

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# **H. R. 3809**

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## **AN ACT**

To authorize appropriations for the United States  
Customs Service for drug interdiction, and for  
other purposes.

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## AN ACT

To authorize appropriations for the United States Customs Service for drug interdiction, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Drug Free Borders  
3 Act of 1998”.

4 **TITLE I—AUTHORIZATION OF**  
5 **APPROPRIATIONS FOR**  
6 **UNITED STATES CUSTOMS**  
7 **SERVICE FOR DRUG INTER-**  
8 **DICTION AND OTHER PUR-**  
9 **POSES**

10 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) **DRUG ENFORCEMENT AND OTHER NONCOMMER-**  
12 **CIAL OPERATIONS.**—Subparagraphs (A) and (B) of sec-  
13 tion 301(b)(1) of the Customs Procedural Reform and  
14 Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and  
15 (B)) are amended to read as follows:

16 “(A) \$964,587,584 for fiscal year 1999.

17 “(B) \$1,072,928,328 for fiscal year  
18 2000.”.

19 (b) **COMMERCIAL OPERATIONS.**—Clauses (i) and (ii)  
20 of section 301(b)(2)(A) of such Act (19 U.S.C.  
21 2075(b)(2)(A)(i) and (ii)) are amended to read as follows:

22 “(i) \$970,838,000 for fiscal year 1999.

23 “(ii) \$999,963,000 for fiscal year 2000.”.

24 (c) **AIR INTERDICTION.**—Subparagraphs (A) and (B)  
25 of section 301(b)(3) of such Act (19 U.S.C. 2075(b)(3)(A)  
26 and (B)) are amended to read as follows:

1                   “(A) \$98,488,000 for fiscal year 1999.

2                   “(B) \$101,443,000 for fiscal year 2000.”.

3           (d) SUBMISSION OF OUT-YEAR BUDGET PROJEC-  
4 TIONS.—Section 301(a) of such Act (19 U.S.C. 2075(a))  
5 is amended by adding at the end the following:

6           “(3) By no later than the date on which the President  
7 submits to the Congress the budget of the United States  
8 Government for a fiscal year, the Commissioner of Cus-  
9 toms shall submit to the Committee on Ways and Means  
10 of the House of Representatives and the Committee on  
11 Finance of the Senate the projected amount of funds for  
12 the succeeding fiscal year that will be necessary for the  
13 operations of the Customs Service as provided for in sub-  
14 section (b).”.

15 **SEC. 102. NARCOTICS DETECTION EQUIPMENT FOR THE**  
16                   **UNITED STATES-MEXICO BORDER, UNITED**  
17                   **STATES-CANADA BORDER, AND FLORIDA AND**  
18                   **THE GULF COAST SEAPORTS.**

19           (a) FISCAL YEAR 1999.—Of the amounts made avail-  
20 able for fiscal year 1999 under section 301(b)(1)(A) of  
21 the Customs Procedural Reform and Simplification Act of  
22 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section  
23 101(a) of this Act, \$90,244,000 shall be available until  
24 expended for acquisition and other expenses associated  
25 with implementation and deployment of narcotics detec-

1 tion equipment along the United States-Mexico border, the  
2 United States-Canada border, and Florida and the Gulf  
3 Coast seaports, as follows:

4 (1) UNITED STATES-MEXICO BORDER.—For the  
5 United States-Mexico border, the following:

6 (A) \$6,000,000 for 8 Vehicle and Con-  
7 tainer Inspection Systems (VACIS).

8 (B) \$11,000,000 for 5 mobile truck x-rays  
9 with transmission and backscatter imaging.

10 (C) \$12,000,000 for the upgrade of 8  
11 fixed-site truck x-rays from the present energy  
12 level of 450,000 electron volts to 1,000,000  
13 electron volts (1-MeV).

14 (D) \$7,200,000 for 8 1-MeV pallet x-rays.

