

107TH CONGRESS  
1ST SESSION

# H. R. 3437

To amend the Merchant Marine Act, 1936 to establish a program to ensure greater security for United States seaports, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2001

Mr. SHAW (for himself, Mr. CARDIN, Mr. PALLONE, Mr. DEUTSCH, Ms. ROSLEHTINEN, Mr. GOODE, Mr. FILNER, Mr. EHLERS, Mr. GRUCCI, Mr. HASTINGS of Florida, Mr. SOUDER, Mr. CALVERT, Mr. DAVIS of Florida, Mr. WELDON of Florida, Mr. GREEN of Wisconsin, and Mr. BROWN of South Carolina) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Judiciary, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Merchant Marine Act, 1936 to establish a program to ensure greater security for United States seaports, 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 “Port and Maritime  
5 Security Act of 2001”.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) There are 361 public seaports in the United  
4 States which have a broad range of characteristics,  
5 and all of which are an integral part of our Nation's  
6 commerce.

7 (2) United States seaports conduct over 95 per-  
8 cent of United States overseas trade. Over the next  
9 20 years, the total volume of imported and exported  
10 goods at seaports is expected to more than double.

11 (3) The variety of trade and commerce that are  
12 carried out at seaports has greatly expanded. Bulk  
13 cargo, containerized cargo, passenger transport and  
14 tourism, intermodal transportation systems, and  
15 complex domestic and international trade relation-  
16 ships have significantly changed the nature, conduct,  
17 and complexity of seaport commerce.

18 (4) The top 50 seaports in the United States  
19 account for about 90 percent of all the cargo ton-  
20 nage. Twenty-five United States seaports account  
21 for 98 percent of all container shipments. Cruise  
22 ships visiting foreign destinations embark from 16  
23 seaports.

24 (5) In the larger seaports, the activities can  
25 stretch along a coast for many miles, including pub-  
26 lic roads within their geographic boundaries. The fa-

1 facilities used to support arriving and departing cargo  
2 are sometimes miles from the coast.

3 (6) Seaports often are a major locus of Federal  
4 crime, including drug trafficking, cargo theft, and  
5 smuggling of contraband and aliens. The criminal  
6 conspiracies often associated with these crimes can  
7 pose threats to the people and critical infrastruc-  
8 tures of seaport cities. Seaports that accept inter-  
9 national cargo have a higher risk of international  
10 crimes like drug and alien smuggling and trade  
11 fraud.

12 (7) Seaports are often very open and exposed  
13 and, by the very nature of their role in promoting  
14 the free flow of commerce, are susceptible to large  
15 scale terrorism that could pose a threat to coastal,  
16 Great Lake, or riverain populations. Seaport ter-  
17 rorism could pose a significant threat to the ability  
18 of the United States to pursue its national security  
19 objectives.

20 (8) United States seaports are international  
21 boundaries, however, unlike United States airports  
22 and land borders, United States seaports receive no  
23 Federal funds for security infrastructure.

24 (9) Current inspection levels of containerized  
25 cargo are insufficient to counter potential security

1 risks. Technology is currently not adequately de-  
2 ployed to allow for the non-intrusive inspection of  
3 containerized cargo. Additional promising technology  
4 is in the process of being developed that could in-  
5 spect cargo in a non-intrusive and efficient fashion.

6 (10) The burgeoning cruise ship industry poses  
7 a special risk from a security perspective. The large  
8 number of United States citizens sailing on cruises  
9 provides an attractive target to terrorists seeking to  
10 cause mass casualties. Approximately 80 percent of  
11 cruise line passengers are United States citizens and  
12 20 percent are aliens. Approximately 92 percent of  
13 crewmembers are aliens.

14 (11) Effective physical security and access con-  
15 trol in seaports is fundamental to deterring and pre-  
16 venting potential threats to seaport operations, and  
17 cargo shipments.

18 (12) Securing entry points, open storage areas,  
19 and warehouses throughout the seaport, controlling  
20 the movements of trucks transporting cargo through  
21 the seaport, and examining or inspecting containers,  
22 warehouses, and ships at berth or in the harbor are  
23 all important requirements that should be imple-  
24 mented.

1           (13) Identification procedures for arriving  
2 workers are important tools to deter and prevent  
3 seaport cargo crimes, smuggling, and terrorist ac-  
4 tions.

5           (14) On April 27, 1999, the President estab-  
6 lished the Interagency Commission on Crime and  
7 Security in United States Seaports to undertake a  
8 comprehensive study of the nature and extent of the  
9 problem of crime in our seaports, as well as the ways  
10 in which governments at all levels are responding.

11           (15) The Commission has issued findings that  
12 indicate the following:

13           (A) Frequent crimes in seaports include  
14 drug smuggling, illegal car exports, fraud (in-  
15 cluding Intellectual Property Rights and other  
16 trade violations), and cargo theft.

