the violation.

9 “(g) REPETITIVE VIOLATIONS.—

10 “(1) A party who has been issued a written no-
11 tice under subsection (f)(1) and subsequently com-
12 mits a repeat negligent violation involving the same
13 issue is subject to the following monetary penalties:

14 “(A) 2^D VIOLATION.—An amount not to
15 exceed 20 percent of the loss of revenue.

16 “(B) 3RD VIOLATION.—An amount not to
17 exceed 50 percent of the loss of revenue.

18 “(C) 4TH AND SUBSEQUENT VIOLA-
19 TIONS.—An amount not to exceed 100 percent
20 of the loss of revenue.

21 “(2) If a party that has been certified as a par-
22 ticipant in the drawback compliance program under
23 subsection (e) commits an alleged violation which
24 was not repetitive, the party shall be issued a ‘warn-
25 ing letter’, and, for any subsequent violation, shall

1 be subject to the same maximum penalty amounts
2 stated in paragraph (1).

3 “(h) REGULATION.—The Secretary shall promulgate
4 regulations and guidelines to implement this section. Such
5 regulations shall specify that for purposes of subsection
6 (g), a repeat negligent violation involving the same issue
7 shall be treated as a repetitive violation for a maximum
8 period of 3 years.

9 “(i) COURT OF INTERNATIONAL TRADE PROCEED-
10 INGS.—Notwithstanding any other provision of law, in any
11 proceeding commenced by the United States in the Court
12 of International Trade for the recovery of any monetary
13 penalty claimed under this section—

14 “(1) all issues, including the amount of the pen-
15 alty, shall be tried de novo;

16 “(2) if the monetary penalty is based on fraud,
17 the United States shall have the burden of proof to
18 establish the alleged violation by clear and convinc-
19 ing evidence; and

20 “(3) if the monetary penalty is based on neg-
21 ligence, the United States shall have the burden of
22 proof to establish the act or omission constituting
23 the violation, and the alleged violator shall have the
24 burden of providing evidence that the act or omis-
25 sion did not occur as a result of negligence.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) applies to drawback claims filed on and
3 after the nationwide operational implementation of an
4 automated drawback selectivity program by the Customs
5 Service. The Customs Service shall publish notice of this
6 date in the Customs Bulletin.

7 **SEC. 113. INTERPRETIVE RULINGS AND DECISIONS; PUBLIC**
8 **INFORMATION.**

9 Section 625 (19 U.S.C. 1625) is amended to read as
10 follows:

11 **“SEC. 625. INTERPRETIVE RULINGS AND DECISIONS; PUB-**
12 **LIC INFORMATION.**

13 “(a) PUBLICATION.—Within 90 days after the date
14 of issuance of any interpretive ruling (including any ruling
15 letter, or internal advice memorandum) or protest review
16 decision under this chapter with respect to any customs
17 transaction, the Secretary shall have such ruling or deci-
18 sion published in the Customs Bulletin or shall otherwise
19 make such ruling or decision available for public inspec-
20 tion.

21 “(b) APPEALS.—A person may appeal an adverse in-
22 terpretive ruling and any interpretation of any regulation
23 prescribed to implement such ruling to a higher level of
24 authority within the Customs Service for de novo review.
25 Upon a reasonable showing of business necessity, any such

1 appeal shall be considered and decided no later than 60
2 days following the date on which the appeal is filed. The
3 Secretary shall issue regulations to implement this sub-
4 section.

5 “(c) MODIFICATION AND REVOCATION.—A proposed
6 interpretive ruling or decision which would—

7 “(1) modify (other than to correct a clerical
8 error) or revoke a prior interpretive ruling or deci-
9 sion which has been in effect for at least 60 days;
10 or

11 “(2) have the effect of modifying the treatment
12 previously accorded by the Customs Service to sub-
13 stantially identical transactions;

14 shall be published in the Customs Bulletin. The Secretary
15 shall give interested parties an opportunity to submit, dur-
16 ing not less than the 30-day period after the date of such
17 publication, comments on the correctness of the proposed
18 ruling or decision. After consideration of any comments
19 received, the Secretary shall publish a final ruling or deci-
20 sion in the Customs Bulletin within 30 days after the clos-
21 ing of the comment period. The final ruling or decision
22 shall become effective 60 days after the date of its publica-
23 tion.

24 “(d) PUBLICATION OF CUSTOMS DECISIONS THAT
25 LIMIT COURT DECISIONS.—A decision that proposes to

1 limit the application of a court decision shall be published
2 in the Customs Bulletin together with notice of oppor-
3 tunity for public comment thereon prior to a final decision.

4 “(e) PUBLIC INFORMATION.—The Secretary may
5 make available in writing or through electronic media, in
6 an efficient, comprehensive and timely manner, all infor-
7 mation, including directives, memoranda, electronic mes-
8 sages and telexes which contain instructions, require-
9 ments, methods or advice necessary for importers and ex-
10 porters to comply with the Customs laws and regulations.
11 All information which may be made available pursuant to
12 this subsection shall be subject to any exemption from dis-
13 closure provided by section 552 of title 5, United States
14 Code.”.

15 **SEC. 114. SEIZURE AUTHORITY.**

16 Section 596(c) (19 U.S.C. 1595a(c)) is amended to
17 read as follows:

18 “(c) Merchandise which is introduced or attempted
19 to be introduced into the United States contrary to law
20 shall be treated as follows:

21 “(1) The merchandise shall be seized and for-
22 feited if it—

23 “(A) is stolen, smuggled, or clandestinely
24 imported or introduced;

1 “(B) is a controlled substance, as defined
2 in the Controlled Substances Act (21 U.S.C.
3 801 et seq.), and is not imported in accordance
4 with applicable law; or

5 “(C) is a contraband article, as defined in
6 section 1 of the Act of August 9, 1939 (49
7 U.S.C. App. 781).

8 “(2) The merchandise may be seized and for-
9 feited if—

10 “(A) its importation or entry is subject to
11 any restriction or prohibition which is imposed
12 by law relating to health, safety, or conserva-
13 tion and the merchandise is not in compliance
14 with the applicable rule, regulation, or statute;

15 “(B) its importation or entry requires a li-
16 cense, permit or other authorization of an agen-
17 cy of the United States Government and the
18 merchandise is not accompanied by such li-
19 cense, permit, or authorization;

20 “(C) it is merchandise or packaging in
21 which copyright, trademark, or trade name pro-
22 tection violations are involved (including, but
23 not limited to, violations of section 42, 43, or
24 45 of the Act of July 5, 1946 (Public Law 95-
25 410; 15 U.S.C. 1124, 1125, or 1127), section

1 506 or 509 of title 17, United States Code, or
2 section 2318 or 2320 of title 18, United States
3 Code);

4 “(D) it is trade dress merchandise involved
5 in the violation of a court order citing section
6 43 of such Act of July 5, 1946 (15 U.S.C.
7 1125);

8 “(E) it is merchandise which is marked in-
9 tentionally in violation of section 304; or

10 “(F) it is merchandise for which the im-
11 porter has received written notices that previous
12 importations of identical merchandise from the
13 same supplier were found to have been marked
14 in violation of section 304.

15 “(3) If the importation or entry of the mer-
16 chandise is subject to quantitative restrictions re-
17 quiring a visa, permit, license or other similar docu-
18 ment, or stamp from the United States Government
19 or from a foreign government or issuing authority
20 pursuant to a bilateral or multilateral agreement,
21 the merchandise shall be subject to detention in ac-
22 cordance with section 499 unless the appropriate
23 visa, license, permit, or similar document or stamp
24 is presented to the Customs Service; but if the visa,
25 permit, license or similar document or stamp which

1 is presented in connection with the importation or
2 entry of the merchandise is counterfeit, the mer-
3 chandise may be seized and forfeited.

4 “(4) If the merchandise is imported or intro-
5 duced contrary to a provision of law which governs
6 the classification or value of merchandise and there
7 are no issues as to the admissibility of the merchan-
8 dise into the United States, it shall not be seized ex-
9 cept in accordance with section 592.

10 “(5) In any case where the seizure and forfeit-
11 ure of merchandise are required or authorized by
12 this section, the Secretary may—

13 “(A) remit the forfeiture under section
14 618, or

15 “(B) permit the exportation of the mer-
16 chandise, unless its release would adversely af-
17 fect health, safety, or conservation or be in con-
18 travention of a bilateral or multilateral agree-
19 ment or treaty.”.

20 **TITLE II—NATIONAL CUSTOMS**
21 **AUTOMATION PROGRAM**

22 **SEC. 201. NATIONAL CUSTOMS AUTOMATION PROGRAM.**

23 Part I of title IV is amended—

24 (1) by striking out

1 **“PART I—DEFINITIONS**

2 and inserting

3 **“PART I—DEFINITIONS AND NATIONAL CUSTOMS**

4 **AUTOMATION PROGRAM**

5 **“Subpart A—Definitions”**; and

6 (2) by inserting after section 402 the following:

7 **“Subpart B—National Customs Automation Program**

8 **“SEC. 411. NATIONAL CUSTOMS AUTOMATION PROGRAM.**

9 “(a) ESTABLISHMENT.—The Secretary shall estab-
10 lish the National Customs Automation Program (herein-
11 after in this subpart referred to as the ‘Program’) which
12 shall be an automated and electronic system for processing
13 commercial importations and shall include the following
14 existing and planned components:

15 “(1) Existing components:

16 “(A) The electronic entry of merchandise.

17 “(B) The electronic entry summary of re-
18 quired information.

19 “(C) The electronic transmission of invoice
20 information.

21 “(D) The electronic transmission of mani-
22 fest information.

23 “(E) Electronic payments of duties, fees,
24 and taxes.

25 “(F) The electronic status of liquidation
26 and reliquidation.

1 “(G) The electronic selection of high risk
2 entries for examination (cargo selectivity and
3 entry summary selectivity).

4 “(2) Planned components:

5 “(A) The electronic filing and status of
6 protests.

7 “(B) The electronic filing (including re-
8 mote filing under section 414) of entry informa-
9 tion with the Customs Service at any location.

10 “(C) The electronic filing of import activity
11 summary statements and reconciliation.

12 “(D) The electronic filing of bonds.

13 “(E) The electronic penalty process.

14 “(F) The electronic filing of drawback
15 claims, records, or entries.

16 “(G) Any other component initiated by the
17 Customs Service to carry out the goals of this
18 subpart.

19 “(b) PARTICIPATION IN PROGRAM.—The Secretary
20 shall by regulation prescribe the eligibility criteria for par-
21 ticipation in the Program. Participation in the Program
22 is voluntary.

23 **“SEC. 412. PROGRAM GOALS.**

24 “The goals of the Program are to ensure that all reg-
25 ulations and rulings that are administered or enforced by

1 the Customs Service are administered and enforced in a
2 manner that—

3 “(1) is uniform and consistent;

4 “(2) is as minimally intrusive upon the normal
5 flow of business activity as practicable; and

6 “(3) improves compliance.

7 **“SEC. 413. IMPLEMENTATION AND EVALUATION OF PRO-**
8 **GRAM.**

9 “(a) OVERALL PROGRAM PLAN.—

10 “(1) IN GENERAL.—Before the 180th day after
11 the date of the enactment of this Act, the Secretary
12 shall develop and transmit to the Committees an
13 overall plan for the Program. The overall Program
14 plan shall set forth—

15 “(A) a general description of the ultimate
16 configuration of the Program;

17 “(B) a description of each of the existing
18 components of the Program listed in section
19 411(a)(1); and

20 “(C) estimates regarding the stages on
21 which planned components of the Program list-
22 ed in section 411(a)(2) will be brought on-line.

23 “(2) ADDITIONAL INFORMATION.—In addition
24 to the information required under paragraph (1), the

1 overall Program plan shall include a statement re-
2 garding—

3 “(A) the extent to which the existing com-
4 ponents of the Program currently meet, and the
5 planned components will meet, the Program
6 goals set forth in section 412; and

7 “(B) the effects that the existing compo-
8 nents are currently having, and the effects that
9 the planned components will likely have, on—

10 “(i) importers, brokers, and other
11 users of the Program, and

12 “(ii) Customs Service occupations, op-
13 erations, processes, and systems.