15 (E) \$1,000,000 for 200 portable contra-  
16 band detectors (busters) to be distributed  
17 among ports where the current allocations are  
18 inadequate.

19 (F) \$600,000 for 50 contraband detection  
20 kits to be distributed among all southwest bor-  
21 der ports based on traffic volume.

22 (G) \$500,000 for 25 ultrasonic container  
23 inspection units to be distributed among all  
24 ports receiving liquid-filled cargo and to ports  
25 with a hazardous material inspection facility.

1 (H) \$2,450,000 for 7 automated targeting  
2 systems.

3 (I) \$360,000 for 30 rapid tire deflator sys-  
4 tems to be distributed to those ports where port  
5 runners are a threat.

6 (J) \$480,000 for 20 portable Treasury En-  
7 forcement Communications Systems (TECS)  
8 terminals to be moved among ports as needed.

9 (K) \$1,000,000 for 20 remote watch sur-  
10 veillance camera systems at ports where there  
11 are suspicious activities at loading docks, vehi-  
12 cle queues, secondary inspection lanes, or areas  
13 where visual surveillance or observation is ob-  
14 scured.

15 (L) \$1,254,000 for 57 weigh-in-motion  
16 sensors to be distributed among the ports with  
17 the greatest volume of outbound traffic.

18 (M) \$180,000 for 36 AM traffic informa-  
19 tion radio stations, with 1 station to be located  
20 at each border crossing.

21 (N) \$1,040,000 for 260 inbound vehicle  
22 counters to be installed at every inbound vehicle  
23 lane.

24 (O) \$950,000 for 38 spotter camera sys-  
25 tems to counter the surveillance of customs in-

1           specification activities by persons outside the bound-  
2           aries of ports where such surveillance activities  
3           are occurring.

4           (P) \$390,000 for 60 inbound commercial  
5           truck transponders to be distributed to all ports  
6           of entry.

7           (Q) \$1,600,000 for 40 narcotics vapor and  
8           particle detectors to be distributed to each bor-  
9           der crossing.

10          (R) \$400,000 for license plate reader auto-  
11          matic targeting software to be installed at each  
12          port to target inbound vehicles.

13          (S) \$1,000,000 for a demonstration site  
14          for a high-energy relocatable rail car inspection  
15          system with an x-ray source switchable from  
16          2,000,000 electron volts (2-MeV) to 6,000,000  
17          electron volts (6-MeV) at a shared Department  
18          of Defense testing facility for a two-month test-  
19          ing period.

20          (2) UNITED STATES-CANADA BORDER.—For the  
21          United States-Canada border, the following:

22          (A) \$3,000,000 for 4 Vehicle and Con-  
23          tainer Inspection Systems (VACIS).

24          (B) \$8,800,000 for 4 mobile truck x-rays  
25          with transmission and backscatter imaging.

1 (C) \$3,600,000 for 4 1-MeV pallet x-rays.

2 (D) \$250,000 for 50 portable contraband  
3 detectors (busters) to be distributed among  
4 ports where the current allocations are inad-  
5 equate.

6 (E) \$300,000 for 25 contraband detection  
7 kits to be distributed among ports based on  
8 traffic volume.

9 (F) \$240,000 for 10 portable Treasury  
10 Enforcement Communications Systems (TECS)  
11 terminals to be moved among ports as needed.

12 (G) \$400,000 for 10 narcotics vapor and  
13 particle detectors to be distributed to each bor-  
14 der crossing based on traffic volume.

15 (3) FLORIDA AND GULF COAST SEAPORTS.—  
16 For Florida and the Gulf Coast seaports, the follow-  
17 ing:

18 (A) \$4,500,000 for 6 Vehicle and Con-  
19 tainer Inspection Systems (VACIS).

20 (B) \$11,800,000 for 5 mobile truck x-rays  
21 with transmission and backscatter imaging.