17           (B) Data about crime in seaports has been  
18 very difficult to collect.

19           (C) Internal conspiracies are an issue at  
20 many seaports, and contribute to Federal  
21 crime.

22           (D) Intelligence and information sharing  
23 among law enforcement agencies needs to be  
24 improved and coordinated at many seaports.

1           (E) Many seaports do not have any idea  
2 about the threats they face from crime, ter-  
3 rorism, and other security-related activities be-  
4 cause of a lack of credible threat information.

5           (F) A lack of minimum physical, proce-  
6 dural, and personnel security standards at sea-  
7 ports and at terminals, warehouses, trucking  
8 firms, and related facilities leaves many sea-  
9 ports and seaport users vulnerable to theft, pil-  
10 ferage, and unauthorized access by criminals.

11          (G) Access to seaports and operations  
12 within seaports is often uncontrolled.

13          (H) Coordination and cooperation between  
14 law enforcement agencies in the field is often  
15 fragmented.

16          (I) Meetings between law enforcement per-  
17 sonnel, carriers, marine terminal operators, and  
18 seaport authorities regarding security are not  
19 being held routinely in the seaports. These  
20 meetings could increase coordination and co-  
21 operation at the local level.

22          (J) Security-related equipment such as  
23 small boats, cameras, and vessel tracking de-  
24 vices is lacking at many seaports.

1           (K) Detection equipment such as large-  
2 scale x-ray machines is lacking at many high-  
3 risk seaports.

4           (L) A lack of timely, accurate, and com-  
5 plete manifest (including in-bond) and trade  
6 (entry, importer, etc.) data negatively impacts  
7 law enforcement’s ability to function effectively.

8           (M) Criminal organizations are exploiting  
9 weak security in seaports and related inter-  
10 modal connections to commit a wide range of  
11 cargo crimes. Levels of containerized cargo vol-  
12 umes are forecasted to increase significantly,  
13 which will create more opportunities for crime  
14 while lowering the statistical risk of detection  
15 and interdiction.

16           (16) United States seaports are international  
17 boundaries that—

18           (A) are particularly vulnerable to threats  
19 of drug smuggling, illegal alien smuggling,  
20 cargo theft, illegal entry of cargo and contra-  
21 band;

22           (B) may present weaknesses in the ability  
23 of the United States to realize its national secu-  
24 rity objectives; and

1           (C) may serve as a vector or target for ter-  
2           rorist attacks aimed at the population of the  
3           United States.

4           (17) It is in the best interests of the United  
5           States—

6           (A) to be mindful that United States sea-  
7           ports are international ports of entry and that  
8           the primary obligation for the security of inter-  
9           national ports of entry lies with the Federal  
10          government;

11          (B) to be mindful of the need for the free  
12          flow of interstate and foreign commerce and the  
13          need to ensure the efficient movement of cargo  
14          in interstate and foreign commerce and the  
15          need for increased efficiencies to address trade  
16          gains;

17          (C) to increase United States seaport secu-  
18          rity by establishing a better method of commu-  
19          nication amongst law enforcement officials re-  
20          sponsible for seaport boundary, security, and  
21          trade issues;

22          (D) to formulate guidance for the review of  
23          physical seaport security, recognizing the dif-  
24          ferent character and nature of United States  
25          seaports;

1 (E) to provide financial incentives to help  
2 the States and private sector to increase phys-  
3 ical security of United States seaports;

4 (F) to invest in long-term technology to fa-  
5 cilitate the private sector development of tech-  
6 nology that will assist in the non-intrusive time-  
7 ly detection of crime or potential crime;

8 (G) to harmonize data collection on sea-  
9 port-related and other cargo theft, in order to  
10 address areas of potential threat to safety and  
11 security;

12 (H) to create shared inspection facilities to  
13 help facilitate the timely and efficient inspection  
14 of people and cargo in United States seaports;  
15 and

16 (I) to improve Customs reporting proce-  
17 dures to enhance the potential detection of  
18 crime in advance of arrival or departure of car-  
19 goes.

20 **SEC. 3. PORT SECURITY TASK FORCE.**

21 (a) ESTABLISHMENT.—The Secretary shall establish  
22 a Port Security Task Force—

23 (1) to help implement the provisions of this Act;

24 (2) to help coordinate programs to enhance the  
25 security and safety of United States seaports;

1           (3) to help provide long-term solutions for sea-  
2 port security issues;

3           (4) to help coordinate the security operations of  
4 local seaport security committees;

5           (5) to help ensure that the public and local sea-  
6 port security committees are kept informed about  
7 seaport security enhancement developments;

8           (6) to help provide guidance for the conditions  
9 under which loan guarantees and grants are made;  
10 and

11           (7) to consult with the Coast Guard and the  
12 Maritime Administration in establishing port secu-  
13 rity program guidance.

