

Union Calendar No. 307

105TH CONGRESS
2^D SESSION

H. R. 3809

[Report No. 105-541]

A BILL

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

MAY 18, 1998

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

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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

MAY 18, 1998

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

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

[For text of introduced bill, see copy of bill as introduced on May 7, 1998]

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **TITLE I—AUTHORIZATION OF AP-**
5 **PROPRIATIONS FOR UNITED**
6 **STATES CUSTOMS SERVICE**

7 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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

15 *(b) COMMERCIAL OPERATIONS.—Clauses (i) and (ii)*
16 *of section 301(b)(2)(A) of such Act (19 U.S.C.*
17 *2075(b)(2)(A)(i) and (ii)) are amended to read as follows:*

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

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

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

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

24 *“(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)) is*
3 *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 Gov-*
6 *ernment for a fiscal year, the Commissioner of Customs*
7 *shall submit to the Committee on Ways and Means of the*
8 *House of Representatives and the Committee on Finance*
9 *of the Senate the projected amount of funds for the succeed-*
10 *ing fiscal year that will be necessary for the operations of*
11 *the Customs Service as provided for in subsection (b).”.*

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

16 (a) *FISCAL YEAR 1999.—Of the amounts made avail-*
17 *able for fiscal year 1999 under section 301(b)(1)(A) of the*
18 *Customs Procedural Reform and Simplification Act of 1978*
19 *(19 U.S.C. 2075(b)(1)(A)), as amended by section 101(a)*
20 *of this Act, \$90,244,000 shall be available until expended*
21 *for acquisition and other expenses associated with imple-*
22 *mentation and deployment of narcotics detection equipment*
23 *along the United States-Mexico border, the United States-*
24 *Canada border, and Florida and the Gulf Coast seaports,*
25 *as follows:*

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

3 (A) *\$6,000,000 for 8 Vehicle and Container*
4 *Inspection Systems (VACIS).*

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

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

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

12 (E) *\$1,000,000 for 200 portable contraband*
13 *detectors (busters) to be distributed among ports*
14 *where the current allocations are inadequate.*

15 (F) *\$600,000 for 50 contraband detection*
16 *kits to be distributed among all southwest border*
17 *ports based on traffic volume.*

18 (G) *\$500,000 for 25 ultrasonic container in-*
19 *spection units to be distributed among all ports*
20 *receiving liquid-filled cargo and to ports with a*
21 *hazardous material inspection facility.*

22 (H) *\$2,450,000 for 7 automated targeting*
23 *systems.*

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

4 (J) \$480,000 for 20 portable Treasury En-
5 forcement Communications Systems (TECS) ter-
6 minals to be moved among ports as needed.

7 (K) \$1,000,000 for 20 remote watch surveil-
8 lance camera systems at ports where there are
9 suspicious activities at loading docks, vehicle
10 queues, secondary inspection lanes, or areas
11 where visual surveillance or observation is ob-
12 scured.

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

16 (M) \$180,000 for 36 AM traffic information
17 radio stations, with 1 station to be located at
18 each border crossing.

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

22 (O) \$950,000 for 38 spotter camera systems
23 to counter the surveillance of customs inspection
24 activities by persons outside the boundaries of

1 ports where such surveillance activities are oc-
2 curring.

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

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

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

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

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

21 (A) \$3,000,000 for 4 Vehicle and Container
22 Inspection Systems (VACIS).

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

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

1 (D) \$250,000 for 50 portable contraband de-
2 tectors (busters) to be distributed among ports
3 where the current allocations are inadequate.

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

7 (F) \$240,000 for 10 portable Treasury En-
8 forcement Communications Systems (TECS) ter-
9 minals to be moved among ports as needed.

10 (G) \$400,000 for 10 narcotics vapor and
11 particle detectors to be distributed to each border
12 crossing based on traffic volume.

13 (3) *FLORIDA AND GULF COAST SEAPORTS.*—*For*
14 *Florida and the Gulf Coast seaports, the following:*

15 (A) \$4,500,000 for 6 Vehicle and Container
16 Inspection Systems (VACIS).