22 (C) \$7,200,000 for 8 1-MeV pallet x-rays.

23 (D) \$250,000 for 50 portable contraband  
24 detectors (busters) to be distributed among

1 ports where the current allocations are inad-  
2 equate.

3 (E) \$300,000 for 25 contraband detection  
4 kits to be distributed among ports based on  
5 traffic volume.

6 (b) FISCAL YEAR 2000.—Of the amounts made avail-  
7 able for fiscal year 2000 under section 301(b)(1)(B) of  
8 the Customs Procedural Reform and Simplification Act of  
9 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section  
10 101(a) of this Act, \$8,924,500 shall be for the mainte-  
11 nance and support of the equipment and training of per-  
12 sonnel to maintain and support the equipment described  
13 in subsection (a).

14 (c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR  
15 EQUIPMENT; TRANSFER OF FUNDS.—

16 (1) IN GENERAL.—The Commissioner of Cus-  
17 toms may use amounts made available for fiscal year  
18 1999 under section 301(b)(1)(A) of the Customs  
19 Procedural Reform and Simplification Act of 1978  
20 (19 U.S.C. 2075(b)(1)(A)), as amended by section  
21 101(a) of this Act, for the acquisition of equipment  
22 other than the equipment described in subsection (a)  
23 if such other equipment—

24 (A)(i) is technologically superior to the  
25 equipment described in subsection (a); and

1           (ii) will achieve at least the same results at  
2           a cost that is the same or less than the equip-  
3           ment described in subsection (a); or

4           (B) can be obtained at a lower cost than  
5           the equipment described in subsection (a).

6           (2) TRANSFER OF FUNDS.—Notwithstanding  
7           any other provision of this section, the Commissioner  
8           of Customs may reallocate an amount not to exceed  
9           10 percent of—

10           (A) the amount specified in any of sub-  
11           paragraphs (A) through (R) of subsection  
12           (a)(1) for equipment specified in any other of  
13           such subparagraphs (A) through (R);

14           (B) the amount specified in any of sub-  
15           paragraphs (A) through (G) of subsection  
16           (a)(2) for equipment specified in any other of  
17           such subparagraphs (A) through (G); and

18           (C) the amount specified in any of sub-  
19           paragraphs (A) through (E) of subsection  
20           (a)(3) for equipment specified in any other of  
21           such subparagraphs (A) through (E).

1 **SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE EN-**  
2 **HANCEMENT FOR THE UNITED STATES-MEX-**  
3 **ICO AND UNITED STATES-CANADA BORDERS.**

4 Of the amounts made available for fiscal years 1999  
5 and 2000 under subparagraphs (A) and (B) of section  
6 301(b)(1) of the Customs Procedural Reform and Sim-  
7 plification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and  
8 (B)), as amended by section 101(a) of this Act,  
9 \$117,644,584 for fiscal year 1999 and \$184,110,928 for  
10 fiscal year 2000 shall be available for the following:

11 (1) A net increase of 535 inspectors, 120 spe-  
12 cial agents, and 10 intelligence analysts for the  
13 United States-Mexico border and 375 inspectors for  
14 the United States-Canada border, in order to open  
15 all primary lanes on such borders during peak hours  
16 and enhance investigative resources.

17 (2) A net increase of 285 inspectors and canine  
18 enforcement officers to be distributed at large cargo  
19 facilities as needed to process and screen cargo (in-  
20 cluding rail cargo) and reduce commercial waiting  
21 times on the United States-Mexico border.

22 (3) A net increase of 40 inspectors at sea ports  
23 in southeast Florida to process and screen cargo.

24 (4) A net increase of 300 special agents, 30 in-  
25 telligence analysts, and additional resources to be  
26 distributed among offices that have jurisdiction over

1 major metropolitan drug or narcotics distribution  
2 and transportation centers for intensification of ef-  
3 forts against drug smuggling and money-laundering  
4 organizations.