14 (b) MEMBERSHIP.—

15           (1) IN GENERAL.—The Task Force shall in-  
16 clude representatives of the Coast Guard and the  
17 Maritime Administration.

18           (2) OTHER AGENCIES.—The Secretary shall  
19 consult with the Secretary of the Treasury to invite  
20 the participation of the United States Customs Serv-  
21 ice, and may invite the participation of other depart-  
22 ments and agencies of the United States with an in-  
23 terest in port security, port security-related matters,  
24 and border protection issues.

1           (3) REQUIRED PRIVATE SECTOR REPRESENTA-  
2           TIVES.—The Task Force shall include representa-  
3           tives, appointed by the Secretary of—

4                   (A) port authorities;

5                   (B) management organizations;

6                   (C) longshore labor organizations;

7                   (D) ocean carriers;

8                   (E) marine terminal operators;

9                   (F) trucking companies;

10                  (G) railroad companies;

11                  (H) transportation labor organizations;

12                  (I) transportation workers;

13                  (J) ocean shippers;

14                  (K) freight forwarding companies; and

15                  (L) other representatives whose participa-  
16                  tion the Secretary deems beneficial.

17           (4) REPRESENTATIVE OF FLORIDA PORTS.—

18           The Task Force shall include the Chair of the Flor-  
19           ida Seaport Transportation and Economic Develop-  
20           ment Council.

21           (c) SUBCOMMITTEES.—The Task Force may estab-  
22           lish subcommittees to facilitate consideration of specific  
23           issues, including port security border protection and mari-  
24           time domain awareness issues.

1           (d) LAW ENFORCEMENT SUBCOMMITTEE.—The  
2 Task Force shall establish a subcommittee comprised of  
3 Federal, State, and local government law enforcement  
4 agencies to address port security issues, including resource  
5 commitments and law enforcement sensitive matters.

6           (e) EXEMPTION FROM FACA.—The Federal Advi-  
7 sory Committee Act (5 U.S.C. App.) does not apply to the  
8 Task Force.

9           (f) ACCEPTANCE OF CONTRIBUTIONS; JOINT VEN-  
10 TURE ARRANGEMENTS.—In carrying out its responsibil-  
11 ities under this Act, the Task Force, or a member organi-  
12 zation or representative acting with the Task Force's con-  
13 sent, may accept contributions of funds, material, services,  
14 and the use of personnel and facilities from public and  
15 private entities by contract or other arrangement if the  
16 confidentiality of security-sensitive information is main-  
17 tained and access to such information is limited appro-  
18 priately.

19           (g) FUNDING.—Of the amounts made available under  
20 section 17(b) there shall be made available to the Sec-  
21 retary of Transportation for activities of the Task Force  
22 \$1,000,000 for each of fiscal years 2003 through 2006  
23 without further appropriation.

1 **SEC. 4. ESTABLISHMENT OF LOCAL PORT SECURITY COM-**  
2 **MITTEES.**

3 (a) ESTABLISHMENT.—The Coast Guard shall estab-  
4 lish local seaport security committees—

5 (1) to utilize the information made available  
6 under this Act;

7 (2) to define the physical boundaries within  
8 which to conduct vulnerability assessments in rec-  
9 ognition of the unique characteristics of each port;

10 (3) to review port security vulnerability assess-  
11 ments promulgated under section 5;

12 (4) to implement the guidance promulgated  
13 under section 7;

14 (5) to help coordinate planning and other nec-  
15 essary security activities by conducting meetings no  
16 less frequently than 4 times each year, to dissemi-  
17 nate information that will facilitate law enforcement  
18 activities;

19 (6) to conduct an exercise at least once every  
20 3 years to verify the effectiveness of each port au-  
21 thority and marine terminal security plan; and

22 (7) to make recommendations and advise on se-  
23 curity infrastructure needs.

24 (b) MEMBERSHIP.—In establishing those committees,  
25 the Coast Guard may utilize or augment any existing har-  
26 bor safety committee or seaport readiness committee, but

1 the membership of the seaport security committee shall  
2 include local or regional representatives of—

3 (1) the port authority;

4 (2) Federal, State and local government;

5 (3) Federal, State, and local government law  
6 enforcement agencies;

7 (4) longshore and transportation labor organi-  
8 zations;

9 (5) transportation workers;

10 (6) management organizations; and

11 (7) private sector interests whose inclusion is  
12 deemed beneficial by the Captain-of-the-Port.

13 (c) CHAIRMAN.—The local seaport security com-  
14 mittee shall be chaired by the Captain-of-the-Port.

15 (d) EXEMPTION FROM FACA.—The Federal Advi-  
16 sory Committee Act (5 U.S.C. App.) does not apply to a  
17 local seaport security committee.