14 “(b) IMPLEMENTATION PLAN, TESTING, AND EVAL-
15 UATION.—

16 “(1) IMPLEMENTATION PLAN.—For each of the
17 planned components of the Program listed in section
18 411(a)(2), the Secretary shall—

19 “(A) develop an implementation plan;

20 “(B) test the component in order to assess
21 its viability;

22 “(C) evaluate the component in order to
23 assess its contribution toward achieving the
24 program goals; and

1 “(D) transmit to the Committees the im-
2 plementation plan, the testing results, and an
3 evaluation report.

4 In developing an implementation plan under sub-
5 paragraph (A) and evaluating components under
6 subparagraph (C), the Secretary shall publish a re-
7 quest for comments in the Customs Bulletin and
8 shall consult with the trade community, including
9 importers, brokers, shippers, and other affected par-
10 ties.

11 “(2) IMPLEMENTATION.—

12 “(A) The Secretary may implement on a
13 permanent basis any Program component re-
14 ferred to in paragraph (1) on or after the date
15 which is 30 days after paragraph (1)(D) is
16 complied with.

17 “(B) For purposes of subparagraph (A),
18 the 30 days shall be computed by excluding—

19 “(i) the days either House is not in
20 session because of an adjournment of more
21 than 3 days to a day certain or an ad-
22 journment of the Congress sine die, and

23 “(ii) any Saturday and Sunday, not
24 excluded under clause (i), when either
25 House is not in session.

1 “(3) EVALUATION AND REPORT.—The Sec-
2 retary shall—

3 “(A) develop a user satisfaction survey of
4 parties participating in the Program;

5 “(B) evaluate the results of the user satis-
6 faction survey on a biennial basis (fiscal years)
7 and transmit a report to the Committees on the
8 evaluation by no later than the 90th day after
9 the close of each 2d fiscal year;

10 “(C) with respect to the existing Program
11 component listed in section 411(a)(1)(G) trans-
12 mit to the Committees—

13 “(i) a written evaluation of such com-
14 ponent before the 180th day after the date
15 of the enactment of this section and before
16 the implementation of the planned Pro-
17 gram components listed in section
18 411(a)(2) (B) and (C), and

19 “(ii) a report on such component for
20 each of the 3 full fiscal years occurring
21 after the date of the enactment of this sec-
22 tion, which report shall be transmitted not
23 later than the 90th day after the close of
24 each such year; and

1 “(D) not later than the 90th day after the
2 close of fiscal year 1993, and annually there-
3 after through fiscal year 1999, transmit to the
4 Committees a written evaluation with respect to
5 the implementation and effect on users of each
6 of the planned Program components listed in
7 section 411(a)(2).

8 In carrying out the provisions of this paragraph, the
9 Secretary shall publish requests for comments in the
10 Customs Bulletin and shall consult with the trade
11 community, including importers, brokers, shippers,
12 and other affected parties.

13 “(c) COMMITTEES.—For purposes of this section, the
14 term ‘Committees’ means the Committee on Ways and
15 Means of the House of Representatives and the Committee
16 on Finance of the Senate.

17 **“SEC. 414. REMOTE LOCATION FILING.**

18 “(a) CORE ENTRY INFORMATION.—

19 “(1) IN GENERAL.—A Program participant
20 may file an entry of merchandise with the Customs
21 Service from a location other than the district des-
22 ignated in the entry for examination (hereafter in
23 this section referred to as a ‘remote location’) if—

24 “(A) the Customs Service is satisfied that
25 the participant has the capabilities referred to

1 in paragraph (2) regarding such method of fil-
2 ing; and

3 “(B) the participant elects to file from the
4 remote location.

5 “(2) REQUIREMENTS.—In order to qualify for
6 filing from a remote location, a Program participant
7 must have the capability to provide, on an entry-by-
8 entry basis, for the following:

9 “(A) The electronic entry of merchandise.

10 “(B) The electronic entry summary of re-
11 quired information.

12 “(C) The electronic transmission of invoice
13 information (when required by the Customs
14 Service).

15 “(D) The electronic payment of duties,
16 fees, and taxes.

17 “(E) Such other electronic capabilities
18 within the existing or planned components of
19 the Program as the Secretary shall by regula-
20 tion require.

21 “(3) ALTERNATIVE FILING.—Any Program par-
22 ticipant that is eligible under paragraph (1) to file
23 entry information electronically from a remote loca-
24 tion but chooses not to do so in the case of any
25 entry must file any paper documentation for the

1 entry at the designated location referred to in sub-
2 section (d).

3 “(b) ADDITIONAL ENTRY INFORMATION.—

4 “(1) IN GENERAL.—A Program participant that
5 is eligible under subsection (a) to file entry informa-
6 tion from a remote location may, if the Customs
7 Service is satisfied that the participant meets the re-
8 quirements under paragraph (2), also electronically
9 file from the remote location additional information
10 that is required by the Customs Service to be pre-
11 sented before the acceptance of entry summary in-
12 formation and at the time of acceptance of entry
13 summary information.

14 “(2) REQUIREMENTS.—The Secretary shall
15 publish, and periodically update, a list of those capa-
16 bilities within the existing and planned components
17 of the Program that a Program participant must
18 have for purposes of this subsection.

19 “(3) FILING OF ADDITIONAL INFORMATION.—

20 “(A) IF INFORMATION ELECTRONICALLY
21 ACCEPTABLE.—A Program participant that is
22 eligible under paragraph (1) to file additional
23 information from a remote location shall elec-
24 tronically file all such information that the Cus-
25 toms Service can accept electronically.

1 “(B) ALTERNATIVE FILING.—If the Cus-
2 toms Service cannot accept additional informa-
3 tion electronically, the Program participant
4 shall file the paper documentation with respect
5 to the information at the appropriate filing lo-
6 cation.

7 “(C) APPROPRIATE LOCATION.—For pur-
8 poses of subparagraph (B), the ‘appropriate lo-
9 cation’ is—

10 “(i) before January 1, 1999, a des-
11 ignated location; and

12 “(ii) after December 31, 1998—

13 “(I) if the paper documentation
14 is required for release, a designated
15 location; or

16 “(II) if the paper documentation
17 is not required for release, a remote
18 location designated by the Customs
19 Service or a designated location.

20 “(D) OTHER.—A Program participant that
21 is eligible under paragraph (1) to file additional
22 information electronically from a remote loca-
23 tion but chooses not to do so must file the
24 paper documentation with respect to the infor-
25 mation at a designated location.

1 “(c) POST-ENTRY SUMMARY INFORMATION.—A Pro-
2 gram participant that is eligible to file electronically entry
3 information under subsection (a) and additional informa-
4 tion under subsection (b) from a remote location may file
5 at any remote location designated by the Customs Service
6 any information required by the Customs Service after
7 entry summary.

8 “(d) DEFINITION OF DESIGNATED LOCATION.—For
9 purposes of this section, the term ‘designated location’
10 means a customs office located in the customs district des-
11 ignated by the entry filer for purposes of customs exam-
12 ination of the merchandise.”.

13 **SEC. 202. DRAWBACK AND REFUNDS.**

14 (a) AMENDMENTS.—Section 313 (19 U.S.C. 1313) is
15 amended as follows:

16 (1) Subsection (a) is amended—

17 (A) by inserting “or destruction under cus-
18 toms supervision” after “Upon the expor-
19 tation”;

20 (B) by inserting “provided that those arti-
21 cles have not been used prior to such expor-
22 tation or destruction,” after “manufactured or
23 produced in the United States with the use of
24 imported merchandise.”;

1 (C) by inserting “or destruction” after “re-
2 funded upon the exportation”; and

3 (D) by striking out “wheat imported after
4 ninety days after the date of the enactment of
5 this Act” and inserting “imported wheat”.

6 (2) Subsection (b) is amended—

7 (A) by striking out “duty-free or domestic
8 merchandise” and inserting “any other mer-
9 chandise (whether imported or domestic)”;

10 (B) by inserting “, or destruction under
11 customs supervision,” after “there shall be al-
12 lowed upon the exportation”;

13 (C) by inserting “or destroyed” after “not-
14 withstanding the fact that none of the imported
15 merchandise may actually have been used in the
16 manufacture or production of the exported”;

17 (D) by inserting “, but only if those arti-
18 cles have not been used prior to such expor-
19 tation or destruction” after “an amount of
20 drawback equal to that which would have been
21 allowable had the merchandise used therein
22 been imported”; and

23 (E) by inserting “or destruction under cus-
24 toms supervision” after “but the total amount
25 of drawback allowed upon the exportation”.

1 (3) Subsection (c) is amended to read as fol-
2 lows:

3 “(c) MERCHANDISE NOT CONFORMING TO SAMPLE
4 OR SPECIFICATIONS.—Upon the exportation, or destruc-
5 tion under the supervision of the Customs Service, of mer-
6 chandise—

7 “(1) not conforming to sample or specifications,
8 shipped without the consent of the consignee, or de-
9 termined to be defective as of the time of importa-
10 tion;

11 “(2) upon which the duties have been paid;

12 “(3) which has been entered or withdrawn for
13 consumption; and

14 “(4) which, within 3 years after release from
15 the custody of the Customs Service, has been re-
16 turned to the custody of the Customs Service for ex-
17 portation or destruction under the supervision of the
18 Customs Service;

19 the full amount of the duties paid upon such merchandise,
20 less 1 percent, shall be refunded as drawback.”.

21 (4) Subsection (j) is amended to read as fol-
22 lows:

23 “(j) UNUSED MERCHANDISE DRAWBACK.—

1 “(1) If imported merchandise, on which was
2 paid any duty, tax, or fee imposed under Federal
3 law because of its importation—

4 “(A) is, before the close of the 3-year pe-
5 riod beginning on the date of importation—

6 “(i) exported, or

7 “(ii) destroyed under customs super-
8 vision; and

9 “(B) is not used within the United States
10 before such exportation or destruction;

11 then upon such exportation or destruction 99 per-
12 cent of the amount of each duty, tax, or fee so paid
13 shall be refunded as drawback.

14 “(2) If there is, with respect to imported mer-
15 chandise on which was paid any duty, tax, or fee im-
16 posed under Federal law because of its importation,
17 any other merchandise (whether imported or domes-
18 tic), that—

19 “(A) is commercially interchangeable with
20 such imported merchandise;

21 “(B) is, before the close of the 3-year pe-
22 riod beginning on the date of importation of the
23 imported merchandise, either exported or de-
24 stroyed under customs supervision; and

1 “(C) before such exportation or destruc-
2 tion—

3 “(i) is not used within the United
4 States, and

5 “(ii) is in the possession of, including
6 ownership while in bailment, in leased fa-
7 cilities, in transit to, or in any other man-
8 ner under the operational control of, the
9 party claiming drawback under this para-
10 graph (if that party paid the duty, tax, or
11 fee on the imported merchandise (estab-
12 lished by means of either an entry sum-
13 mary or a certificate of delivery));

14 then upon the exportation or destruction of such
15 other merchandise the amount of each such duty,
16 tax, and fee paid regarding the imported merchan-
17 dise shall be refunded as drawback, but in no case
18 may the total drawback on the imported merchan-
19 dise, whether available under this paragraph or any
20 other provision of law or any combination thereof,
21 exceed 99 percent of that duty, tax, or fee.

22 “(3) The performing of any operation or com-
23 bination of operations (including, but not limited to,
24 testing, cleaning, repacking, inspecting, sorting, re-
25 furbishing, freezing, blending, repairing, reworking,

1 cutting, slitting, adjusting, replacing components,
2 relabeling, disassembling, and unpacking), not
3 amounting to manufacture or production for draw-
4 back purposes under the preceding provisions of this
5 section on—

6 “(A) the imported merchandise itself in
7 cases to which paragraph (1) applies, or

8 “(B) the commercially interchangeable
9 merchandise in cases to which paragraph (2)
10 applies,

11 shall not be treated as a use of that merchandise for
12 purposes of applying paragraph (1)(B) or (2)(C).”.

13 (5) Subsection (l) is amended by striking out
14 “the fixing of a time limit within which drawback
15 entries or entries for refund under any of the provi-
16 sions of this section or section 309(b) shall be filed
17 and completed,” and inserting “the authority for the
18 electronic submission of drawback entries”.

19 (6) The following new subsections are inserted
20 after subsection (p):

21 “(q) PACKAGING MATERIAL.—Packaging material,
22 when used on or for articles or merchandise exported or
23 destroyed under subsection (a), (b), (c), or (j), shall be
24 eligible under such subsection for refund, as drawback, of

1 99 percent of any duty, tax, or fee imposed under Federal
2 law on the importation of such material.