5 (5) A net increase of 50 positions and addi-  
6 tional resources to the Office of Internal Affairs to  
7 enhance investigative resources for anticorruption ef-  
8 forts.

9 (6) The costs incurred as a result of the in-  
10 crease in personnel hired pursuant to this section.

11 **SEC. 104. COMPLIANCE WITH PERFORMANCE PLAN RE-**  
12 **QUIREMENTS.**

13 As part of the annual performance plan for each of  
14 the fiscal years 1999 and 2000 covering each program ac-  
15 tivity set forth in the budget of the United States Customs  
16 Service, as required under section 1115 of title 31, United  
17 States Code, the Commissioner of the Customs Service  
18 shall establish performance goals, performance indicators,  
19 and comply with all other requirements contained in para-  
20 graphs (1) through (6) of subsection (a) of such section  
21 with respect to each of the activities to be carried out pur-  
22 suant to sections 102 and 103 of this Act.

1 **TITLE II—OVERTIME AND PRE-**  
2 **MIUM PAY OF OFFICERS OF**  
3 **THE UNITED STATES CUS-**  
4 **TOMS SERVICE; MISCELLANE-**  
5 **OUS PROVISIONS**

6 **Subtitle A—Overtime Pay and Pre-**  
7 **mium Pay of Officers of the**  
8 **United States Customs Service**

9 **SEC. 201. CORRECTION RELATING TO FISCAL YEAR CAP.**

10 Section 5(c)(1) of the Act of February 13, 1911 (19  
11 U.S.C. 267(c)(1)) is amended to read as follows:

12 “(1) FISCAL YEAR CAP.—The aggregate of  
13 overtime pay under subsection (a) (including com-  
14 muting compensation under subsection (a)(2)(B))  
15 that a customs officer may be paid in any fiscal year  
16 may not exceed \$30,000, except that—

17 “(A) the Commissioner of Customs or his  
18 or her designee may waive this limitation in in-  
19 dividual cases in order to prevent excessive  
20 costs or to meet emergency requirements of the  
21 Customs Service; and

22 “(B) upon certification by the Commis-  
23 sioner of Customs to the Chairmen of the Com-  
24 mittee on Ways and Means of the House of  
25 Representatives and the Committee on Finance

1 of the Senate that the Customs Service has in  
2 operation a system that provides accurate and  
3 reliable data on a daily basis on overtime and  
4 premium pay that is being paid to customs offi-  
5 cers, the Commissioner is authorized to pay any  
6 customs officer for one work assignment that  
7 would result in the overtime pay of that officer  
8 exceeding the \$30,000 limitation imposed by  
9 this paragraph, in addition to any overtime pay  
10 that may be received pursuant to a waiver  
11 under subparagraph (A).”.

12 **SEC. 202. CORRECTION RELATING TO OVERTIME PAY.**

13 Section 5(a)(1) of the Act of February 13, 1911 (19  
14 U.S.C. 267(a)(1)), is amended by inserting after the first  
15 sentence the following new sentence: “Overtime pay pro-  
16 vided under this subsection shall not be paid to any cus-  
17 toms officer unless such officer actually performed work  
18 during the time corresponding to such overtime pay.”.

19 **SEC. 203. CORRECTION RELATING TO PREMIUM PAY.**

20 (a) IN GENERAL.—Section 5(b)(4) of the Act of Feb-  
21 ruary 13, 1911 (19 U.S.C. 267(b)(4)), is amended by add-  
22 ing after the first sentence the following new sentence:  
23 “Premium pay provided under this subsection shall not  
24 be paid to any customs officer unless such officer actually

1 performed work during the time corresponding to such  
2 premium pay.”.