18 (e) ACCEPTANCE OF CONTRIBUTIONS; JOINT VEN-  
19 TURE ARRANGEMENTS.—In carrying out its responsibil-  
20 ities under this Act, a local seaport security committee,  
21 or a member organization or representative acting with  
22 the committee's consent, may accept contributions of  
23 funds, material, services, and the use of personnel and fa-  
24 cilities from public and private entities by contract or  
25 other arrangement if the confidentiality of security-sen-

1 sitive information is maintained and access to such infor-  
2 mation is limited appropriately.

3 (f) FUNDING.—Of the amounts made available under  
4 section 17(b) there shall be made available to the Com-  
5 mandant \$3,000,000 for each of fiscal years 2003 through  
6 2006 without further appropriation to carry out this sec-  
7 tion, such sums to remain available until expended.

8 **SEC. 5. COAST GUARD PORT SECURITY VULNERABILITY AS-**  
9 **SESSMENTS.**

10 (a) IN GENERAL.—The Commandant of the Coast  
11 Guard, in consultation with the Defense Threat Reduction  
12 Agency, the Center for Civil Force Protection, and other  
13 appropriate public and private sector organizations, shall  
14 develop standards and procedures for conducting seaport  
15 security vulnerability assessments. The Port Security  
16 Task Force shall review standards and procedures for con-  
17 ducting seaport security vulnerability assessments in order  
18 to provide comments and recommendations to the Com-  
19 mandant of the Coast Guard for consideration.

20 (b) SEAPORT SECURITY VULNERABILITY ASSESS-  
21 MENTS.—

22 (1) IN GENERAL.—Except as provided in para-  
23 graph (2), the Coast Guard, in cooperation with  
24 local port security committee officials with proper se-  
25 curity clearances, shall complete no fewer than 10

1 seaport security vulnerability assessments annually,  
2 until it has completed such assessments for the 50  
3 ports determined by the Commandant to be the most  
4 strategic or economically strategic ports in the  
5 United States.

6 (2) ACCEPTANCE OF PRIOR ASSESSMENTS.—(A)  
7 If a seaport security vulnerability assessment has  
8 been conducted within 5 years by or on behalf of a  
9 port authority or marine terminal operator, and the  
10 Commandant determines that it was conducted in a  
11 manner that is generally consistent with the stand-  
12 ards and procedures developed under subsection (a),  
13 the Commandant may accept that assessment rather  
14 than conducting another seaport security vulner-  
15 ability assessment for that port.

16 (B) If a seaport security vulnerability assess-  
17 ment has been conducted for a port authority within  
18 5 years by the Interagency Committee on Seaport  
19 Security and the State in which the port is located,  
20 the Commandant shall accept that assessment in  
21 lieu of conducting another seaport security vulner-  
22 ability assessment for that port under this section.

23 (c) REVIEW BY PORT AUTHORITY.—The Com-  
24 mandant shall make the seaport security vulnerability as-  
25 sessment for a seaport available for review and comment

1 by members of the local port security committee with  
2 proper security clearances, marine terminal operator rep-  
3 resentatives with proper security clearances, and rep-  
4 resentatives of other entities with proper security clear-  
5 ances determined by the local port security committee to  
6 be connected or affiliated with marine commerce.

7 (d) MAPS AND CHARTS.—

8 (1) COLLECTION AND DISTRIBUTION.—The  
9 Commandant and the Administrator, working  
10 through local seaport security committees where ap-  
11 propriate, shall—

12 (A) collect, store securely, and maintain  
13 maps and charts of all United States seaports  
14 that clearly indicate the location of infrastruc-  
15 ture and overt-security equipment;

16 (B) make those maps and charts available  
17 upon request, on a secure and confidential  
18 basis, to—

19 (i) the Maritime Administration;

20 (ii) the Coast Guard;

21 (iii) the United States Customs Serv-  
22 ice;

23 (iv) the Department of Defense;

24 (v) the Federal Bureau of Investiga-  
25 tion; and

1 (vi) the Immigration and Naturaliza-  
2 tion Service.

3 (2) OTHER AGENCIES.—The Coast Guard and  
4 the Maritime Administration shall establish a proc-  
5 ess for providing relevant maps and charts collected  
6 under paragraph (1), and other relevant material,  
7 available, on a secure and confidential basis, to ap-  
8 propriate Federal, State, and local government agen-  
9 cies, and seaport authorities, for the purpose of ob-  
10 taining the comments of those agencies before com-  
11 pleting a seaport vulnerability assessment for each  
12 such seaport.

13 (3) SECURE STORAGE AND LIMITED ACCESS.—  
14 The Coast Guard and the Maritime Administration  
15 shall establish procedures that ensure that maps,  
16 charts, and other material made available to Fed-  
17 eral, State, and local government agencies, seaport  
18 authorities, and local seaport security committees  
19 are maintained in a secure and confidential manner  
20 and that access thereto is limited appropriately.