3 “(r) FILING DRAWBACK CLAIMS.—

4 “(1) A drawback entry and all documents nec-
5 essary to complete a drawback claim, including those
6 issued by one customs officer to another, shall be
7 filed or applied for, as applicable, within 3 years
8 after the date of exportation or destruction of the
9 articles on which drawback is claimed, except that
10 any landing certificate required by regulation shall
11 be filed within the time limit prescribed in such reg-
12 ulation. Claims not completed within the 3-year pe-
13 riod shall be considered abandoned. No extension
14 will be granted unless it is established that a cus-
15 toms officer was responsible for the untimely filing.

16 “(2) A drawback entry for refund filed pursu-
17 ant to any subsection of this section shall be deemed
18 filed pursuant to any other subsection of this section
19 should it be determined that drawback is not allow-
20 able under the entry as originally filed but is allow-
21 able under such other subsection.

22 “(s) DESIGNATION OF MERCHANDISE BY SUCCES-
23 SOR.—

24 “(1) For purposes of subsection (b), a draw-
25 back successor may designate imported merchandise

1 used by the predecessor before the date of succession
2 as the basis for drawback on articles manufactured
3 by the drawback successor after the date of succe-
4 sion.

5 “(2) For purposes of subsection (j)(2), a draw-
6 back successor may designate imported merchandise
7 upon which the predecessor, before the date of suc-
8 cession, paid the duty, tax, or fee related to the im-
9 portation of the merchandise as the basis for draw-
10 back on merchandise possessed by the drawback suc-
11 cessor after the date of succession.

12 “(3) For purposes of this subsection, the term
13 ‘drawback successor’ means an entity to which an-
14 other entity (in this subsection referred to as the
15 ‘predecessor’) has transferred by written agreement,
16 merger, or corporate resolution all or substantially
17 all of the rights, privileges, immunities, powers, du-
18 ties, and liabilities of the predecessor, or all or sub-
19 stantially all of the assets and other business inter-
20 ests of a division, plant, or other business unit of
21 such predecessor, but only if in such transfer the
22 value of the transferred realty and personalty ex-
23 ceeds the value of all transferred intangibles.

24 “(4) No drawback shall be paid under this sub-
25 section until either the predecessor or the drawback

1 successor (who shall also certify that it has the pred-
2 ecessor's records) certifies that—

3 “(A) the transferred merchandise was not
4 and will not be claimed by the predecessor, and

5 “(B) the predecessor did not and will not
6 issue any certificate to any other person that
7 would enable that person to claim drawback.

8 “(t) DRAWBACK CERTIFICATES.—Any person who is-
9 sues a certificate which would enable another person to
10 claim drawback shall be subject to the recordkeeping pro-
11 visions of this chapter, with the retention period beginning
12 on the date that such certificate is issued.

13 “(u) ELIGIBILITY OF ENTERED OR WITHDRAWN
14 MERCHANDISE.—Imported merchandise that has not been
15 regularly entered or withdrawn for consumption shall not
16 satisfy any requirement for use, exportation, or destruc-
17 tion under this section.

18 “(v) MULTIPLE DRAWBACK CLAIMS.—Merchandise
19 that is exported or destroyed to satisfy any claim for draw-
20 back shall not be the basis of any other claim for draw-
21 back; except that appropriate credit and deductions for
22 claims covering components or ingredients of such mer-
23 chandise shall be made in computing drawback
24 payments.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) apply to—

3 (1) any drawback entry made after September
4 30, 1993; and

5 (2) any drawback entry made before October 1,
6 1993, if the liquidation of the entry is not final as
7 of that date.

8 **SEC. 203. EFFECTIVE DATE OF RATES OF DUTY.**

9 Section 315 (19 U.S.C. 1315) is amended—

10 (1) by striking out “appropriate customs officer
11 in the form and manner prescribed by regulations of
12 the Secretary of the Treasury,” in the first sentence
13 of subsection (a) and inserting “Customs Service by
14 written, electronic or such other means as the Sec-
15 retary by regulation shall prescribe,”;

16 (2) by striking out “customs custody” in the
17 first sentence of subsection (b) and inserting “cus-
18 tody of the Customs Service”; and

19 (3) by striking out “section 1001, paragraph
20 813” in subsection (c) and inserting “chapter 98 of
21 the Harmonized Tariff Schedule of the United
22 States”.

23 **SEC. 204. DEFINITIONS.**

24 Section 401 (19 U.S.C. 1401) is amended—

1 (1) by amending subsection (k) to read as fol-
2 lows:

3 “(k) The term ‘hovering vessel’ means—

4 “(1) any vessel which is found or kept off the
5 coast of the United States within or without the cus-
6 toms waters, if, from the history, conduct, character,
7 or location of the vessel, it is reasonable to believe
8 that such vessel is being used or may be used to in-
9 troduce or promote or facilitate the introduction or
10 attempted introduction of merchandise into the
11 United States in violation of the laws of the United
12 States; and

13 “(2) any vessel which has visited a vessel de-
14 scribed in paragraph (1).”; and

15 (2) by inserting at the end thereof the following
16 new subsections:

17 “(n) The term ‘electronic transmission’ means the
18 transfer of data or information through an authorized
19 electronic data interchange system consisting of, but not
20 limited to, computer modems and computer networks.

21 “(o) The term ‘electronic entry’ means the electronic
22 transmission to the Customs Service of—

23 “(1) entry information required for the entry of
24 merchandise, and

1 “(2) entry summary information required for
2 the classification and appraisal of the merchan-
3 dise, the verification of statistical information, and
4 the determination of compliance with applicable law.

5 “(p) The term ‘electronic data interchange system’
6 means any established mechanism approved by the Com-
7 missioner of Customs through which information can be
8 transferred electronically.

9 “(q) The term ‘National Customs Automation Pro-
10 gram’ means the program established under section 411.

11 “(r) The term ‘import activity summary statement’
12 refers to data or information transmitted electronically to
13 the Customs Service, in accordance with such regulations
14 as the Secretary prescribes, at the end of a specified pe-
15 riod of time which enables the Customs Service to assess
16 properly the duties, taxes and fees on merchandise im-
17 ported during that period, collect accurate statistics and
18 determine whether any other applicable requirement of law
19 (other than a requirement relating to release from customs
20 custody) is met.

21 “(s) The term ‘reconciliation’ means an electronic
22 process, initiated at the request of an importer, under
23 which the elements of an entry, other than those elements
24 related to the admissibility of the merchandise, that are
25 undetermined at the time of entry summary are provided

1 to the Customs Service at a later time. A reconciliation
2 is treated as an entry for purposes of liquidation, reliqui-
3 dation, and protest.”.

4 **SEC. 205. MANIFESTS.**

5 Section 431 (19 U.S.C. 1431) is amended—

6 (1) by amending subsections (a) and (b) to read
7 as follows:

8 “(a) IN GENERAL.—Every vessel required to make
9 entry under section 434 or obtain clearance under section
10 4197 of the Revised Statutes of the United States (46
11 U.S.C. App. 91) shall have a manifest that complies with
12 the requirements prescribed under subsection (d).

13 “(b) PRODUCTION OF MANIFEST.—Any manifest re-
14 quired by the Customs Service shall be signed, produced,
15 delivered or electronically transmitted by the master or
16 person in charge of the vessel, aircraft, or vehicle, or by
17 any other authorized agent of the owner or operator of
18 the vessel, aircraft, or vehicle in accordance with the re-
19 quirements prescribed under subsection (d). A manifest
20 may be supplemented by bill of lading data supplied by
21 the issuer of such bill. If any irregularity of omission or
22 commission occurs in any way in respect to any manifest
23 or bill of lading data, the owner or operator of the vessel,
24 aircraft or vehicle, or any party responsible for such irreg-
25 ularity, shall be liable for any fine or penalty prescribed

1 by law with respect to such irregularity. The Customs
2 Service may take appropriate action against any of the
3 parties.”; and

4 (2) by inserting after subsection (c) the follow-
5 ing new subsection:

6 “(d) REGULATIONS.—

7 “(1) IN GENERAL.—The Secretary shall by reg-
8 ulation—

9 “(A) specify the form for, and the informa-
10 tion and data that must be contained in, the
11 manifest required by subsection (a);

12 “(B) allow, at the option of the individual
13 producing the manifest and subject to para-
14 graph (2), letters and documents shipments to
15 be accounted for by summary manifesting pro-
16 cedures;

17 “(C) prescribe the manner of production
18 for, and the delivery for electronic transmittal
19 of, the manifest required by subsection (a); and

20 “(D) prescribe the manner for
21 supplementing manifests with bill of lading data
22 under subsection (b).

23 “(2) LETTERS AND DOCUMENTS SHIPMENTS.—

24 For purposes of paragraph (1)(B)—

1 “(A) the Customs Service may require with
2 respect to letters and documents shipments—

3 “(i) that they be segregated by coun-
4 try of origin, and

5 “(ii) additional examination proce-
6 dures that are not necessary for individ-
7 ually manifested shipments;

8 “(B) standard letter envelopes and stand-
9 ard document packs shall be segregated from
10 larger document shipments for purposes of cus-
11 toms inspections; and

12 “(C) the term ‘letters and documents’
13 means—

14 “(i) data described in General Head-
15 note 4(c) of the Harmonized Tariff Sched-
16 ule of the United States,

17 “(ii) securities and similar evidences
18 of value described in heading 4907 of such
19 Schedule, but not monetary instruments
20 defined pursuant to chapter 53 of title 31,
21 United States Code, and

22 “(iii) personal correspondence, wheth-
23 er on paper, cards, photographs, tapes, or
24 other media.”.

1 **SEC. 206. INVOICE CONTENTS.**

2 Section 481 (19 U.S.C. 1481) is amended—

3 (1) by amending subsection (a)—

4 (A) by amending the matter preceding
5 paragraph (1) to read as follows: “IN GEN-
6 ERAL.—All invoices of merchandise to be im-
7 ported into the United States and any elec-
8 tronic equivalent thereof considered acceptable
9 by the Secretary in regulations prescribed under
10 this section shall set forth, in written, elec-
11 tronic, or such other form as the Secretary
12 shall prescribe, the following:”

13 (B) by amending paragraph (3) to read as
14 follows:

15 “(3) A detailed description of the merchandise,
16 including the commercial name by which each item
17 is known, the grade or quality, and the marks, num-
18 bers, or symbols under which sold by the seller or
19 manufacturer in the country of exportation, together
20 with the marks and numbers of the packages in
21 which the merchandise is packed;”, and

22 (C) by amending paragraph (10) to read
23 as follows:

24 “(10) Any other fact that the Secretary may by
25 regulation require as being necessary to a proper ap-

1 praisement, examination and classification of the
2 merchandise.”;

3 (2) by amending subsection (c) to read as fol-
4 lows:

5 “(c) IMPORTER PROVISION OF INFORMATION.—Any
6 information required to be set forth on an invoice may
7 alternatively be provided by any of the parties qualifying
8 as an ‘importer of record’ under section 484(a)(2)(B) by
9 such means, in such form or manner, and within such time
10 as the Secretary shall by regulation prescribe.”; and

11 (3) by inserting before the period at the end of
12 subsection (d) the following: “and may allow for the
13 submission or electronic transmission of partial in-
14 voices, electronic equivalents of invoices, bills, or
15 other documents or parts thereof, required under
16 this section”.

17 **SEC. 207. ENTRY OF MERCHANDISE.**

18 Section 484 (19 U.S.C. 1484) is amended to read as
19 follows:

20 **“SEC. 484. ENTRY OF MERCHANDISE.**

21 “(a) REQUIREMENT AND TIME.—

22 “(1) Except as provided in sections 490, 498,
23 552, 553, and 336(j), one of the parties qualifying
24 as ‘importer of record’ under paragraph (2)(B), ei-

1 ther in person or by an agent authorized by the
2 party in writing, shall, using reasonable care—

3 “(A) make entry therefor by filing with the
4 Customs Service—

5 “(i) such documentation or, pursuant
6 to an electronic data interchange system,
7 such information as is necessary to enable
8 the Customs Service to determine whether
9 the merchandise may be released from cus-
10 toms custody, and

11 “(ii) notification whether an import
12 activity summary statement will be filed;
13 and

14 “(B) complete the entry by filing with the
15 Customs Service the declared value, classifica-
16 tion and rate of duty applicable to the merchan-
17 dise, and such other documentation or, pursu-
18 ant to an electronic data interchange system,
19 such other information as is necessary to enable
20 the Customs Service to—

21 “(i) properly assess duties on the mer-
22 chandise,

23 “(ii) collect accurate statistics with re-
24 spect to the merchandise, and

1 “(iii) determine whether any other ap-
2 plicable requirement of law (other than a
3 requirement relating to release from cus-
4 toms custody) is met.

