

105TH CONGRESS  
1ST SESSION

# S. 1512

To amend section 659 of title 18, United States Code.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 1997

Mr. LAUTENBERG (for himself, Mr. D'AMATO, Mr. MOYNIHAN, and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend section 659 of title 18, United States Code.

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 “Cargo Theft Deter-  
5 rence Act of 1997”.

6 **SEC. 2. INTERSTATE OR FOREIGN SHIPMENTS BY CARRIER.**

7       (a) IN GENERAL.—Section 659 of title 18, United  
8 States Code, is amended—

9           (1) by striking “with intent to convert to his  
10 own use” each place that term appears;

11           (2) in the first undesignated paragraph—

1 (A) by inserting “trailer,” after  
2 “motortruck,”;

3 (B) by inserting “air cargo container,”  
4 after “aircraft,”; and

5 (C) by inserting “, or from any intermodal  
6 container, trailer, container freight station,  
7 warehouse, or freight consolidation facility,”  
8 after “air navigation facility”;

9 (3) in the fifth undesignated paragraph—

10 (A) by striking “one year” and inserting  
11 “3 years”; and

12 (B) by adding at the end the following:  
13 “Notwithstanding the preceding sentence, the  
14 court may, upon motion of the Attorney Gen-  
15 eral, reduce any penalty imposed under this  
16 paragraph with respect to any defendant who  
17 provides information leading to the arrest and  
18 conviction of any dealer or wholesaler of stolen  
19 goods or chattels moving as or which are a part  
20 of or which constitute an interstate or foreign  
21 shipment.”;

22 (4) in the penultimate undesignated paragraph,  
23 by inserting after the first sentence the following:  
24 “For purposes of this section, goods and chattel  
25 shall be construed to be moving as an interstate or

1 foreign shipment at all points between the point of  
2 origin and the final destination (as evidenced by the  
3 waybill or other shipping document of the shipment),  
4 regardless of any temporary stop while awaiting  
5 transshipment or otherwise.”; and

6 (5) by adding at the end the following:

7 “It shall be an affirmative defense (on which the de-  
8 fendant bears the burden of persuasion by a preponder-  
9 ance of the evidence) to an offense under this section that  
10 the defendant bought, received, or possessed the goods,  
11 chattels, money, or baggage at issue with the sole intent  
12 to report the matter to an appropriate law enforcement  
13 officer or to the owner of the goods, chattels, money, or  
14 baggage.”.

15 (b) FEDERAL SENTENCING GUIDELINES.—Pursuant  
16 to section 994 of title 28, United States Code, the United  
17 States Sentencing Commission shall amend the Federal  
18 sentencing guidelines to provide a sentencing enhancement  
19 of not less than 2 levels for any offense under section 659  
20 of title 18, United States Code, as amended by this sec-  
21 tion.

22 (c) REPORT TO CONGRESS.—The Attorney General  
23 shall annually submit to Congress a report, which shall  
24 include an evaluation of law enforcement activities relating  
25 to the investigation and prosecution of offenses under sec-

1 tion 659 of title 18, United States Code, as amended by  
2 this section.

3 **SEC. 3. ADVISORY COMMITTEE ON CARGO THEFT.**

4 (a) ESTABLISHMENT.—

5 (1) IN GENERAL.—There is established a Com-  
6 mittee to be known as the Advisory Committee on  
7 Cargo Theft (in this section referred to as the  
8 “Committee”).

9 (2) MEMBERSHIP.—

10 (A) COMPOSITION.—The Committee shall  
11 be composed of 6 members, who shall be ap-  
12 pointed by the President, of whom—

13 (i) 1 shall be an officer or employee of  
14 the Department of Justice;

15 (ii) 1 shall be an officer or employee  
16 of the Department of Transportation;

17 (iii) 1 shall be an officer or employee  
18 of the Department of the Treasury; and

19 (iv) 3 shall be individuals from the  
20 private sector who are experts in cargo se-  
21 curity.

22 (B) DATE.—The appointments of the ini-  
23 tial members of the Committee shall be made  
24 not later than 30 days after the date of enact-  
25 ment of this Act.

1           (3) PERIOD OF APPOINTMENT; VACANCIES.—

2           Each member of the Committee shall be appointed  
3           for the life of the Committee. Any vacancy in the  
4           Committee shall not affect its powers, but shall be  
5           filled in the same manner as the original appoint-  
6           ment.

7           (4) INITIAL MEETING.—Not later than 15 days  
8           after the date on which all initial members of the  
9           Committee have been appointed, the Committee shall  
10          hold its first meeting.

11          (5) MEETINGS.—The Committee shall meet,  
12          not less frequently than quarterly, at the call of the  
13          Chairperson.

14          (6) QUORUM.—A majority of the members of  
15          the Committee shall constitute a quorum, but a less-  
16          er number of members may hold hearings.

17          (7) CHAIRPERSON.—The President shall select  
18          1 member of the Committee to serve as the Chair-  
19          person of the Committee.

