

105TH CONGRESS
2D SESSION

H. R. 3809

To authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1998

Mr. CRANE (for himself, Mr. SHAW, and Mr. HASTERT) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To authorize appropriations for the United States Customs Service for fiscal years 1999 and 2000, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Free Borders
5 Act of 1998”.

1 **TITLE I—AUTHORIZATION OF**
2 **APPROPRIATIONS FOR**
3 **UNITED STATES CUSTOMS**
4 **SERVICE**

5 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

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

11 “(A) \$958,787,584 for fiscal year 1999.

12 “(B) \$1,069,928,328 for fiscal year
13 2000.”.

14 (b) **COMMERCIAL OPERATIONS.**—Clauses (i) and (ii)
15 of section 301(b)(2)(A) of such Act (19 U.S.C.
16 2075(b)(2)(A)(i) and (ii)) are amended to read as follows:

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

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

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

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

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

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

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

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

17 (a) FISCAL YEAR 1999.—Of the amounts made avail-
18 able for fiscal year 1999 under section 301(b)(1)(A) of
19 the Customs Procedural Reform and Simplification Act of
20 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section
21 101(a) of this Act, \$89,244,000 shall be available until
22 expended for acquisition and other expenses associated
23 with implementation and deployment of narcotics detec-
24 tion equipment along the United States-Mexico border, the

1 United States-Canada border, and Florida and the Gulf
2 Coast seaports, as follows:

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

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

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

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

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

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

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

21 (G) \$500,000 for 25 ultrasonic container
22 inspection units to be distributed among all
23 ports receiving liquid-filled cargo and to ports
24 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 (2) UNITED STATES-CANADA BORDER.—For the
14 United States-Canada border, the following:

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

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

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

20 (D) \$250,000 for 50 portable contraband
21 detectors (busters) to be distributed among
22 ports where the current allocations are inad-
23 equate.

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

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

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

10 (3) FLORIDA AND GULF COAST SEAPORTS.—

11 For Florida and the Gulf Coast seaports, the follow-
12 ing:

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

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

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

18 (D) \$250,000 for 50 portable contraband
19 detectors (busters) to be distributed among
20 ports where the current allocations are inad-
21 equate.

22 (E) \$300,000 for 25 contraband detection
23 kits to be distributed among ports based on
24 traffic volume.

1 (b) FISCAL YEAR 2000.—Of the amounts made avail-
2 able for fiscal year 2000 under section 301(b)(1)(B) of
3 the Customs Procedural Reform and Simplification Act of
4 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section
5 101(a) of this Act, \$8,924,500 shall be for the mainte-
6 nance and support of the equipment and training of per-
7 sonnel to maintain and support the equipment described
8 in subsection (a).

9 (c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR
10 EQUIPMENT; TRANSFER OF FUNDS.—

11 (1) IN GENERAL.—The Commissioner of Cus-
12 toms may use amounts made available for fiscal year
13 1999 under section 301(b)(1)(A) of the Customs
14 Procedural Reform and Simplification Act of 1978
15 (19 U.S.C. 2075(b)(1)(A)), as amended by section
16 101(a) of this Act, for the acquisition of equipment
17 other than the equipment described in subsection (a)
18 if such other equipment—

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

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

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

1 (2) TRANSFER OF FUNDS.—Notwithstanding
2 any other provision of this section, the Commissioner
3 of Customs may reallocate an amount not to exceed
4 10 percent of—

5 (A) the amount specified in any of sub-
6 paragraphs (A) through (R) of subsection
7 (a)(1) for equipment specified in any other of
8 such subparagraphs (A) through (R);

9 (B) the amount specified in any of sub-
10 paragraphs (A) through (G) of subsection
11 (a)(2) for equipment specified in any other of
12 such subparagraphs (A) through (G); and

13 (C) the amount specified in any of sub-
14 paragraphs (A) through (E) of subsection
15 (a)(3) for equipment specified in any other of
16 such subparagraphs (A) through (E).

17 **SEC. 103. PEAK HOURS AND INVESTIGATIVE RESOURCE EN-**

18 **HANCEMENT FOR THE UNITED STATES-MEX-**

19 **ICO AND UNITED STATES-CANADA BORDERS.**

20 Of the amounts made available for fiscal years 1999
21 and 2000 under subparagraphs (A) and (B) of section
22 301(b)(1) of the Customs Procedural Reform and Sim-
23 plification Act of 1978 (19 U.S.C. 2075(b)(1)(A) and
24 (B)), as amended by section 101(a) of this Act,

1 \$112,844,584 for fiscal year 1999 and \$180,910,928 for
2 fiscal year 2000 shall be available for the following:

3 (1) A net increase of 535 inspectors, 120 spe-
4 cial agents, and 10 intelligence analysts for the
5 United States-Mexico border and 375 inspectors for
6 the United States-Canada border, in order to open
7 all primary lanes on such borders during peak hours
8 and enhance investigative resources.