3 (b) CORRECTIONS TO NIGHT WORK DIFFERENTIAL  
4 PROVISIONS.—Section 5(b)(1) of such Act (19 U.S.C.  
5 267(b)(1)) is amended to read as follows:

6 “(1) NIGHT WORK DIFFERENTIAL.—

7 “(A) 6 P.M. TO MIDNIGHT.—If any hours  
8 of regularly scheduled work of a customs officer  
9 occur during the hours of 6 p.m. and 12 a.m.,  
10 the officer is entitled to pay for such hours of  
11 work (except for work to which paragraph (2)  
12 or (3) applies) at the officer’s hourly rate of  
13 basic pay plus premium pay amounting to 15  
14 percent of that basic rate.

15 “(B) MIDNIGHT TO 6 A.M.—If any hours  
16 of regularly scheduled work of a customs officer  
17 occur during the hours of 12 a.m. and 6 a.m.,  
18 the officer is entitled to pay for such hours of  
19 work (except for work to which paragraph (2)  
20 or (3) applies) at the officer’s hourly rate of  
21 basic pay plus premium pay amounting to 20  
22 percent of that basic rate.

23 “(C) MIDNIGHT TO 8 A.M.—If the regu-  
24 larly scheduled work assignment of a customs  
25 officer is 12 a.m. to 8:00 a.m., the officer is en-

1           titled to pay for work during such period (ex-  
2           cept for work to which paragraph (2) or (3) ap-  
3           plies) at the officer's hourly rate of basic pay  
4           plus premium pay amounting to 20 percent of  
5           that basic rate.”.

6 **SEC. 204. USE OF SAVINGS FROM PAYMENT OF OVERTIME**  
7                           **AND PREMIUM PAY FOR ADDITIONAL OVER-**  
8                           **TIME ENFORCEMENT ACTIVITIES OF THE**  
9                           **CUSTOMS SERVICE.**

10          Section 5 of the Act of February 13, 1911 (19 U.S.C.  
11 267), is amended—

12                   (1) by redesignating subsection (e) as sub-  
13                   section (f); and

14                   (2) by inserting after subsection (d) the follow-  
15                   ing:

16                   “(e) USE OF SAVINGS FROM PAYMENT OF OVERTIME  
17 AND PREMIUM PAY FOR ADDITIONAL OVERTIME EN-  
18 FORCEMENT ACTIVITIES.—

19                   “(1) USE OF AMOUNTS.—For fiscal year 1999  
20                   and each subsequent fiscal year, the Secretary of the  
21                   Treasury—

22                           “(A) shall determine under paragraph (2)  
23                   the amount of savings from the payment of  
24                   overtime and premium pay to customs officers;  
25                   and

1           “(B) shall use an amount from the Cus-  
2           toms User Fee Account equal to such amount  
3           determined under paragraph (2) for additional  
4           overtime enforcement activities of the Customs  
5           Service.

6           “(2) DETERMINATION OF SAVINGS AMOUNT.—  
7           For each fiscal year, the Secretary shall calculate an  
8           amount equal to the difference between—

9           “(A) the estimated cost for overtime and  
10          premium pay that would have been incurred  
11          during that fiscal year if this section, as in ef-  
12          fect on the day before the date of the enact-  
13          ment of sections 202 and 203 of the Drug Free  
14          Borders Act of 1998, had governed such costs;  
15          and

16          “(B) the actual cost for overtime and pre-  
17          mium pay that is incurred during that fiscal  
18          year under this section, as amended by sections  
19          202 and 203 of the Drug Free Borders Act of  
20          1998.”.

21 **SEC. 205. EFFECTIVE DATE.**

22          This subtitle, and the amendments made by this sub-  
23          title, shall apply with respect to pay periods beginning on  
24          or after 15 days after the date of the enactment of this  
25          Act.