5 “(2)(A) The documentation or information re-
6 quired under paragraph (1) with respect to any im-
7 ported merchandise shall be filed or transmitted in
8 such manner and within such time periods as the
9 Secretary shall by regulation prescribe. Such regula-
10 tions shall provide for the filing of import activity
11 summary statements, covering entries made during a
12 calendar month, within such time period as is pre-
13 scribed in regulations but not to exceed the 20th day
14 following such calendar month.

15 “(B) When an entry of merchandise is made
16 under this section, the required documentation or in-
17 formation shall be filed or electronically transmitted
18 either by the owner or purchaser of the merchandise
19 or, when appropriately designated by the owner, pur-
20 chaser, or consignee of the merchandise, a person
21 holding a valid license under section 641. When a
22 consignee declares on entry that he is the owner or
23 purchaser of merchandise the Customs Service may,
24 without liability, accept the declaration. For the pur-
25 poses of this Act, the importer of record must be one

1 of the parties who is eligible to file the documenta-
2 tion or information required by this section.

3 “(C) The Secretary, in prescribing regulations
4 to carry out this subsection, shall establish proce-
5 dures which insure the accuracy and timeliness of
6 import statistics, particularly statistics relevant to
7 the classification and valuation of imports. Correc-
8 tions of errors in such statistical data shall be trans-
9 mitted immediately to the Director of the Bureau of
10 the Census, who shall make corrections in the statis-
11 tics maintained by the Bureau. The Secretary shall
12 also provide, to the maximum extent practicable, for
13 the protection of the revenue, the enforcement of
14 laws governing the importation and exportation of
15 merchandise, the facilitation of the commerce of the
16 United States, and the equal treatment of all im-
17 porters of record of imported merchandise.

18 “(b) RECONCILIATION.—A party that electronically
19 transmits an entry summary or import activity summary
20 statement may at the time of filing such summary or
21 statement notify the Customs Service of his intention to
22 file a reconciliation pursuant to such regulations as the
23 Secretary may prescribe. Such reconciliation must be filed
24 by the importer of record within such time period as is
25 prescribed by regulation but no later than 15 months fol-

1 lowing the filing of the entry summary or import activity
2 summary statement. Before filing a reconciliation, an im-
3 porter of record shall post bond or other security pursuant
4 to such regulations as the Secretary may prescribe.

5 “(c) RELEASE OF MERCHANDISE.—The Customs
6 Service may permit the entry and release of merchandise
7 from customs custody in accordance with such regulations
8 as the Secretary may prescribe. No officer of the Customs
9 Service shall be liable to any person with respect to the
10 delivery of merchandise released from customs custody in
11 accordance with such regulations.

12 “(d) SIGNING AND CONTENTS.—Entries shall be
13 signed by the importer of record, or his agent, unless filed
14 pursuant to an electronic data interchange system. If elec-
15 tronically filed, each transmission of data shall be certified
16 by an importer of record or his agent, one of whom shall
17 be resident in the United States for purposes of receiving
18 service of process, as being true and correct to the best
19 of his knowledge and belief, and such transmission shall
20 be binding in the same manner and to the same extent
21 as a signed document. The entry shall set forth such facts
22 in regard to the importation as the Secretary may require
23 and shall be accompanied by such invoices, bills of lading,
24 certificates, and documents, or their electronically submit-
25 ted equivalents, as are required by regulation.

1 “(e) PRODUCTION OF INVOICE.—The Secretary may
2 provide by regulation for the production of an invoice,
3 parts thereof, or the electronic equivalents thereof, in such
4 manner and form, and under such terms and conditions,
5 as the Secretary considers necessary.

6 “(f) STATISTICAL ENUMERATION.—The Secretary,
7 the Secretary of Commerce, and the United States Inter-
8 national Trade Commission shall establish from time to
9 time for statistical purposes an enumeration of articles in
10 such detail as in their judgment may be necessary, com-
11 prehending all merchandise imported into the United
12 States and exported from the United States, and shall
13 seek, in conjunction with statistical programs for domestic
14 production and programs for achieving international har-
15 monization of trade statistics, to establish the comparabil-
16 ity thereof with such enumeration of articles. All import
17 entries and export declarations shall include or have at-
18 tached thereto an accurate statement specifying, in terms
19 of such detailed enumeration, the kinds and quantities of
20 all merchandise imported and exported and the value of
21 the total quantity of each kind of article.

22 “(g) STATEMENT OF COST OF PRODUCTION.—Under
23 such regulations as the Secretary may prescribe, the Cus-
24 toms Service may require a verified statement from the
25 manufacturer or producer showing the cost of producing

1 the imported merchandise, if the Customs Service consid-
2 ers such verification necessary for the appraisement of
3 such merchandise.

4 “(h) ADMISSIBILITY OF DATA ELECTRONICALLY
5 TRANSMITTED.—Any entry or other information transmit-
6 ted by means of an authorized electronic data interchange
7 system shall be admissible in any and all administrative
8 and judicial proceedings as evidence of such entry or infor-
9 mation.”.

10 **SEC. 208. APPRAISEMENT AND OTHER PROCEDURES.**

11 Section 500 (19 U.S.C. 1500) is amended—

12 (1) by striking out “The appropriate customs
13 officer” and inserting “The Customs Service”;

14 (2) by striking out “appraise” in subsection (a)
15 and inserting “fix the final appraisement of”;

16 (3) by striking out “ascertain the” in sub-
17 section (b) and inserting “fix the final”;

18 (4) by amending subsection (c)—

19 (A) by inserting “final” after “fix the”,
20 and

21 (B) by inserting “, taxes, and fees” after
22 “duties” wherever it appears; and

23 (5) by amending subsections (d) and (e) to read
24 as follows:

1 “(d) liquidate the entry and reconciliation, if
2 any, of such merchandise; and

3 “(e) give or transmit, pursuant to an electronic
4 data interchange system, notice of such liquidation
5 to the importer, his consignee, or agent in such form
6 and manner as the Secretary shall by regulation pre-
7 scribe.”.

8 **SEC. 209. VOLUNTARY RELIQUIDATIONS.**

9 Section 501 (19 U.S.C. 1501) is amended—

10 (1) by striking out “the appropriate customs of-
11 ficer on his own initiative” and inserting “the Cus-
12 toms Service”;

13 (2) by inserting “or transmitted” after “given”
14 wherever it appears; and

15 (3) by amending the section heading to read as
16 follows:

17 **“SEC. 501. VOLUNTARY RELIQUIDATIONS BY THE CUS-**
18 **TOMS SERVICE.”.**

19 **SEC. 210. APPRAISEMENT REGULATIONS.**

20 Section 502 (19 U.S.C. 1502) is amended—

21 (1) by amending subsection (a)—

22 (A) by inserting “(including regulations es-
23 tablishing procedures for the issuance of bind-
24 ing rulings prior to the entry of the merchan-
25 dise concerned)” after “law”,

1 (B) by striking out “ports of entry, and”
2 inserting “ports of entry. The Secretary”,

3 (C) by inserting “or classifying” after “ap-
4 praising” wherever it appears, and

5 (D) by striking out “such port” and insert-
6 ing “any port, and may direct any customs offi-
7 cer at any port to review entries of merchandise
8 filed at any other port”; and

9 (2) by striking out subsection (b) and redesign-
10 nating subsection (c) as subsection (b).

11 **SEC. 211. LIMITATION ON LIQUIDATION.**

12 Section 504 (19 U.S.C. 1504) is amended—

13 (1) by amending subsection (a)—

14 (A) by striking out “Except as provided in
15 subsection (b),” and inserting “Unless an entry
16 is extended under subsection (b) or suspended
17 as required by statute or court order,”,

18 (B) by striking out “or” at the end of
19 paragraph (2),

20 (C) by inserting “or” after the semicolon
21 at the end of paragraph (3), and

22 (D) by inserting the following new para-
23 graph after paragraph (3):

24 “(4) if a reconciliation is filed, or should have
25 been filed, the date of the filing under section 484

1 or the date the reconciliation should have been
2 filed;” and

3 (2) by amending subsections (b), (c), and (d) to
4 read as follows:

5 “(b) EXTENSION.—The Secretary may extend the pe-
6 riod in which to liquidate an entry if—

7 “(1) the information needed for the proper ap-
8 praisal or classification of the merchandise, or
9 for insuring compliance with applicable law, is not
10 available to the Customs Service; or

11 “(2) the importer of record requests such exten-
12 sion and shows good cause therefor.

13 The Secretary shall give notice of an extension under this
14 subsection to the importer of record and the surety of such
15 importer of record. Notice shall be in such form and man-
16 ner (which may include electronic transmittal) as the Sec-
17 retary shall by regulation prescribe. Any entry the liquida-
18 tion of which is extended under this subsection shall be
19 treated as having been liquidated at the rate of duty,
20 value, quantity, and amount of duty asserted at the time
21 of entry by the importer of record at the expiration of 4
22 years from the applicable date specified in subsection (a).

23 “(c) NOTICE OF SUSPENSION.—If the liquidation of
24 any entry is suspended, the Secretary shall by regulation
25 require that notice of the suspension be provided, in such

1 manner as the Secretary considers appropriate, to the im-
2 porter of record and to any authorized agent and surety
3 of such importer of record.

4 “(d) REMOVAL OF SUSPENSION.—When a suspension
5 required by statute or court order is removed, the Customs
6 Service shall liquidate the entry within 6 months after re-
7 ceiving notice of the removal from the Department of
8 Commerce, other agency, or a court with jurisdiction over
9 the entry. Any entry not liquidated by the Customs Service
10 within 6 months after receiving such notice shall be treat-
11 ed as having been liquidated at the rate of duty, value,
12 quantity, and amount of duty asserted at the time of entry
13 by the importer of record.”.

14 **SEC. 212. PAYMENT OF DUTIES AND FEES.**

15 (a) AMENDMENT TO SECTION 505.—Section 505
16 (U.S.C. 1505) is amended to read as follows:

17 **“SEC. 505. PAYMENT OF DUTIES AND FEES.**

18 “(a) DEPOSIT OF ESTIMATED DUTIES, FEES, AND
19 INTEREST.—Unless merchandise is entered for warehouse
20 or transportation, or under bond, the importer of record
21 shall deposit with the Customs Service at the time of mak-
22 ing entry, or at such later time as the Secretary may pre-
23 scribe by regulation, the amount of duties and fees esti-
24 mated to be payable thereon. Such regulations may pro-
25 vide that estimated duties and fees shall be deposited be-

1 fore or at the time an import activity summary statement
2 is filed. If an import activity summary statement is filed,
3 the estimated duties and fees shall be deposited together
4 with interest, at a rate determined by the Secretary, ac-
5 cruing from the first date of the month the statement is
6 required to be filed until the date such statement is actu-
7 ally filed.

8 “(b) COLLECTION OR REFUND OF DUTIES, FEES,
9 AND INTEREST DUE UPON LIQUIDATION OR RELIQUIDA-
10 TION.—The Customs Service shall collect any increased or
11 additional duties and fees due, together with interest
12 thereon, or refund any excess moneys deposited, together
13 with interest thereon, as determined on a liquidation or
14 reliquidation. Duties, fees, and interest determined to be
15 due upon liquidation or reliquidation are due 30 days after
16 issuance of the bill for such payment. Refunds of excess
17 moneys deposited, together with interest thereon, shall be
18 paid within 30 days of liquidation or reliquidation.

19 “(c) INTEREST.—Interest assessed due to an
20 underpayment of duties, fees, or interest shall accrue, at
21 a rate determined by the Secretary, from the date the im-
22 porter of record is required to deposit estimated duties,
23 fees, and interest to the date of liquidation or reliquidation
24 of the applicable entry or reconciliation. Interest on excess
25 moneys deposited shall accrue, at a rate determined by

1 the Secretary, from the date the importer of record depos-
2 its estimated duties, fees, and interest to the date of liq-
3 uidation or reliquidation of the applicable entry or rec-
4 onciliation.