21 (e) ANNUAL STATUS REPORT TO CONGRESS.—Not-  
22 withstanding section 7(c) of the Ports and Waterways  
23 Safety Act (33 U.S.C. 1226(c)), the Coast Guard and the  
24 Maritime Administration shall report annually to the Sen-  
25 ate Committee on Commerce, Science, and Transportation

1 and the House of Representatives Committee on Trans-  
2 portation and Infrastructure on the status of seaport secu-  
3 rity in a form that does not compromise, or present a  
4 threat to the disclosure of security-sensitive information  
5 about, the seaport security vulnerability assessments con-  
6 ducted under this Act. The report may include rec-  
7 ommendations for further improvements in seaport secu-  
8 rity measures and for any additional enforcement meas-  
9 ures necessary to ensure compliance with the seaport secu-  
10 rity plan requirements of this Act.

11 (f) FUNDING.—Of the amounts made available under  
12 section 17(b) there shall be made available to the Com-  
13 mandant \$10,000,000 for each of fiscal years 2003  
14 through 2006 without further appropriation to carry out  
15 this section, such sums to remain available until expended.

16 **SEC. 6. MARITIME TRANSPORTATION SECURITY PRO-**  
17 **GRAMS.**

18 (a) IN GENERAL.—The Commandant and the Ad-  
19 ministrator shall jointly initiate a rulemaking proceeding  
20 to prescribe regulations to protect the public from threats  
21 of crime or terrorism from or to vessels in maritime trans-  
22 portation originating or terminating in a United States  
23 seaport as well as threats of crime or terrorism to mari-  
24 time or intermodal infrastructure directly associated with  
25 coastal, intercoastal, and inland marine terminals. In pre-

1 scribing a regulation under this subsection, the Com-  
2 mandant and the Administrator shall—

3           (1) consult with the Secretary of the Treasury,  
4           the Attorney General, the heads of other depart-  
5           ments, agencies, and instrumentalities of the United  
6           States Government, State and local authorities, and  
7           the Task Force; and

8           (2) consider whether a proposed regulation is  
9           consistent with—

10                   (A) protecting the public; and

11                   (B) the public interest in promoting mari-  
12           time and intermodal transportation and com-  
13           merce.

14           (b) SECURITY PROGRAMS.—

15                   (1) PROGRAM TO BE ESTABLISHED.—Each port  
16           authority and marine terminal operator, or other en-  
17           tity determined by the local port security Committee  
18           to be connected or affiliated with maritime com-  
19           merce for an area designated under section 4(a)(2)  
20           at which a port security vulnerability assessment has  
21           been conducted under this Act shall establish a mar-  
22           itime transportation security program within 1 year  
23           after the assessment is completed.

24                   (2) GENERAL REQUIREMENTS.—A security pro-  
25           gram established under paragraph (1) shall provide

1 a security program and capability at that seaport  
2 that is adequate to ensure the safety of the public  
3 from threats of crime and terrorism.

4 (3) SPECIFIC REQUIREMENTS.—A security pro-  
5 gram established under paragraph (1) shall be  
6 linked to the Captain-of-the-Port authorities for  
7 maritime trade and shall include—

8 (A) provisions for establishing and main-  
9 taining physical security for seaport areas and  
10 approaches;

11 (B) provisions for establishing and main-  
12 taining procedural security for processing pas-  
13 sengers, cargo, and crewmembers;

14 (C) a credentialing process for the purpose  
15 of limiting access to coastal, intercoastal and  
16 inland marine terminals, designed to ensure  
17 that individuals and service providers have  
18 properly gained admittance;

19 (D) provisions for the personal security of  
20 individuals within the port;

21 (E) a process to restrict vehicular access to  
22 seaport areas and facilities, ensuring that  
23 credentialed persons have efficient and safe pro-  
24 cedures for gaining admittance to seaport areas  
25 and related facilities;

1 (F) restrictions on carrying firearms and  
2 other prohibited weapons;

3 (G) provisions for the use of qualified  
4 State and local law enforcement personnel, port  
5 authority law enforcement and security per-  
6 sonnel, and private sector security personnel;  
7 and

8 (H) provision for offering a certification  
9 program for State and local law enforcement  
10 personnel, port authority law enforcement and  
11 security personnel, and private sector security  
12 personnel.