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

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

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

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

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

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

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

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

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

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

13 (C) *the amount specified in any of subpara-*
14 *graphs (A) through (E) of subsection (a)(3) for*
15 *equipment specified in any other of such sub-*
16 *paragraphs (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 (B)),*
24 *as amended by section 101(a) of this Act, \$117,644,584 for*

1 *fiscal year 1999 and \$184,110,928 for fiscal year 2000 shall*
2 *be available for the following:*

3 (1) *A net increase of 535 inspectors, 120 special*
4 *agents, and 10 intelligence analysts for the United*
5 *States-Mexico border and 375 inspectors for the*
6 *United States-Canada border, in order to open all*
7 *primary lanes on such borders during peak hours and*
8 *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 40 inspectors at sea ports*
15 *in southeast Florida to process and screen cargo.*

16 (4) *A net increase of 300 special agents, 30 intel-*
17 *ligence analysts, and additional resources to be dis-*
18 *tributed among offices that have jurisdiction over*
19 *major metropolitan drug or narcotics distribution*
20 *and transportation centers for intensification of ef-*
21 *forts against drug smuggling and money-laundering*
22 *organizations.*

23 (5) *A net increase of 50 positions and additional*
24 *resources to the Office of Internal Affairs to enhance*
25 *investigative resources for anticorruption efforts.*

1 (6) *The costs incurred as a result of the increase*
2 *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 activ-*
7 *ity 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 shall*
10 *establish performance goals, performance indicators, and*
11 *comply with all other requirements contained in para-*
12 *graphs (1) through (6) of subsection (a) of such section with*
13 *respect to each of the activities to be carried out pursuant*
14 *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. CORRECTION RELATING TO 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 over-*
2 *time pay under subsection (a) (including commuting*
3 *compensation under subsection (a)(2)(B)) that a cus-*
4 *toms officer may be paid in any fiscal year may not*
5 *exceed \$30,000, except that—*

6 “(A) *the Commissioner of Customs or his or*
7 *her designee may waive this limitation in indi-*
8 *vidual cases in order to prevent excessive costs or*
9 *to meet emergency requirements of the Customs*
10 *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 Rep-*
14 *resentatives and the Committee on Finance of the*
15 *Senate that the Customs Service has in operation*
16 *a system that provides accurate and reliable*
17 *data on a daily basis on overtime and premium*
18 *pay that is being paid to customs officers, the*
19 *Commissioner is authorized to pay any customs*
20 *officer for one work assignment that would result*
21 *in the overtime pay of that officer exceeding the*
22 *\$30,000 limitation imposed by this paragraph,*
23 *in addition to any overtime pay that may be re-*
24 *ceived pursuant to a waiver under subparagraph*
25 *(A).”.*

1 **SEC. 202. CORRECTION RELATING TO 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 customs
6 officer unless such officer actually performed work during
7 the time corresponding to such overtime pay.”.

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

9 (a) *IN GENERAL.*—Section 5(b)(4) of the Act of Feb-
10 ruary 13, 1911 (19 U.S.C. 267(b)(4)), is amended by add-
11 ing after the first sentence the following new sentence: “Pre-
12 mium pay provided under this subsection shall not be paid
13 to any customs officer unless such officer actually performed
14 work during the time corresponding to such premium
15 pay.”.

16 (b) *CORRECTIONS TO NIGHT WORK DIFFERENTIAL*
17 *PROVISIONS.*—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 of
21 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) or
25 (3) applies) at the officer’s hourly rate of basic

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

3 “(B) *MIDNIGHT TO 6 A.M.—If any hours of*
4 *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) or*
8 *(3) applies) at the officer’s hourly rate of basic*
9 *pay plus premium pay amounting to 20 percent*
10 *of that basic rate.*

11 “(C) *MIDNIGHT TO 8 A.M.—If the regularly*
12 *scheduled work assignment of a customs officer is*
13 *12 a.m. to 8:00 a.m., the officer is entitled to pay*
14 *for work during such period (except for work to*
15 *which paragraph (2) or (3) applies) at the offi-*
16 *cer’s hourly rate of basic pay plus premium pay*
17 *amounting to 20 percent of that basic rate.”.*

18 **SEC. 204. USE OF SAVINGS FROM PAYMENT OF OVERTIME**
19 **AND PREMIUM PAY FOR ADDITIONAL OVER-**
20 **TIME ENFORCEMENT ACTIVITIES OF THE**
21 **CUSTOMS SERVICE.**

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

24 (1) *by redesignating subsection (e) as subsection*
25 *(f); and*

1 (2) *by inserting after subsection (d) the follow-*
2 *ing:*

3 “(e) *USE OF SAVINGS FROM PAYMENT OF OVERTIME*
4 *AND PREMIUM PAY FOR ADDITIONAL OVERTIME ENFORCE-*
5 *MENT ACTIVITIES.—*