5 “(d) DELINQUENCY.—If duties, fees, and interest de-
6 termined to be due or refunded are not paid in full within
7 the 30-day period specified in subsection (b), any unpaid
8 balance shall be considered delinquent and bear interest
9 by 30-day periods, at a rate determined by the Secretary,
10 from the date of liquidation or reliquidation until the full
11 balance is paid. No interest shall accrue during the 30-
12 day period in which payment is actually made.”.

13 (b) CONFORMING AMENDMENT.—Subsection (d) of
14 section 520 (19 U.S.C. 1520(d)) is repealed.

15 **SEC. 213. ABANDONMENT AND DAMAGE.**

16 Section 506 (19 U.S.C. 1506) is amended—

17 (1) by striking out “the appropriate customs of-
18 ficer” and “such customs officer” wherever they ap-
19 pear and inserting “the Customs Service”;

20 (2) by amending paragraph (1)—

21 (A) by striking out “not sent to the ap-
22 praiser’s stores for” and inserting “released
23 without an”,

24 (B) by striking out “of the examination
25 packages or quantities of merchandise”,

1 (C) by striking out “the appraiser’s stores”
2 and inserting “the Customs Service”, and

3 (D) by inserting “or entry” after “in-
4 voice”, and

5 (3) by amending paragraph (2)—

6 (A) by inserting “, electronically or other-
7 wise,” after “files”, and

8 (B) by striking out “written”.

9 **SEC. 214. CUSTOMS OFFICER’S IMMUNITY.**

10 Section 513 (19 U.S.C. 1513) is amended to read as
11 follows:

12 **“SEC. 513. CUSTOMS OFFICER’S IMMUNITY.**

13 “No customs officer shall be liable in any way to any
14 person for or on account of—

15 “(1) any ruling or decision regarding the ap-
16 praisement or the classification of any imported
17 merchandise or regarding the duties, fees, and taxes
18 charged thereon,

19 “(2) the collection of any dues, charges, duties,
20 fees, and taxes on or on account of any imported
21 merchandise, or

22 “(3) any other matter or thing as to which any
23 person might under this Act be entitled to protest or
24 appeal from the decision of such officer.”.

1 **SEC. 215. PROTESTS.**

2 Section 514 (19 U.S.C. 1514) is amended—

3 (1) by amending subsection (a)—

4 (A) by striking out “appropriate customs
5 officer” in the text preceding paragraph (1) and
6 inserting “Customs Service”,

7 (B) by inserting “or reconciliation as to
8 the issues contained therein,” after “entry,” in
9 paragraph (5),

10 (C) by striking out “and” and inserting
11 “or” at the end of paragraph (6),

12 (D) by striking out the comma at the end
13 of paragraph (7) and inserting a semicolon, and

14 (E) by striking out “appropriate customs
15 officer, who” in the text following paragraph
16 (7) and inserting “Customs Service, which”;

17 (2) by amending subsection (b) by striking out
18 “appropriate customs officer” and inserting “Cus-
19 toms Service”;

20 (3) by amending the first sentence of subsection
21 (c)(1) to read as follows: “A protest of a decision
22 made under subsection (a) shall be filed in writing,
23 or transmitted electronically pursuant to an elec-
24 tronic data interchange system, in accordance with
25 regulations prescribed by the Secretary. A protest
26 must set forth distinctly and specifically—

1 (2) by amending subsection (c)—

2 (A) by striking out “appropriate customs
3 officer” wherever it appears and inserting
4 “Customs Service”,

5 (B) by inserting “or reconciliation” after
6 “reliquidate an entry”, and

7 (C) by inserting “, whether or not result-
8 ing from or contained in electronic trans-
9 mission,” after “inadvertence” the first place it
10 appears in paragraph (1).

11 **SEC. 217. BONDS AND OTHER SECURITY.**

12 Section 623 (19 U.S.C. 1623) is amended—

13 (1) by inserting “and the manner in which the
14 bond may be filed with or, pursuant to an author-
15 ized electronic data interchange system, transmitted
16 to the Customs Service” after “form of such bond”
17 in subsection (b)(1); and

18 (2) by inserting at the end of subsection (d) the
19 following new sentence: “Any bond transmitted to
20 the Customs Service pursuant to an authorized elec-
21 tronic data interchange system shall have the same
22 force and effect and be binding upon the parties
23 thereto as if such bond were manually executed,
24 signed, and filed.”.

1 **SEC. 218. CUSTOMHOUSE BROKERS.**

2 Section 641 (19 U.S.C. 1641) is amended—

3 (1) by adding at the end of subsection (a)(2)
4 the following new sentence: “It also includes the
5 preparation of documents or forms in any format
6 and the electronic transmission of documents, in-
7 voices, bills, or parts thereof, intended to be filed
8 with the Customs Service in furtherance of such ac-
9 tivities, whether or not signed or filed by the pre-
10 parer, or activities relating to such preparation, but
11 does not include the mere electronic transmission of
12 data received for transmission to Customs.”;

13 (2) by amending subsection (c)(1) to read as
14 follows:

15 “(1) IN GENERAL.—Each person granted a cus-
16 toms broker’s license under subsection (b) shall be
17 issued, in accordance with such regulations as the
18 Secretary shall prescribe, either or both of the fol-
19 lowing:

20 “(A) A national permit for the conduct of
21 such customs business as the Secretary pre-
22 scribes by regulation.

23 “(B) A permit for each customs district in
24 which that person conducts customs business
25 and, except as provided in paragraph (2), regu-
26 larly employs at least 1 individual who is li-

1 censed under subsection (b)(2) to exercise re-
2 sponsible supervision and control over the cus-
3 toms business conducted by that person in that
4 district.”;

5 (3) by inserting at the end of subsection (c) the
6 following new paragraph:

7 “(4) APPOINTMENT OF SUBAGENTS.—Notwith-
8 standing subsection (c)(1), upon the implementation
9 by the Secretary under section 413(b)(2) of the com-
10 ponent of the National Customs Automation Pro-
11 gram referred to in section 411(a)(2)(B), a licensed
12 broker may appoint another licensed broker holding
13 a permit in a customs district to act on its behalf
14 as its subagent in that district if such activity re-
15 lates to the filing of information that is permitted by
16 law or regulation to be filed electronically. A licensed
17 broker appointing a subagent pursuant to this para-
18 graph shall remain liable for any and all obligations
19 arising under bond and any and all duties, taxes,
20 and fees, as well as any other liabilities imposed by
21 law, and shall be precluded from delegating to a
22 subagent such liability.”;

23 (4) by amending subsection (d)(2)(B)—

1 (A) by striking out “appropriate customs
2 officer” and inserting “Customs Service” in the
3 first and third sentences,

4 (B) by striking out “he” and inserting “it”
5 in the third sentence,

6 (C) by striking out “15 days” and insert-
7 ing “30 days” in the third sentence,

8 (D) by striking out “the appropriate cus-
9 toms officer and the customs broker; they” and
10 inserting “the Customs Service and the customs
11 broker; which” in the sixth sentence,

12 (E) by striking out “his” and inserting
13 “the” in the seventh sentence, and

14 (F) by striking out “for his decision” and
15 inserting “for the decision” in the eighth sen-
16 tence; and

17 (5) by amending subsection (f) by striking out
18 “United States Customs Service.” and inserting
19 “Customs Service. The Secretary may not prohibit
20 customs brokers from limiting their liability to other
21 persons in the conduct of customs business. For pur-
22 poses of this subsection or any other provision of
23 this Act pertaining to recordkeeping, all data re-
24 quired to be retained by a customs broker may be
25 kept on microfilm, optical disc, magnetic tapes, disks

1 or drums, video files or any other electrically gen-
 2 erated medium. Pursuant to such regulations as the
 3 Secretary shall prescribe, the conversion of data to
 4 such storage medium may be accomplished at any
 5 time subsequent to the relevant customs transaction
 6 and the data may be retained in a centralized basis
 7 according to such broker's business system."

8 **SEC. 219. CONFORMING AMENDMENTS.**

9 (a) PLACE OF ENTRY AND UNLADING.—Section 447
 10 (19 U.S.C. 1447) is amended by striking out "the appro-
 11 priate customs officer shall consider" and inserting "the
 12 Customs Service considers".

13 (b) UNLADING.—Section 449 (19 U.S.C. 1449) is
 14 amended by striking out "appropriate customs officer of
 15 such port issues a permit for the unloading of such mer-
 16 chandise or baggage," and inserting "Customs Service is-
 17 sues a permit for the unloading of such merchandise or
 18 baggage at such port,".

19 **TITLE III—MISCELLANEOUS**
 20 **AMENDMENTS TO THE TAR-**
 21 **IFF ACT OF 1930**

22 **SEC. 301. ADMINISTRATIVE EXEMPTIONS.**

23 Section 321 (19 U.S.C. 1321) is amended—

24 (1) by amending subsection (a)(1)—

1 (A) by striking out “of less than \$10” and
2 inserting “of an amount specified by the Sec-
3 retary by regulation, but not less than \$20,”,

4 (B) by inserting “, fees,” after “duties”
5 wherever it appears, and

6 (C) by striking out “and” at the end there-
7 of;

8 (2) by amending subsection (a)(2)—

9 (A) by striking out “shall not exceed—”
10 and inserting “shall not exceed an amount spec-
11 ified by the Secretary by regulation, but not
12 less than—”,

13 (B) by striking out “\$50” and “\$100” in
14 subparagraph (A) and inserting “\$100” and
15 “\$200”, respectively,

16 (C) by striking out “\$25” in subparagraph
17 (B) and inserting “\$200”,

18 (D) by striking out “\$5” in subparagraph
19 (C) and inserting “\$200”, and

20 (E) by striking the period at the end there-
21 of and inserting “; and”;

22 (3) by inserting a new paragraph (3) at the end
23 of subsection (a) to read as follows:

24 “(3) waive the collection of duties, fees, and
25 taxes due on entered merchandise when such duties,

1 fees, or taxes are less than \$20 or such greater
2 amount as may be specified by the Secretary by reg-
3 ulation.”; and

4 (4) by amending subsection (b)—

5 (A) by striking out “to diminish any dollar
6 amount specified in subsection (a) and”; and

7 (B) by striking out “such subsection”
8 wherever it appears and inserting “subsection
9 (a)”.

10 **SEC. 302. REPORT OF ARRIVAL.**

11 Section 433 (19 U.S.C. 1433) is amended—

12 (1) by amending subsection (a)(1)—

13 (A) by striking out “or” at the end of sub-
14 paragraph (B),

15 (B) by inserting “or” after the semicolon
16 at the end of subparagraph (C), and

17 (C) by adding after subparagraph (C) the
18 following:

19 “(D) any vessel which has visited a hover-
20 ing vessel or received merchandise while outside
21 the territorial sea;”;

22 (2) by striking out “present to customs officers
23 such” in subsection (d) and inserting “present, or
24 transmit pursuant to an electronic data interchange

1 system, to the Customs Service such information,
2 data,”; and

3 (3) by amending subsection (e) to read as fol-
4 lows:

5 “(e) PROHIBITION ON DEPARTURES AND DIS-
6 CHARGE.—Unless otherwise authorized by law, a vessel,
7 aircraft or vehicle after arriving in the United States or
8 Virgin Islands may, but only in accordance with regula-
9 tions prescribed by the Secretary—

10 “(1) depart from the port, place, or airport of
11 arrival; or

12 “(2) discharge any passenger or merchandise
13 (including baggage).”.

14 **SEC. 303. ENTRY OF VESSELS.**

15 Section 434 (19 U.S.C. 1434) is amended to read as
16 follows:

17 **“SEC. 434. ENTRY; VESSELS.**

18 “(a) FORMAL ENTRY.—Within 24 hours (or such
19 other period of time as may be provided under subsection
20 (c)(2)) after the arrival at any port or place in the United
21 States of—

22 “(1) any vessel from a foreign port or place;

23 “(2) any foreign vessel from a domestic port;

1 “(3) any vessel of the United States having on
2 board bonded merchandise or foreign merchandise
3 for which entry has not been made; or

4 “(4) any vessel which has visited a hovering
5 vessel or has delivered or received merchandise while
6 outside the territorial sea;

7 the master of the vessel shall, unless otherwise provided
8 by law, make formal entry at the nearest customs facility
9 or such other place as the Secretary may prescribe by reg-
10 ulation.