20          (b) DUTIES.—

21                 (1) STUDY.—The Committee shall conduct a  
22                 thorough study of, and develop recommendations  
23                 with respect to, all matters relating to—

24                         (A) the establishment of a national com-  
25                         puter database for the collection and dissemina-

1           tion of information relating to violations of sec-  
2           tion 659 of title 18, United States Code (as  
3           added by this Act); and

4                   (B) the establishment of an office within  
5           the Federal Government to promote cargo secu-  
6           rity and to increase coordination between the  
7           Federal Government and the private sector with  
8           respect to cargo security.

9           (2) REPORT.—Not later than 1 year after the  
10          date of enactment of this Act, the Committee shall  
11          submit to the President and to Congress a report,  
12          which shall contain a detailed statement of results of  
13          the study and the recommendations of the Commit-  
14          tee under paragraph (1).

15          (c) POWERS.—

16                   (1) HEARINGS.—The Committee may hold such  
17          hearings, sit and act at such times and places, take  
18          such testimony, and receive such evidence as the  
19          Committee considers advisable to carry out the pur-  
20          poses of this section.

21                   (2) INFORMATION FROM FEDERAL AGENCIES.—  
22          The Committee may secure directly from any Fed-  
23          eral department or agency such information as the  
24          Committee considers necessary to carry out the pro-  
25          visions of this section. Upon request of the Chair-

1 person of the Committee, the head of such depart-  
2 ment or agency shall furnish such information to the  
3 Committee.

4 (3) POSTAL SERVICES.—The Committee may  
5 use the United States mails in the same manner and  
6 under the same conditions as other departments and  
7 agencies of the Federal Government.

8 (4) GIFTS.—The Committee may accept, use,  
9 and dispose of gifts or donations of services or prop-  
10 erty.

11 (d) PERSONNEL MATTERS.—

12 (1) COMPENSATION OF MEMBERS.—

13 (A) NON-FEDERAL MEMBERS.—Each  
14 member of the Committee who is not an officer  
15 or employee of the Federal Government shall be  
16 compensated at a rate equal to the daily equiva-  
17 lent of the annual rate of basic pay prescribed  
18 for level IV of the Executive Schedule under  
19 section 5315 of title 5, United States Code, for  
20 each day (including travel time) during which  
21 such member is engaged in the performance of  
22 the duties of the Committee.

23 (B) FEDERAL MEMBERS.—Each member  
24 of the Committee who is an officer or employee  
25 of the United States shall serve without com-

1           pensation in addition to that received for their  
2           service as an officer or employee of the United  
3           States.

4           (2) TRAVEL EXPENSES.—The members of the  
5           Committee shall be allowed travel expenses, includ-  
6           ing per diem in lieu of subsistence, at rates author-  
7           ized for employees of agencies under subchapter I of  
8           chapter 57 of title 5, United States Code, while  
9           away from their homes or regular places of business  
10          in the performance of services for the Committee.

11          (3) STAFF.—

12                 (A) IN GENERAL.—The Chairperson of the  
13                 Committee may, without regard to the civil  
14                 service laws and regulations, appoint and termi-  
15                 nate an executive director and such other addi-  
16                 tional personnel as may be necessary to enable  
17                 the Committee to perform its duties. The em-  
18                 ployment of an executive director shall be sub-  
19                 ject to confirmation by the Committee.

20                 (B) COMPENSATION.—The Chairperson of  
21                 the Committee may fix the compensation of the  
22                 executive director and other personnel without  
23                 regard to the provisions of chapter 51 and sub-  
24                 chapter III of chapter 53 of title 5, United  
25                 States Code, relating to classification of posi-

1           tions and General Schedule pay rates, except  
2           that the rate of pay for the executive director  
3           and other personnel may not exceed the rate  
4           payable for level V of the Executive Schedule  
5           under section 5316 of such title.

6           (4) DETAIL OF GOVERNMENT EMPLOYEES.—  
7           Any Federal Government employee may be detailed  
8           to the Committee without reimbursement, and such  
9           detail shall be without interruption or loss of civil  
10          service status or privilege.

11          (5) PROCUREMENT OF TEMPORARY AND INTER-  
12          MITTENT SERVICES.—The Chairperson of the Com-  
13          mittee may procure temporary and intermittent serv-  
14          ices under section 3109(b) of title 5, United States  
15          Code, at rates for individuals which do not exceed  
16          the daily equivalent of the annual rate of basic pay  
17          prescribed for level V of the Executive Schedule  
18          under section 5316 of such title.

19          (e) TERMINATION.—The Committee shall terminate  
20          90 days after the date on which the Committee submits  
21          the report under subsection (b)(2).

22          (f) AUTHORIZATION OF APPROPRIATIONS.—

23                 (1) IN GENERAL.—There are authorized to be  
24                 appropriated such sums as may be necessary to the  
25                 Committee to carry out the purposes of this section.

1           (2) AVAILABILITY.—Any sums appropriated  
2           under the authorization contained in this section  
3           shall remain available, without fiscal year limitation,  
4           until expended.

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