13 (c) INCORPORATION OF MARINE TERMINAL OPERA-  
14 TOR'S PROGRAM.—Notwithstanding the requirements of  
15 subsection (b)(3), the Captain-of-the-Port may approve a  
16 security program of a port authority, or an amendment  
17 to an existing program, that incorporates a security pro-  
18 gram of a marine terminal operator tenant with access to  
19 a secured area of the seaport, if the program or amend-  
20 ment incorporates—

21 (1) the measures the tenant will use, within the  
22 tenant's leased areas or areas designated for the ten-  
23 ant's exclusive use under an agreement with the port  
24 authority, to carry out the security requirements im-

1 posed by the Commandant and the Administration  
2 on the port authority; and

3 (2) the methods the port authority will use to  
4 monitor and audit the tenant's compliance with the  
5 security requirements.

6 (d) INCORPORATION OF OTHER SECURITY PRO-  
7 GRAMS AND LAWS.—Notwithstanding the requirements of  
8 subsection (b)(3), the Captain-of-the-Port may approve a  
9 security program of a port authority, or an existing pro-  
10 gram, that incorporates a Federal, State, or local security  
11 program, policy, or law. In reviewing any such program,  
12 the Captain-of-the-Port shall—

13 (1) endeavor to avoid duplication and to recog-  
14 nize the Federal, State, or local security program or  
15 policy; and

16 (2) ensure that no security program established  
17 under subsection (b)(3) conflicts with any applicable  
18 provision of Federal, State, or local law.

19 (e) REVIEW AND APPROVAL OF SECURITY PRO-  
20 GRAMS.—

21 (1) IN GENERAL.—The Captain-of-the-Port  
22 shall review and approve or disapprove each security  
23 program established under subsection (b). If the  
24 Captain-of-the-Port disapproves a security program,  
25 then—

1 (A) the Captain-of-the-Port shall, without  
2 compromising national security, notify the port  
3 authority or marine terminal operator, or other  
4 entity determined by the local seaport security  
5 committee to be connected or affiliated with  
6 maritime commerce in writing of the reasons  
7 for the disapproval; and

8 (B) the port authority or marine terminal  
9 operator, or other entity determined by the local  
10 seaport security committee to be connected or  
11 affiliated with maritime commerce shall submit  
12 a revised security plan within 6 months after  
13 receiving the notification of disapproval.

14 (2) TREATMENT OF EXISTING SECURITY  
15 PLANS.—A security program established before the  
16 date of the enactment of this Act shall be treated as  
17 a maritime transportation security program estab-  
18 lished under this section and shall be approved by  
19 the Captain-of-the-Port under this subsection, if the  
20 program incorporates a State security program, pol-  
21 icy, or law and includes—

22 (A) provisions for establishing and main-  
23 taining physical security for seaport areas and  
24 approaches;

1 (B) provisions for establishing and main-  
2 taining procedural security for processing pas-  
3 sengers, cargo, and crewmembers, and per-  
4 sonnel security for the employment of individ-  
5 uals and service providers;

6 (C) a credentialing process to limit access  
7 to sensitive areas;

8 (D) a process to restrict vehicular access  
9 to seaport areas and facilities;

10 (E) restrictions on carrying firearms and  
11 other prohibited weapons; and

12 (F) a private security officer certification  
13 program, or provisions for using the services of  
14 qualified State, Local, and private law enforce-  
15 ment personnel.

16 (f) 5-YEAR REVIEWS.—Whenever appropriate, but in  
17 no event less frequently than once every 5 years, each port  
18 authority or marine terminal operator required to develop  
19 a security program under this section shall review its pro-  
20 gram, make such revisions to the program as are nec-  
21 essary or appropriate, and submit the results of its review  
22 and the revised program to the Captain-of-the-Port.

23 (g) USE OF IAFIS FOR BACKGROUND CHECKS.—

24 (1) IN GENERAL.—The Commandant shall ini-  
25 tiate a rulemaking within 90 days after the date of

1 enactment of this Act to establish a program under  
2 which a port authority or marine terminal operator  
3 may use an automated fingerprint identification sys-  
4 tem for employees first hired after the program is  
5 implemented who may have access to ocean mani-  
6 fests in the scope of their employment.

7 (2) USE OF IAFIS.—Notwithstanding any provi-  
8 sion of law to the contrary, the Commandant is au-  
9 thorized to access the Federal Bureau of Investiga-  
10 tion’s Integrated Automated Fingerprint Identifica-  
11 tion System for the purpose of carrying out the re-  
12 quirements of this Act.

13 (3) PRIVACY AND PROCEDURAL SAFEGUARDS.—  
14 The program established by the Commandant under  
15 paragraph (1) shall include provisions for protecting  
16 the privacy of individuals whose fingerprints are ex-  
17 amined, and incorporate the following principles:

18 (A) Notice of the criteria to be used under  
19 the program shall be published and publicly  
20 available.

21 (B) A felony conviction for any of the fol-  
22 lowing offenses constitutes grounds for disquali-  
23 fication of an individual to whom the program  
24 applies from employment in a position in which  
25 the individual would have access to ocean mani-

1            fects in the scope of that individual's employ-  
2            ment:

3                   (i) Murder.