11 “(b) PRELIMINARY ENTRY.—The Secretary may by
12 regulation permit the master to make preliminary entry
13 of the vessel with the Customs Service in lieu of formal
14 entry or before formal entry is made. In permitting pre-
15 liminary entry, the Customs Service shall board a suffi-
16 cient number of vessels to ensure compliance with the laws
17 it enforces.

18 “(c) REGULATIONS.—The Secretary may by regula-
19 tion—

20 “(1) prescribe the manner and format in which
21 entry under subsection (a) or subsection (b), or
22 both, must be made, and such regulations may pro-
23 vide that any such entry may be made electronically
24 pursuant to an electronic data interchange system;

25 “(2) provide that—

1 not be required to make entry under section 434 or
2 to obtain clearance under section 4197 of the Re-
3 vised Statutes of the United States (46 U.S.C. App.
4 91):”;

5 (2) by amending paragraph (3) to read as fol-
6 lows:

7 “(3) Any vessel carrying passengers on excursion
8 from the United States Virgin Islands to the British Vir-
9 gin Islands and returning, if—

10 “(A) the vessel does not in any way violate the
11 customs or navigation laws of the United States;

12 “(B) the vessel has not visited any hovering
13 vessel; and

14 “(C) the master of the vessel, if there is on
15 board any article required by law to be entered, re-
16 ports the article to the Customs Service immediately
17 upon arrival.”;

18 (3) by redesignating paragraphs (4) and (5) as
19 paragraphs (5) and (6), respectively, and inserting
20 after paragraph (3) the following:

21 “(4) Any United States documented vessel with rec-
22 reational endorsement or any undocumented United
23 States pleasure vessel not engaged in trade, if—

1 “(A) the vessel complies with the reporting re-
2 requirements of section 433, and with the customs and
3 navigation laws of the United States;

4 “(B) the vessel has not visited any hovering
5 vessel; and

6 “(C) the master of, and any other person on
7 board, the vessel, if the master or such person has
8 on board any article required by law to be entered
9 or declared, reports such article to the Customs
10 Service immediately upon arrival;” and

11 (4) by amending the section heading to read as
12 follows:

“Sec. 441. Exceptions to vessel entry and clearance requirements.”.

13 **SEC. 306. UNLADING.**

14 Section 448(a) (19 U.S.C. 1448(a)) is amended—

15 (1) by amending the first sentence—

16 (A) by striking out “enter)” and inserting
17 “enter or clear”),

18 (B) by striking out “or vehicle arriving
19 from a foreign port or place” and inserting “re-
20 quired to make entry under section 434, or ve-
21 hicle required to report arrival under section
22 433,”,

23 (C) by inserting “or transmitted pursuant
24 to an electronic data interchange system” after
25 “issued”, and

1 (D) by striking out the colon after “offi-
2 cer” and the proviso and inserting a period;

3 (2) by amending the second sentence—

4 (A) by striking out “, preliminary or other-
5 wise,”, and

6 (B) by inserting “, electronically pursuant
7 to an authorized electronic data interchange
8 system or otherwise,” after “may issue a per-
9 mit”;

10 (3) by striking out the last sentence and insert-
11 ing the following: “The owner or master of any ves-
12 sel or vehicle, or agent thereof, shall notify the Cus-
13 toms Service of any merchandise or baggage so un-
14 laden for which entry is not made within the time
15 prescribed by law or regulation. The Secretary shall
16 by regulation prescribe administrative penalties not
17 to exceed \$1,000 for each bill of lading for which no-
18 tice is not given. Any such administrative penalty
19 shall be subject to mitigation and remittance under
20 section 618. Such unentered merchandise or bag-
21 gage shall be the responsibility of the master or per-
22 son in charge of the importing vessel or vehicle, or
23 agent thereof, until it is removed from the carrier’s
24 control in accordance with section 490.”; and

1 (4) by striking out “the appropriate customs of-
2 ficer” and “such customs officer” wherever they ap-
3 pear and inserting “the Customs Service”.

4 **SEC. 307. DECLARATIONS.**

5 Section 485 (19 U.S.C. 1485) is amended—

6 (1) by amending subsection (a)—

7 (A) by inserting “or transmit electroni-
8 cally” after “file”, and

9 (B) by inserting “and manner” after
10 “form”;

11 (2) by amending subsection (d)—

12 (A) by striking out “A importer” and in-
13 serting “An importer”, and

14 (B) by striking out “a importer” and in-
15 serting “an importer”; and

16 (3) by inserting after subsection (f) the follow-
17 ing new subsection:

18 “(g) EXPORTED MERCHANDISE RETURNED AS
19 UNDELIVERABLE.—With respect to any importation of
20 merchandise to which General Headnote 4(e) of the Har-
21 monized Tariff Schedule of the United States applies, any
22 person who gained any benefit from, or met any obligation
23 to, the United States as a result of the prior exportation
24 of such merchandise shall, in accordance with regulations
25 prescribed by the Secretary, within a reasonable time in-

1 form the Customs Service of the return of the merchan-
2 dise.”.

3 **SEC. 308. GENERAL ORDERS.**

4 Section 490 (19 U.S.C. 1490) is amended—

5 (1) by amending subsection (a) to read as fol-
6 lows:

7 “(a) INCOMPLETE ENTRY.—

8 “(1) Whenever—

9 “(A) the entry of any imported merchan-
10 dise is not made within the time provided by
11 law or by regulation prescribed by the Sec-
12 retary;

13 “(B) the entry of imported merchandise is
14 incomplete because of failure to pay the esti-
15 mated duties, fees, or interest;

16 “(C) in the opinion of the Customs Serv-
17 ice, the entry of imported merchandise cannot
18 be made for want of proper documents or other
19 cause; or

20 “(D) the Customs Service believes that any
21 merchandise is not correctly and legally
22 invoiced;

23 the carrier (unless subject to subsection (c)) shall
24 notify the bonded warehouse of such unentered mer-
25 chandise.

1 “(2) After notification under paragraph (1), the
2 bonded warehouse shall arrange for the transpor-
3 tation and storage of the merchandise at the risk
4 and expense of the consignee. The merchandise shall
5 remain in the bonded warehouse until—

6 “(A) entry is made or completed and the
7 proper documents are produced;

8 “(B) the information and data necessary
9 for entry are transmitted to the Customs Serv-
10 ice pursuant to an authorized electronic data
11 interchange system; or

12 “(C) a bond is given for the production of
13 documents or the transmittal of data.”;

14 (2) by amending subsection (b)—

15 (A) by amending the heading for sub-
16 section (b) to read as follows: “(b) REQUEST
17 FOR POSSESSION BY CUSTOMS.—”, and

18 (B) by striking out “appropriate customs
19 officer” and inserting “Customs Service”; and

20 (3) by adding at the end the following new sub-
21 section:

22 “(c) GOVERNMENT MERCHANDISE.—Any imported
23 merchandise that—

24 “(1) is described in any of paragraphs (1)
25 through (4) of subsection (a); and

1 “(2) is consigned to, or owned by, the United
2 States Government;
3 shall be stored and disposed of in accordance with such
4 rules and procedures as the Secretary shall by regulation
5 prescribe.”.

6 **SEC. 309. UNCLAIMED MERCHANDISE.**

7 Section 491 (19 U.S.C. 1491) is amended—

8 (1) by amending subsection (a)—

9 (A) by striking out “customs custody for
10 one year” in the first sentence and inserting “in
11 a bonded warehouse pursuant to section 490 for
12 6 months”,

13 (B) by striking out “public store or bonded
14 warehouse for a period of one year” in the sec-
15 ond sentence and inserting “pursuant to section
16 490 in a bonded warehouse for 6 months”,

17 (C) by striking out “estimated duties and
18 storage” in the first sentence and inserting “es-
19 timated duties, taxes, fees, interest, storage,”,

20 (D) by inserting “taxes, fees, interest,”
21 after “duties,” wherever it appears, and

22 (E) by striking out “duties” in the last
23 sentence and inserting “duties, taxes, interest,
24 and fees”; and

1 (2) by redesignating subsection (b) as sub-
2 section (e) and inserting after subsection (a) the fol-
3 lowing new subsections:

4 “(b) NOTICE OF TITLE VESTING IN THE UNITED
5 STATES.—At the end of the 6-month period referred to
6 in subsection (a), the Customs Service may, in lieu of sale
7 of the merchandise, provide notice to all known interested
8 parties that the title to such merchandise shall be consid-
9 ered to vest in the United States free and clear of any
10 liens or encumbrances, on the 30th day after the date of
11 the notice unless, before such 30th day—

12 “(1) the subject merchandise is entered or with-
13 drawn for consumption; and

14 “(2) payment is made of all duties, taxes, fees,
15 transfer and storage charges, and other expenses
16 that may have accrued thereon.

17 “(c) RETENTION, TRANSFER, DESTRUCTION, OR
18 OTHER DISPOSITION.—If title to any merchandise vests
19 in the United States by operation of subsection (b), such
20 merchandise may be retained by the Customs Service for
21 official use, transferred to any other Federal agency or
22 to any State or local agency, destroyed, or otherwise dis-
23 posed of in accordance with such regulations as the Sec-
24 retary shall prescribe. All transfer and storage charges or
25 expenses accruing on transferred merchandise shall be

1 paid by the receiving agency, otherwise the charges and
2 expenses on such merchandise shall be paid out of the
3 Customs Forfeiture Fund.

4 “(d) PETITION.—Whenever any party, having lost a
5 substantial interest in merchandise by virtue of title vest-
6 ing in the United States under subsection (b), can estab-
7 lish such title or interest to the satisfaction of the Sec-
8 retary within 30 days after the day on which title vests
9 in the United States under subsection (b), or can establish
10 to the satisfaction of the Secretary that the party did not
11 receive notice under subsection (b), the Secretary may,
12 upon receipt of a timely and proper petition and upon
13 finding that the facts and circumstances warrant, pay
14 such party out of the Customs Forfeiture Fund the
15 amount the Secretary believes the party would have re-
16 ceived under section 493 had the merchandise been sold
17 and a proper claim filed. The decision of the Secretary
18 with respect to any such petition is final and conclusive
19 on all parties.”; and

20 (3) by amending subsection (e) (as so redesign-
21 nated) by striking out “appropriate customs officer”
22 in paragraph (3) and inserting “Customs Service”.

23 **SEC. 310. DESTRUCTION OF MERCHANDISE.**

24 Section 492 (19 U.S.C. 1492) is amended—

1 (1) by inserting “, retained for official use, or
2 otherwise disposed of” after “destroyed”; and

3 (2) by striking out “appropriate customs offi-
4 cer” and inserting “Customs Service”.

5 **SEC. 311. PROCEEDS OF SALE.**

6 Section 493 (19 U.S.C. 1493) is amended—

7 (1) by inserting “taxes, and fees,” after “du-
8 ties,”;

9 (2) by striking out “by the appropriate customs
10 officer in the Treasury of the United States” and in-
11 sserting “in the Customs Forfeiture Fund”; and

12 (3) by striking out “such customs officer” and
13 inserting “the Customs Service”.

14 **SEC. 312. ENTRY UNDER REGULATIONS.**

15 Section 498(a) (19 U.S.C. 1498(a)) is amended—

16 (1) by amending paragraph (1) to read as fol-
17 lows:

18 “(1) Merchandise, when—

19 “(A) the aggregate value of the shipment
20 does not exceed an amount specified by the Sec-
21 retary by regulation, but not more than \$2,500;

22 or

23 “(B) different commercial facilitation and
24 risk considerations that may vary for different

1 classes or kinds of merchandise or different
2 classes of transactions may dictate;” and

3 (2) by striking out “\$10,000” in paragraph (2)
4 and inserting “such amounts as the Secretary may
5 prescribe”.

6 **SEC. 313. AMERICAN TRADEMARKS.**

7 Section 526(e)(3) (19 U.S.C. 1526(e)(3)) is amend-
8 ed—

9 (1) by striking out “1 year” and inserting “90
10 days”; and

11 (2) by striking out “appropriate customs offi-
12 cers” and inserting “the Customs Service”.