9 (2) A net increase of 285 inspectors and canine
10 enforcement officers to be distributed at large cargo
11 facilities as needed to process and screen cargo (in-
12 cluding rail cargo) and reduce commercial waiting
13 times on the United States-Mexico border.

14 (3) A net increase of 300 special agents, 30 in-
15 telligence analysts, and additional resources to be
16 distributed among offices that have jurisdiction over
17 major metropolitan drug or narcotics distribution
18 and transportation centers for intensification of ef-
19 forts against drug smuggling and money-laundering
20 organizations.

21 (4) A net increase of 50 positions and addi-
22 tional resources to the Office of Internal Affairs to
23 enhance investigative resources for anticorruption ef-
24 forts.

1 (5) The costs incurred as a result of the in-
2 crease in personnel hired pursuant to this section.

3 **SEC. 104. COMPLIANCE WITH PERFORMANCE PLAN RE-**
4 **QUIREMENTS.**

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

15 **TITLE II—OVERTIME AND PRE-**
16 **MIUM PAY OF OFFICERS OF**
17 **THE UNITED STATES CUS-**
18 **TOMS SERVICE; MISCELLANE-**
19 **OUS PROVISIONS**

20 **Subtitle A—Overtime Pay and Pre-**
21 **mium Pay of Officers of the**
22 **United States Customs Service**

23 **SEC. 201. FISCAL YEAR CAP.**

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

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

6 “(A) the Commissioner of Customs or his
7 or her designee may waive this limitation in in-
8 dividual cases in order to prevent excessive
9 costs or to meet emergency requirements of the
10 Customs Service; and

11 “(B) upon certification by the Commis-
12 sioner of Customs to the Chairmen of the Com-
13 mittee on Ways and Means of the House of
14 Representatives and the Committee on Finance
15 of the Senate that the Customs Service has in
16 operation a system that provides accurate and
17 reliable data on a daily basis on overtime and
18 premium pay that is being paid to customs offi-
19 cers, the Commissioner is authorized to pay any
20 customs officer for one work assignment that
21 would result in the overtime pay of that officer
22 exceeding the \$30,000 limitation imposed by
23 this paragraph, in addition to any overtime pay
24 that may be received pursuant to a waiver
25 under subparagraph (A).”.

1 **SEC. 202. RESTRICTION ON PAYMENT OF OVERTIME PAY.**

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

8 **SEC. 203. PREMIUM PAY.**

9 (a) RESTRICTION ON PAYMENT OF PREMIUM PAY.—
10 Section 5(b)(4) of the Act of February 13, 1911 (19
11 U.S.C. 267(b)(4)), is amended by adding after the first
12 sentence the following new sentence: “Premium pay pro-
13 vided under this subsection shall not be paid to any cus-
14 toms officer unless such officer actually performed work
15 during the time corresponding to such premium pay.”.

16 (b) REVISION OF NIGHT WORK DIFFERENTIAL PRO-
17 VISIONS.—Section 5(b)(1) of such Act (19 U.S.C.
18 267(b)(1)) is amended to read as follows:

19 “(1) NIGHT WORK DIFFERENTIAL.—

20 “(A) 6 P.M. TO MIDNIGHT.—If any hours
21 of regularly scheduled work of a customs officer
22 occur during the hours of 6 p.m. and 12 a.m.,
23 the officer is entitled to pay for such hours of
24 work (except for work to which paragraph (2)
25 or (3) applies) at the officer’s hourly rate of

1 basic pay plus premium pay amounting to 15
2 percent of that basic rate.

3 “(B) MIDNIGHT TO 6 A.M.—If any hours
4 of regularly scheduled work of a customs officer
5 occur during the hours of 12 a.m. and 6 a.m.,
6 the officer is entitled to pay for such hours of
7 work (except for work to which paragraph (2)
8 or (3) applies) at the officer’s hourly rate of
9 basic pay plus premium pay amounting to 20
10 percent of that basic rate.”.

11 **SEC. 204. USE OF AMOUNTS FOR ADDITIONAL OVERTIME**
12 **ENFORCEMENT ACTIVITIES OF THE CUSTOMS**
13 **SERVICE RESULTING FROM SAVINGS FROM**
14 **PAYMENT OF OVERTIME AND PREMIUM PAY.**

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

17 (1) by redesignating subsection (e) as sub-
18 section (f); and

19 (2) by inserting after subsection (d) the follow-
20 ing:

21 “(e) USE OF AMOUNTS FOR ADDITIONAL OVERTIME
22 ENFORCEMENT ACTIVITIES RESULTING FROM SAVINGS
23 FROM PAYMENT OF OVERTIME AND PREMIUM PAY.—

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

4 “(A) shall determine under paragraph (2)
5 the amount of savings from the payment of
6 overtime and premium pay to customs officers;
7 and

8 “(B) shall use an amount from the Cus-
9 toms User Fee Account equal to such amount
10 determined under paragraph (2) for additional
11 overtime enforcement activities of the Customs
12 Service.