1           **Subtitle B—MISCELLANEOUS**  
2                                   **PROVISIONS**

3   **SEC. 211. ROTATION OF DUTY STATIONS AND TEMPORARY**  
4                           **DUTY ASSIGNMENTS OF OFFICERS OF THE**  
5                           **UNITED STATES CUSTOMS SERVICE TO PRO-**  
6                           **MOTE INTEGRITY.**

7           (a) IN GENERAL.—Section 5 of the Act of February  
8 13, 1911 (19 U.S.C. 267), as amended by this Act, is fur-  
9 ther amended—

10                   (1) by redesignating subsection (f) as sub-  
11                   section (g); and

12                   (2) by inserting after subsection (e) the follow-  
13                   ing:

14           “(f) ROTATION OF DUTY STATIONS AND TEMPORARY  
15 DUTY ASSIGNMENTS OF CUSTOMS OFFICERS.—

16                   “(1) IN GENERAL.—Notwithstanding any other  
17                   provision of law, bargaining agreement, or Executive  
18                   order, in order to ensure the integrity of the United  
19                   States Customs Service, the Secretary of the Treas-  
20                   ury—

21                           “(A) may transfer up to 5 percent of the  
22                           customs officers employed as of the beginning  
23                           of each fiscal year to new duty stations in that  
24                           fiscal year on a permanent basis; and

1           “(B) may transfer customs officers to tem-  
2           porary duty assignments for not more than 90  
3           days.

4           “(2) VOLUNTARY AND OTHER TRANSFERS.—A  
5           transfer of a customs officer to a new duty station  
6           or a temporary duty assignment under paragraph  
7           (1) is in addition to any voluntary transfer or trans-  
8           fer for other reasons.

9           “(3) ADDITIONAL REQUIREMENT.—The re-  
10          quirements of this subsection, including any regula-  
11          tions established by the Secretary to carry out this  
12          subsection, are not subject to collective bargaining.

13          “(4) AUTHORIZATION OF APPROPRIATIONS.—

14                 “(A) IN GENERAL.—There are authorized  
15                 to be appropriated for fiscal year 2000  
16                 \$25,000,000 to carry out this subsection.

17                 “(B) AVAILABILITY OF AMOUNTS.—  
18                 Amounts authorized to be appropriated under  
19                 subparagraph (A) are authorized to remain  
20                 available until expended.

21          “(5) RULE OF CONSTRUCTION.—The authority  
22          provided by this subsection may be exercised only to  
23          the extent that in the applicable appropriations Act  
24          (or in the committee report or joint statement of  
25          managers to such Act) an account is specifically es-



1           “(A) REQUIREMENT TO MEET.—If the  
2 Commissioner of the Customs Service deter-  
3 mines that any collective bargaining agreement  
4 with the recognized bargaining representative of  
5 its employees has an adverse impact upon the  
6 interdiction of contraband, including controlled  
7 substances, the parties shall meet to eliminate  
8 the provision causing the adverse impact from  
9 the agreement.

10           “(B) FAILURE TO REACH AGREEMENT.—If  
11 the parties do not reach agreement within 90  
12 days of the date that the Commissioner of Cus-  
13 toms made the determination of adverse impact,  
14 the negotiations shall be considered at impasse  
15 and the Commissioner of Customs may imme-  
16 diately implement the last offer of the Customs  
17 Service. Such implementation shall not result in  
18 an unfair labor practice or, except as may be  
19 provided under the following sentence, the im-  
20 position of any status quo ante remedy against  
21 the Customs Service. Either party may then  
22 pursue the impasse to the Federal Service Im-  
23 passes Panel pursuant to section 7119(c) of  
24 title 5, United States Code, for ultimate resolu-  
25 tion.

1           “(C) RULE OF CONSTRUCTION.—Nothing  
2           in this paragraph shall be construed to limit the  
3           authority of the Commissioner of Customs to  
4           implement immediately any proposed changes  
5           without waiting 90 days, if exigent cir-  
6           cumstances warrant such immediate implemen-  
7           tation, or if an impasse is reached in less than  
8           90 days.”.

Passed the House of Representatives May 19, 1998.

Attest:

*Clerk.*