4                   (ii) Espionage.

5                   (iii) Treason.

6                   (iv) The unlawful sale or distribution  
7                   of an explosive or weapon.

8                   (v) The unlawful importation, manu-  
9                   facture, or distribution or intention to dis-  
10                  tribute controlled substances.

11                  (vi) Theft.

12                  (vii) Kidnapping.

13                  (viii) Smuggling, including the smug-  
14                  gling of alien individuals.

15                  (ix) Bribery.

16                  (x) Rape.

17                  (xi) Assault.

18                  (xii) Conspiracy to commit any of-  
19                  fense described in clause (i) through (xi).

20                  (C) Any conviction more than 10 years be-  
21                  fore the date of application for employment  
22                  shall be ignored.

23                  (D) Before an adverse determination is  
24                  made about the employment of an individual

1           because of the principle described in subpara-  
2           graph (B)—

3                   (i) consideration will be given to Fed-  
4                   eral and State mitigation remedies, parole,  
5                   probation, pardon, and expungement pro-  
6                   cedures;

7                   (ii) an inquiry will be made into the  
8                   circumstances of the act or offense, the  
9                   time elapsed since the act or offense was  
10                  committed, any social or private restitution  
11                  made by the individual who committed the  
12                  act or offense, and any other mitigating  
13                  circumstances; and

14                  (iii) consideration shall be given to  
15                  any other factors from which it may rea-  
16                  sonably be concluded that the individual is  
17                  unlikely to engage in criminal activity.

18           (E) An individual who is denied employ-  
19           ment because of information obtained through  
20           the program will be given notice and an oppor-  
21           tunity to appeal to the Administrator of the  
22           Maritime Administration or the Administrator's  
23           designee.

24           (F) Any information, other than informa-  
25           tion on felony convictions described in subpara-

1 graph (B), shall be kept confidential by the in-  
2 vestigating authority and may be used only for  
3 security purposes.

4 (4) REIMBURSEMENT.—The Commandant may  
5 require reimbursement from port authorities and  
6 marine terminal operators for use of the Integrated  
7 Automated Fingerprint Identification System.

8 (h) NO EROSION OF OTHER AUTHORITY.—Nothing  
9 in this section precludes any agency, instrumentality, or  
10 department of the United States from exercising, or limits  
11 its authority to exercise, any other statutory or regulatory  
12 authority to initiate or enforce seaport security standards.

13 **SEC. 7. SECURITY PROGRAM GUIDANCE.**

14 (a) IN GENERAL.—The Commandant and the Ad-  
15 ministrator, in consultation with the Task Force, shall de-  
16 velop voluntary security guidance that will serve as a  
17 benchmark for the review of security plans that—

18 (1) are linked to the Captain-of-the-Port au-  
19 thorities for maritime trade;

20 (2) include a set of recommended “best prac-  
21 tices” guidelines for the use of maritime terminal  
22 operators; and

23 (3) take into account the different nature and  
24 characteristics of United States seaports and the  
25 need to promote commerce.

1 (b) REVISION.—The Commandant and the Maritime  
2 Administrator in consultation with the Task Force shall  
3 review the guidelines developed under subsection (a) not  
4 less frequently than every 5 years and revise them as nec-  
5 essary.

6 (c) AREAS COVERED.—The guidance developed under  
7 subsection (a) shall include the following areas:

8 (1) GENERAL SECURITY.—The establishment of  
9 practices for physical security of seaport areas and  
10 approaches, procedural security for processing pas-  
11 sengers, cargo, crewmembers, and other individuals  
12 seeking access to port facilities, and personnel secu-  
13 rity for individual employees and service providers.

14 (2) ACCESS TO SEAPORT AREAS AND FACILI-  
15 TIES.—The use of a credentials process, adminis-  
16 tered by public or private sector security services,  
17 designed to ensure that individuals and service pro-  
18 viders have properly gained admittance to seaport  
19 areas and facilities.

20 (3) VEHICULAR ACCESS.—The use of restric-  
21 tions on vehicular access to seaport areas and facili-  
22 ties, including requirements that seaport authorities  
23 and primary users of seaports implement procedures  
24 that achieve appropriate levels of control of vehicular  
25 access and accountability for enforcement of con-

1 trolled access by vehicles, ensuring that credentialed  
2 persons have efficient and safe procedures for gain-  
3 ing admittance to seaport areas and related facili-  
4 ties.

5 (4) FIREARMS.—Restrictions on carrying fire-  
6 arms, and other prohibited weapons.

7 (5) CERTIFICATION OF SECURITY OFFICERS.—  
8 A security officer certification program to improve  
9 the professionalism of State and local law enforce-  
10 ment personnel, port authority law enforcement and  
11 security personnel, and private sector security per-  
12 sonnel.