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

16 “(A) the estimated cost for overtime and
17 premium pay that would have been incurred
18 during that fiscal year if this section, as in ef-
19 fect on the day before the date of the enact-
20 ment of sections 202 and 203 of the Drug Free
21 America Act of 1998, had governed such costs;
22 and

23 “(B) the actual cost for overtime and pre-
24 mium pay that is incurred during that fiscal
25 year under this section, as amended by sections

1 202 and 203 of the Drug Free America Act of
2 1998.”.

3 **SEC. 205. EFFECTIVE DATE.**

4 The subtitle and the amendments made by this sub-
5 title shall apply with respect to pay periods beginning on
6 or after 15 days after the date of the enactment of this
7 Act.

8 **Subtitle B—Miscellaneous**
9 **Provisions**

10 **SEC. 211. ROTATION OF DUTY STATIONS AND TEMPORARY**
11 **DUTY ASSIGNMENTS OF OFFICERS OF THE**
12 **UNITED STATES CUSTOMS SERVICE.**

13 Section 5 of the Act of February 13, 1911 (19 U.S.C.
14 267), as amended by this Act, is further amended—

15 (1) by redesignating subsection (f) as sub-
16 section (g); and

17 (2) by inserting after subsection (e) the follow-
18 ing:

19 “(f) ROTATION OF DUTY STATIONS AND TEMPORARY
20 DUTY ASSIGNMENTS OF CUSTOMS OFFICERS.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of law, bargaining agreement, or Executive
23 order, beginning October 1, 1998, in order to ensure
24 the integrity of the United States Customs Service,
25 the Secretary of the Treasury—

1 “(A) may transfer up to 5 percent of the
2 customs officers employed as of the beginning
3 of each fiscal year to new duty stations in that
4 fiscal year on a permanent basis; and

5 “(B) may transfer customs officers to tem-
6 porary duty assignments for not more than 90
7 days.

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

13 “(3) RULE OF CONSTRUCTION.—The require-
14 ments of this subsection, including any regulations
15 established by the Secretary to carry out this sub-
16 section, are not subject to collective bargaining.

17 “(4) AVAILABILITY OF AMOUNTS.—Of the
18 amounts made available for fiscal years 1999 and
19 2000 under subparagraphs (A) and (B) of section
20 301(b)(1) of the Customs Procedural Reform and
21 Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)
22 and (B)), \$25,000,000 for each such fiscal year shall
23 be available to carry out this subsection.”.

1 **SEC. 212. EFFECT OF COLLECTIVE BARGAINING AGREE-**
2 **MENTS ON ABILITY OF UNITED STATES CUS-**
3 **TOMS SERVICE TO INTERDICT CONTRABAND.**

4 Section 5 of the Act of February 13, 1911 (19 U.S.C.
5 267), as amended by this Act, is further amended—

6 (1) by redesignating subsection (g) as sub-
7 section (h); and

8 (2) by inserting after subsection (f) the follow-
9 ing:

10 “(g) **EFFECT OF COLLECTIVE BARGAINING AGREE-**
11 **MENTS ON ABILITY OF CUSTOMS SERVICE TO INTERDICT**
12 **CONTRABAND.—**

13 “(1) **SENSE OF THE CONGRESS.—**It is the sense
14 of the Congress that collective bargaining agree-
15 ments should not have any adverse impact on the
16 ability of the United States Customs Service to
17 interdict contraband, including controlled sub-
18 stances.

19 “(2) **PROVISIONS CAUSING ADVERSE IMPACT TO**
20 **INTERDICT CONTRABAND.—**

21 “(A) **REQUIREMENT TO MEET.—**If the
22 Commissioner of the Customs Service deter-
23 mines that any collective bargaining agreement
24 with the recognized bargaining representative of
25 its employees has an adverse impact upon the
26 interdiction of contraband, including controlled

1 substances, the parties shall meet to eliminate
2 the provision causing the adverse impact from
3 the agreement.

4 “(B) FAILURE TO REACH AGREEMENT.—If
5 the parties do not reach agreement within 90
6 days of the date of the Customs Service deter-
7 mination of adverse impact, the negotiations
8 shall be considered at impasse and the Customs
9 Service may immediately implement its last
10 offer. Such implementation shall not result in
11 an unfair labor practice or, except as may be
12 provided under the following sentence, the im-
13 position of any status quo ante remedy against
14 the Customs Service. Either party may then
15 pursue the impasse to the Federal Service Im-
16 passes Panel pursuant to section 7119(c) of
17 title 5, United States Code, for ultimate resolu-
18 tion.

19 “(C) RULE OF CONSTRUCTION.—Nothing
20 in this paragraph shall be construed to limit the
21 authority of the Customs Service to implement
22 immediately any proposed changes without
23 waiting 90 days, if exigent circumstances war-

- 1 rant such immediate implementation, or if an
- 2 impasse is reached in less than 90 days.”.

○