13 **SEC. 314. SEIZURE.**

14 Section 612 (19 U.S.C. 1612) is amended—

15 (1) by amending subsection (a)—

16 (A) by striking out “the appropriate cus-
17 toms officer”, “such officer” and “the customs
18 officer” wherever they appear and inserting
19 “the Customs Service”, and

20 (B) by striking out “the appraiser’s return
21 and his” and inserting “its”; and

22 (2) by amending subsection (b) to read as fol-
23 lows:

24 “(b) If the Customs Service determines that the ex-
25 pense of keeping the vessel, vehicle, aircraft, merchandise,

1 or baggage is disproportionate to the value thereof, the
2 Customs Service may promptly order the destruction or
3 other appropriate disposition of such property under regu-
4 lations prescribed by the Secretary. No customs officer
5 shall be liable for the destruction or other disposition of
6 property made pursuant to this section.”.

7 **SEC. 315. CUSTOMS FORFEITURE FUND.**

8 (a) AMENDMENT.—Section 613A (19 U.S.C. 1613b)
9 is amended—

10 (1) by redesignating subparagraphs (E) and
11 (F) of subsection (a)(3) as subparagraphs (G) and
12 (H), respectively;

13 (2) by inserting after subparagraph (D) of sub-
14 section (a)(3) the following new subparagraphs:

15 “(E) the payment of transfer and storage
16 charges and expenses under section 491(c);

17 “(F) the payment of claims against em-
18 ployees of the Customs Service settled by the
19 Secretary under section 630;”; and

20 (3) by striking out “shall” in subsection (d)
21 and inserting “may”.

22 (b) REFERENCE.—After the effective date of section
23 9703 of title 31, United States Code, any reference in the
24 Tariff Act of 1930 to the Customs Forfeiture Fund shall
25 be treated as being a reference to the Department of the

1 Treasury Forfeiture Fund established by such section
2 9703.

3 **SEC. 316. LIMITATION ON ACTIONS.**

4 Section 621 (19 U.S.C. 1621) is amended—

5 (1) by inserting “any duty under section
6 592(d), 593A(d), or” before “any pecuniary pen-
7 alty”; and

8 (2) by striking out “discovered:” and all that
9 follows thereafter and inserting the follow-
10 ing: “discovered; except that—

11 “(1) in the case of an alleged violation of sec-
12 tion 592 or 593A, no suit or action (including a suit
13 or action for restoration of lawful duties under sub-
14 section (d) of such sections) may be instituted unless
15 commenced within 5 years after the date of the al-
16 leged violation or, if such violation arises out of
17 fraud, within 5 years after the date of discovery of
18 fraud, and

19 “(2) the time of the absence from the United
20 States of the person subject to the penalty or forfeit-
21 ure, or of any concealment or absence of the prop-
22 erty, shall not be reckoned within the 5-year period
23 of limitation.”.

1 **SEC. 317. COLLECTION OF FEES ON BEHALF OF OTHER**
2 **AGENCIES.**

3 The Tariff Act of 1930 is amended by inserting after
4 section 528 the following new section:

5 **“SEC. 529. COLLECTION OF FEES ON BEHALF OF OTHER**
6 **AGENCIES.**

7 “The Customs Service shall be reimbursed from the
8 fees collected for the cost and expense, administrative and
9 otherwise, incurred in collecting any fees on behalf of any
10 government agency for any reason.”.

11 **SEC. 318. AUTHORITY TO SETTLE CLAIMS.**

12 The Tariff Act of 1930 is amended by inserting after
13 section 629 the following new section:

14 **“SEC. 630. AUTHORITY TO SETTLE CLAIMS.**

15 “(a) IN GENERAL.—Notwithstanding any other pro-
16 vision of law and subject to subsection (b), the Secretary
17 may settle, for not more than \$50,000 in any one case,
18 a claim for personal injury, death, or damage to, or loss
19 of, privately owned property caused by an investigative or
20 law enforcement officer (as defined in section 2680(h) of
21 title 28, United States Code) who is employed by the
22 Customs Service and acting within the scope of his or her
23 employment.

24 “(b) LIMITATIONS.—The Secretary may not pay a
25 claim under subsection (a) that—

26 “(1) concerns commercial property;

1 “(2) is presented to the Secretary more than 1
2 year after it occurs; or

3 “(3) is presented by an officer or employee of
4 the United States Government and arose within the
5 scope of employment.

6 “(c) FINAL SETTLEMENT.—A claim may be paid
7 under this section only if the claimant accepts the amount
8 of settlement in complete satisfaction of the claim.”.

9 **SEC. 319. USE OF PRIVATE COLLECTION AGENCIES.**

10 The Tariff Act of 1930 is amended by inserting after
11 section 630 the following new section:

12 **“SEC. 631. USE OF PRIVATE COLLECTION AGENCIES.**

13 “(a) IN GENERAL.—Notwithstanding any other pro-
14 vision of law, the Secretary, under such terms and condi-
15 tions as the Secretary considers appropriate, shall enter
16 into contracts and incur obligations with one or more per-
17 sons for collection services to recover indebtedness arising
18 under the customs laws and owed the United States Gov-
19 ernment, but only after the Customs Service has ex-
20 hausted all administrative efforts, including all claims
21 against applicable surety bonds, to collect the indebted-
22 ness.

23 “(b) CONTRACT REQUIREMENTS.—Any contract en-
24 tered into under subsection (a) shall provide that—

1 “(1) the Secretary retains the authority to re-
2 solve a dispute, compromise a claim, end collection
3 action, and refer a matter to the Attorney General
4 to bring a civil action; and

5 “(2) the person is subject to—

6 “(A) section 552a of title 5, United States
7 Code, to the extent provided in subsection (m)
8 of such section; and

9 “(B) laws and regulations of the United
10 States Government and State governments re-
11 lated to debt collection practices.”.

12 **TITLE IV—MISCELLANEOUS**
13 **PROVISIONS AND CON-**
14 **SEQUENTIAL AND CONFORM-**
15 **ING AMENDMENTS TO OTHER**
16 **LAWS**

17 **SEC. 401. AMENDMENTS TO THE HARMONIZED TARIFF**
18 **SCHEDULE.**

19 (a) RETURN SHIPMENTS.—General Note 4 of the
20 Harmonized Tariff Schedule of the United States is
21 amended—

22 (1) by striking out “and” at the end of subdivi-
23 sion (c);

24 (2) by inserting “and” after “1930,” in subdivi-
25 sion (d);

1 (3) by inserting after subdivision (d) the follow-
2 ing:

3 “(e) articles exported from the United States
4 which are returned within 45 days after such expor-
5 tation from the United States as undeliverable and
6 which have not left the custody of the carrier or for-
7 eign customs service,”; and

8 (4) by adding at the end the following new sen-
9 tence: “No exportation referred to in subdivision (e)
10 may be treated as satisfying any requirement for ex-
11 portation in order to receive a benefit from, or meet
12 an obligation to, the United States as a result of
13 such exportation.”.

14 (b) ENTRY NOT REQUIRED FOR LOCOMOTIVES AND
15 RAILWAY FREIGHT CARS.—

16 (1) The Notes to chapter 86 of such Schedule
17 are amended by inserting after note 3 the following
18 new note:

19 “4. Railway locomotives (provided for in headings 8601
20 and 8602) and railway freight cars (provided for in head-
21 ing 8606) on which no duty is owed are not subject to
22 the entry or release requirements for imported merchan-
23 dise set forth in sections 448 and 484 of the Tariff Act
24 of 1930. The Secretary of the Treasury may by regulation
25 establish appropriate reporting requirements, including

1 the requirement that a bond be posted to ensure compli-
2 ance.”.

3 (2) The U.S. Notes to subchapter V of chapter
4 99 of such Schedule are amended by inserting after
5 note 8 the following new note:
6 “9. Railway freight cars provided for in subheadings
7 9905.86.05 and 9905.86.10 are not subject to the entry
8 or release requirements for imported merchandise set
9 forth in sections 448 and 484 of the Tariff Act of 1930.
10 The Secretary of the Treasury may by regulation establish
11 appropriate reporting requirements, including the require-
12 ment that a bond be posted to ensure compliance.”.

13 (c) INSTRUMENTS OF INTERNATIONAL TRAFFIC.—
14 The U.S. Notes to subchapter III of chapter 98 of such
15 Schedule is amended by inserting after note 3 the follow-
16 ing new note:

17 “4. Instruments of international traffic, such as contain-
18 ers, life vans, rail cars and locomotives, truck cabs and
19 trailers, etc. are exempt from formal entry procedures but
20 are required to be accounted for when imported and ex-
21 ported into and out of the United States, respectively,
22 through the manifesting procedures required for all inter-
23 national carriers by the United States Customs Service.
24 Fees associated with the importation of such instruments
25 of international traffic shall be reported and paid on a

1 periodic basis as required by regulations issued by the Sec-
2 retary of the Treasury and in accordance with 1956 Cus-
3 toms Convention on Containers (20 UST 30; TIAS
4 6634).”.

5 **SEC. 402. AMENDMENT TO THE INTERNAL REVENUE CODE**
6 **OF 1986.**

7 Section 9505(c) of the Internal Revenue Code of
8 1986 is amended to read as follows:

9 “(c) EXPENDITURES FROM THE HARBOR MAINTENANCE TRUST FUND.—

11 “(1) Amounts in the Harbor Maintenance
12 Trust Fund shall be available, as provided by appro-
13 priations Acts, for making expenditures—

14 “(A) to carry out section 210(a) of the
15 Water Resources Development Act of 1986 (as
16 amended by the Water Resources Development
17 Act of 1990),

18 “(B) for payments of rebates of tolls or
19 charges pursuant to section 13(b) of the Act of
20 May 13, 1954 (as in effect on April 1, 1987),
21 and

22 “(C) for the payments of all administrative
23 expenses incurred by the Department of the
24 Army, the Department of the Treasury and the

1 Department of Commerce in administering the
2 tax imposed by section 4461.

3 “(2) There are authorized to be appropriated to
4 the Department of the Army, out of the Harbor
5 Maintenance Trust Fund established by subsection
6 (a), for each fiscal year not to exceed \$5,000,000 to
7 be used by the Department of the Army to provide
8 payment of all administrative expenses incurred by
9 the Department of the Army, the Department of the
10 Treasury, and the Department of Commerce in ad-
11 ministering the tax imposed by section 4461.”.

12 **SEC. 403. AMENDMENTS TO TITLE 28, UNITED STATES**
13 **CODE.**

14 (a) AMENDMENTS RELATING TO ACCREDITATION OF
15 PRIVATE LABORATORIES.—Title 28 of the United States
16 Code is amended as follows:

17 (1) Section 1581(g) is amended by—

18 (A) striking out “and” at the end of para-
19 graph (1);

20 (B) by striking out the period at the end
21 of paragraph (2) and inserting “; and”; and

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

23 “(3) any decision or order of the Customs Serv-
24 ice to deny, suspend, or revoke accreditation of a

1 private laboratory under section 499(b) of the Tariff
2 Act of 1930.”.

3 (2) Section 2631(g) is amended by inserting at
4 the end the following new paragraph:

5 “(3) A civil action to review any decision or order
6 of the Customs Service to deny, suspend, or revoke accred-
7 itation of a private laboratory under section 499(b) of the
8 Tariff Act of 1930 may be commenced in the Court of
9 International Trade by the person whose accreditation was
10 denied, suspended, or revoked.”.

11 (3) Section 2636 is amended—

12 (A) by redesignating subsection (h) as sub-
13 section (i); and

14 (B) by inserting after subsection (g) the
15 following new subsection:

16 “(h) A civil action contesting the denial, suspension,
17 or revocation by the Customs Service of a private labora-
18 tory’s accreditation under section 499(b) of the Tariff Act
19 of 1930 is barred unless commenced in accordance with
20 the rules of the Court of International Trade within 60
21 days after the date of the decision or order of the Customs
22 Service.”.

23 (4) Section 2640 is amended—

24 (A) by redesignating subsection (d) as sub-
25 section (e); and

1 (B) by inserting after subsection (c) the
2 following new subsection:

3 “(d) In any civil action commenced to review any
4 order or decision of the Customs Service under section
5 499(b) of the Tariff Act of 1930, the court shall review
6 the action on the basis of the record before the Customs
7 Service at the time of issuing such decision or order.”.