6 “(1) *USE OF AMOUNTS.—For fiscal year 1999*
7 *and each subsequent fiscal year, the Secretary of the*
8 *Treasury—*

9 “(A) *shall determine under paragraph (2)*
10 *the amount of savings from the payment of over-*
11 *time and premium pay to customs officers; and*

12 “(B) *shall use an amount from the Customs*
13 *User Fee Account equal to such amount deter-*
14 *mined under paragraph (2) for additional over-*
15 *time enforcement activities of the Customs Serv-*
16 *ice.*

17 “(2) *DETERMINATION OF SAVINGS AMOUNT.—For*
18 *each fiscal year, the Secretary shall calculate an*
19 *amount equal to the difference between—*

20 “(A) *the estimated cost for overtime and*
21 *premium pay that would have been incurred*
22 *during that fiscal year if this section, as in effect*
23 *on the day before the date of the enactment of*
24 *sections 202 and 203 of the Drug Free Borders*
25 *Act of 1998, had governed such costs; and*

1 “(B) the actual cost for overtime and pre-
 2 mium pay that is incurred during that fiscal
 3 year under this section, as amended by sections
 4 202 and 203 of the Drug Free Borders Act of
 5 1998.”.

6 **SEC. 205. EFFECTIVE DATE.**

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

10 **Subtitle B—MISCELLANEOUS**
 11 **PROVISIONS**

12 **SEC. 211. ROTATION OF DUTY STATIONS AND TEMPORARY**
 13 **DUTY ASSIGNMENTS OF OFFICERS OF THE**
 14 **UNITED STATES CUSTOMS SERVICE TO PRO-**
 15 **MOTE INTEGRITY.**

16 (a) *IN GENERAL.*—Section 5 of the Act of February
 17 13, 1911 (19 U.S.C. 267), as amended by this Act, is further
 18 amended—

19 (1) by redesignating subsection (f) as subsection
 20 (g); and

21 (2) by inserting after subsection (e) the following:

22 “(f) *ROTATION OF DUTY STATIONS AND TEMPORARY*
 23 *DUTY ASSIGNMENTS OF CUSTOMS OFFICERS.*—

24 “(1) *IN GENERAL.*—Notwithstanding any other
 25 provision of law, bargaining agreement, or Executive

1 *order, in order to ensure the integrity of the United*
2 *States Customs Service, the Secretary of the Treas-*
3 *ury—*

4 *“(A) may transfer up to 5 percent of the*
5 *customs officers employed as of the beginning of*
6 *each fiscal year to new duty stations in that fis-*
7 *cal year on a permanent basis; and*

8 *“(B) may transfer customs officers to tem-*
9 *porary duty assignments for not more than 90*
10 *days.*

11 *“(2) VOLUNTARY AND OTHER TRANSFERS.—A*
12 *transfer of a customs officer to a new duty station or*
13 *a temporary duty assignment under paragraph (1) is*
14 *in addition to any voluntary transfer or transfer for*
15 *other reasons.*

16 *“(3) RULE OF CONSTRUCTION.—The require-*
17 *ments of this subsection, including any regulations es-*
18 *tablished by the Secretary to carry out this sub-*
19 *section, are not subject to collective bargaining.*

20 *“(4) AVAILABILITY OF AMOUNTS.—Of the*
21 *amounts made available for fiscal year 2000 under*
22 *section 301(b)(1)(B) of the Customs Procedural Re-*
23 *form and Simplification Act of 1978 (19 U.S.C.*
24 *2075(b)(1)(B)), not more than \$25,000,000 for such*
25 *fiscal year shall be available to carry out this sub-*

1 “(A) *REQUIREMENT TO MEET.*—If the Com-
2 missioner of the Customs Service determines that
3 any collective bargaining agreement with the rec-
4 ognized bargaining representative of its employ-
5 ees has an adverse impact upon the interdiction
6 of contraband, including controlled substances,
7 the parties shall meet to eliminate the provision
8 causing the adverse impact from the agreement.

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

24 “(C) *RULE OF CONSTRUCTION.*—Nothing in
25 this paragraph shall be construed to limit the

1 *authority of the Commissioner of Customs to im-*
2 *plement immediately any proposed changes*
3 *without waiting 90 days, if exigent cir-*
4 *cumstances warrant such immediate implemen-*
5 *tation, or if an impasse is reached in less than*
6 *90 days.”.*