8 (5) Section 2642 is amended by inserting before
9 the period the following: “or laboratories accredited
10 by the Customs Service under section 499(b) of the
11 Tariff Act of 1930”.

12 (b) APPLICATION OF SUBSECTION (a) AMEND-
13 MENTS.—For purposes of applying the amendments made
14 by subsection (a), any decision or order of the Customs
15 Service denying, suspending, or revoking the accreditation
16 of a private laboratory on or after the date of the enact-
17 ment of this Act and before regulations to implement sec-
18 tion 499(b) of the Tariff Act of 1930 are issued shall be
19 treated as having been denied, suspended, or revoked
20 under such section 499(b).

21 (c) JURISDICTION OF COURT.—Section 1582(1) of
22 title 28, United States Code, is amended by inserting
23 “593A,” after “592,”.

1 (d) FILING OF OFFICIAL DOCUMENTS.—Section
2 2635(a) of title 28, United States Code, is amended to
3 read as follows:

4 “(a) In any action commenced in the Court of Inter-
5 national Trade contesting the denial of a protest under
6 section 515 of the Tariff Act of 1930 or the denial of a
7 petition under section 516 of such Act, the Customs Serv-
8 ice, as prescribed by the rules of the court, shall file with
9 the clerk of the court, as part of the official record, any
10 document, paper, information or data relating to the entry
11 of merchandise and the administrative determination that
12 is the subject of the protest or petition.”.

13 **SEC. 404. AMENDMENTS TO THE REVISED STATUTES OF**
14 **THE UNITED STATES.**

15 (a) ENROLLED OR LICENSED VESSELS.—Section
16 2793 of the Revised Statutes of the United States (19
17 U.S.C. 288; 46 U.S.C. App. 111, 123) is amended by
18 striking out the first semicolon and all the text that follows
19 thereafter and inserting a period.

20 (b) REGISTERED VESSELS AT FOREIGN PORTS.—
21 Section 3126 of such Revised Statutes (19 U.S.C. 293)
22 is amended—

23 (1) by striking out “Any vessel, on being duly
24 registered in pursuance of the laws of the United
25 States,” and inserting “Any United States docu-

1 mented vessel with a registry and coastwise endorse-
2 ments”; and

3 (2) by striking out all the text occurring after
4 the first sentence.

5 (c) CLEARANCE REQUIREMENTS.—Section 4197 of
6 such Revised Statutes (46 U.S.C. App. 91) is amended
7 to read as follows:

8 **“SEC. 4197. CLEARANCE; VESSELS.**

9 “(a) WHEN REQUIRED; VESSELS OF THE UNITED
10 STATES.—Except as otherwise provided by law, any vessel
11 of the United States shall obtain clearance from the Cus-
12 toms Service before proceeding from a port or place in
13 the United States—

14 “(1) for a foreign port or place;

15 “(2) for another port or place in the United
16 States if the vessel has on board bonded merchan-
17 dise or foreign merchandise for which entry has not
18 been made; or

19 “(3) outside the territorial sea to visit a hover-
20 ing vessel or to receive merchandise while outside
21 the territorial sea.

22 “(b) WHEN REQUIRED; OTHER VESSELS.—Except
23 as otherwise provided by law, any vessel that is not a ves-
24 sel of the United States shall obtain clearance from the

1 Customs Service before proceeding from a port or place
2 in the United States—

3 “(1) for a foreign port or place;

4 “(2) for another port or place in the United
5 States; or

6 “(3) outside the territorial sea to visit a hover-
7 ing vessel or to receive or deliver merchandise while
8 outside the territorial sea.

9 “(c) REGULATIONS.—The Secretary of the Treasury
10 may by regulation—

11 “(1) prescribe the manner in which clearance
12 under this section is to be obtained, including the
13 documents, data or information which shall be sub-
14 mitted or transmitted, pursuant to an authorized
15 data interchange system, to obtain the clearance;

16 “(2) permit the Customs Service to grant clear-
17 ance for a vessel under this section before all re-
18 quirements for clearance are complied with, but only
19 if the owner or operator of the vessel files a bond
20 in an amount set by the Secretary of the Treasury
21 conditioned upon the compliance by the owner or op-
22 erator with all specified requirements for clearance
23 within a time period (not exceeding 4 business days)
24 established by the Secretary of the Treasury; and

1 “(3) authorize the Customs Service to permit
2 clearance of any vessel to be obtained at a place
3 other than a designated port of entry, under such
4 conditions as he may prescribe.”.

5 **SEC. 405. AMENDMENTS TO TITLE 18, UNITED STATES**
6 **CODE.**

7 Section 965(a) of title 18, United States Code, is
8 amended—

9 (1) by striking out “sections 91, 92, and 94 of
10 Title 46” and inserting “section 431 of the Tariff
11 Act of 1930 (19 U.S.C. 1431) and section 4197 of
12 the Revised Statutes of the United States (46
13 U.S.C. App. 91),”;

14 (2) by striking out “the collector of customs for
15 the district wherein such vessel is then located” and
16 inserting “the Customs Service”; and

17 (3) by striking out “the collector like” and in-
18 serting in lieu thereof “the Customs Service like”.

19 **SEC. 406. AMENDMENT TO THE ACT TO PREVENT POLLU-**
20 **TION FROM SHIPS.**

21 Section 9(e) of the Act to Prevent Pollution from
22 Ships (94 Stat. 2301, 33 U.S.C. 1908(e)) is amended by
23 striking out “shall refuse or revoke” and all of the text
24 following thereafter and inserting “shall refuse or revoke
25 the clearance required by section 4197 of the Revised

1 Statutes of the United States (46 U.S.C. App. 91). Clear-
2 ance may be granted upon the filing of a bond or other
3 surety satisfactory to the Secretary.”.

4 **SEC. 407. AMENDMENTS TO THE ACT OF NOVEMBER 6, 1966.**

5 Sections 2(e) and 3(e) of the Act of November 6,
6 1966 (46 U.S.C. App. 817d(e) and 817e(e)) are each
7 amended—

8 (1) by striking out “The collector of customs
9 at” and inserting “At”; and

10 (2) by inserting “, the Customs Service” after
11 “subsection (a) of this section”.

12 **SEC. 408. REPEAL OF OBSOLETE PROVISIONS OF LAW.**

13 (a) REVISED STATUTES.—The following provisions of
14 the Revised Statutes of the United States are repealed:

15 (1) So much of section 2792 as is codified at
16 19 U.S.C. 289 and 46 U.S.C. App. 110 and 112 (as
17 in effect on the date of the enactment of this Act).

18 (2) Section 3111 (19 U.S.C. 282).

19 (3) Section 3118 (19 U.S.C. 286).

20 (4) Section 3119 (19 U.S.C. 287).

21 (5) Section 3122 (19 U.S.C. 290).

22 (6) Section 3124 (19 U.S.C. 291).

23 (7) Section 3125 (19 U.S.C. 292).

24 (8) Section 4198 (46 U.S.C. App. 94).

25 (9) Section 4199 (46 U.S.C. App. 93).

1 (10) Section 4201 (46 U.S.C. App. 96).

2 (11) Section 4207.

3 (12) Section 4208 (46 U.S.C. App. 102).

4 (13) Section 4213 (46 U.S.C. App. 101).

5 (14) So much of section 4221 as is codified at
6 46 U.S.C. App. 113 (as in effect on the date of the
7 enactment of this Act).

8 (15) Section 4222 (46 U.S.C. App. 126).

9 (16) Section 4332 (46 U.S.C. App. 274).

10 (17) Section 4348 (46 U.S.C. App. 293).

11 (18) Section 4358 (46 U.S.C. App. 306).

12 (19) Section 4361 (46 U.S.C. App. 307).

13 (20) Sections 4362 through 4369 (46 U.S.C.
14 App. 308 through 315).

15 (21) Sections 4573 through 4576 (46 U.S.C.
16 App. 674 through 677).

17 (b) TARIFF ACT OF 1930.—The following sections of
18 the Tariff Act of 1930 are repealed:

19 (1) Section 432 (19 U.S.C. 1432).

20 (2) Section 435 (19 U.S.C. 1435).

21 (3) Section 437 (19 U.S.C. 1437).

22 (4) Section 439 (19 U.S.C. 1439).

23 (5) Section 440 (19 U.S.C. 1440).

24 (6) Sections 443, 444, and 445 (19 U.S.C.
25 1443, 1444, and 1445).

1 (7) Section 465 (19 U.S.C. 1465).

2 (8) Section 482 (19 U.S.C. 1482).

3 (9) Section 583 (19 U.S.C. 1583).

4 (10) Section 585 (19 U.S.C. 1585).

5 (c) MISCELLANEOUS PROVISIONS.—The following
6 provisions are repealed:

7 (1) The last undesignated paragraph of section
8 201 of the Act of August 5, 1935 (19 U.S.C.
9 1432a), is repealed.

10 (2) The Act of June 16, 1937 (19 U.S.C.
11 1435b).

12 (3) Section 1 of the Act of July 3, 1926 (46
13 U.S.C. App. 293a).

14 (4) The Act of May 4, 1934 (46 U.S.C. App.
15 91a).

16 (5) Section 1403(b) of the Water Resources De-
17 velopment Act of 1986 (Public Law 99-662; 26
18 U.S.C. 4461 note).

19 **SEC. 409. REPORTS TO CONGRESS.**

20 (a) ANTIDUMPING AND COUNTERVAILING DUTY
21 COLLECTIONS.—The Commissioner of Customs shall be-
22 fore the 60th day of each fiscal year after fiscal year 1992
23 submit to Congress a report regarding the collection dur-
24 ing the preceding fiscal year of duties imposed under the
25 antidumping and countervailing duty laws.

1 (b) CES FEE REPORT.—

2 (1) AMENDMENT.—Section 9501(c) of the Om-
3 nibus Budget Reconciliation Act of 1987 (19 U.S.C.
4 3 note) is amended by adding at the end the follow-
5 ing new paragraph:

6 “(3) The Commissioner of Customs is author-
7 ized to obtain from the operators of centralized
8 cargo examination stations information regarding
9 the fees paid to them for the provision of services at
10 these stations.”.

11 (2) REPORT.—Within 9 months after the date
12 of the enactment of this subsection, the Commis-
13 sioner of Customs shall submit to the Committees
14 referred to in section 9501(c) of the Omnibus Budg-
15 et Reconciliation Act of 1987, a report setting
16 forth—

17 (A) an estimate of the aggregate amount
18 of fees paid to operators of centralized cargo
19 examination stations during fiscal year 1992;
20 and

21 (B) the variations, if any, among customs
22 districts with respect to the amounts of the fees
23 charged for centralized cargo examination sta-
24 tion services.

1 (c) COMPLIANCE WITH CUSTOMS LAWS.—Section
2 123 of the Customs and Trade Act of 1990 (19 U.S.C.
3 2083) is amended—

4 (1) by redesignating subsection (d) as sub-
5 section (e), and

6 (2) by inserting after subsection (c) the follow-
7 ing:

8 “(d) COMPLIANCE PROGRAM.—The Commissioner of
9 Customs shall—

10 “(1) devise and implement a methodology for
11 estimating the level of compliance with the laws ad-
12 ministered by the Customs Service; and

13 “(2) include as an additional part of the report
14 required to be submitted under subsection (a) for
15 each of fiscal years 1993, 1994, and 1995, an eval-
16 uation of the extent to which such compliance was
17 obtained during the 12-month period preceding the
18 60th day before each such fiscal year.”.

19 (d) COURIER SERVICES COMPLIANCE REPORT.—The
20 Commissioner of Customs shall initiate a compliance re-
21 view of certain courier services which may not be eligible
22 for benefits under the regulations of the Customs Service
23 prescribed in part 128 of title 19 of the Code of Federal
24 Regulations and shall submit a report to Congress on the

1 results of such review within 1 year after the date of the
2 enactment of this Act.

3 **SEC. 410. APPLICABILITY OF AMENDMENTS TO ENTRY OR**
4 **WITHDRAWAL OF GOODS.**

5 Any amendment made by this subtitle that is applica-
6 ble to the entry, or withdrawal from warehouse for con-
7 sumption, of goods applies to any such entry or with-
8 drawal that is made on or after the 15th day after the
9 date of the enactment of this Act.

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S 106 IS—2

S 106 IS—3

S 106 IS—4

S 106 IS—5

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