13 **SEC. 8. INTERNATIONAL SEAPORT SECURITY.**

14 (a) COAST GUARD; INTERNATIONAL APPLICATION.—  
15 The Commandant shall make every effort to have the  
16 guidance developed under section 7(a) adopted by appro-  
17 priate international organizations as an international  
18 standard and shall, acting through appropriate officers of  
19 the United States Government, seek to encourage the de-  
20 velopment and adoption of seaport security standards  
21 under international agreements in other countries where  
22 adoption of the same or similar standards might be appro-  
23 priate.

24 (b) MARITIME ADMINISTRATION; PORT ACCREDITA-  
25 TION PROGRAM.—The Administrator shall make every ef-

1 fort to have the guidance developed under section 7(a)  
2 adopted by appropriate organizations as security stand-  
3 ards and shall encourage the establishment of a program  
4 for the private sector accreditation of seaports that imple-  
5 ment security standards that are consistent with the guid-  
6 ance.

7 (c) INTERNATIONAL PORT SECURITY IMPROVEMENT  
8 ACTIVITIES.—

9 (1) IN GENERAL.—The Administrator shall es-  
10 tablish a program to assist foreign seaport operators  
11 in identifying port security risks, conducting port se-  
12 curity vulnerability assessments, and implementing  
13 port security standards.

14 (2) IDENTIFICATION OF STRATEGIC FOREIGN  
15 PORTS.—The Administrator shall work with the Sec-  
16 retary of Defense and the Attorney General to iden-  
17 tify those foreign seaports where inadequate security  
18 or a high level of port security vulnerability poses a  
19 strategic threat to United States defense interests or  
20 may be implicated in criminal activity in the United  
21 States.

22 (3) DISSEMINATION OF INFORMATION  
23 ABROAD.—The Administrator shall work with the  
24 Secretary of State to facilitate the dissemination of  
25 seaport security program information to port au-

1       thorities and marine terminal operators in other  
2       countries.

3       (d) FUNDING.—Of the amounts made available under  
4       section 17(b) there shall be made available to the Adminis-  
5       trator \$500,000 for each of fiscal years 2003 through  
6       2006 without further appropriation to carry out this sec-  
7       tion, such sums to remain available until expended.

8       **SEC. 9. MARITIME SECURITY PROFESSIONAL TRAINING.**

9       (a) IN GENERAL.—The Secretary shall establish a  
10      program, in consultation with the Federal Law Enforce-  
11      ment Training Center, the United States Merchant Ma-  
12      rine Academy’s Global Maritime and Transportation  
13      School, and the Maritime Security Council, the Inter-  
14      national Association of Airport and Seaport Police, and  
15      the American Association of Port Authorities, to develop  
16      standards and procedures for training and certification of  
17      maritime security professionals.

18      (b) ESTABLISHMENT OF SECURITY INSTITUTE.—The  
19      Secretary shall establish the Maritime Security Institute  
20      at the United States Merchant Marine Academy’s Global  
21      Maritime and Transportation School to train and certify  
22      maritime security professionals in accordance with inter-  
23      nationally recognized law enforcement standards. Institute  
24      instructors shall be knowledgeable about Federal and

1 international law enforcement, maritime security, and port  
2 and maritime operations.

3 (c) TRAINING AND CERTIFICATION.—The following  
4 individuals shall be eligible for training at the Institute:

5 (1) Maritime security professionals.

6 (2) Individuals who are employed, whether in  
7 the public or private sector, in maritime law enforce-  
8 ment or security activities.

9 (3) Individuals who are employed, whether in  
10 the public or private sector, in planning, executing,  
11 or managing security operations—

12 (A) at United States ports;

13 (B) on passenger or cargo vessels with  
14 United States citizens as passengers or crew-  
15 members;

16 (C) in foreign ports used by United States-  
17 flagged vessels or by foreign-flagged vessels  
18 with United States citizens as passengers or  
19 crewmembers.

20 (d) PROGRAM ELEMENTS.—The program established  
21 by the Secretary under subsection (a) shall include the fol-  
22 lowing elements:

23 (1) The development of standards and proce-  
24 dures for certifying maritime security professionals,

1 or eligible individuals employed in the public or pri-  
2 vate sector.

3 (2) The training and certification of maritime  
4 security professionals and eligible individuals em-  
5 ployed in the public or private sector in accordance  
6 with internationally accepted law enforcement and  
7 security guidelines, policies, and procedures.

8 (3) The training of students and instructors in  
9 all aspects of prevention, detection, investigation,  
10 and reporting of criminal activities in the inter-  
11 national maritime environment.

12 (4) The provision of offsite training and certifi-  
13 cation courses and certified personnel at United  
14 States and foreign ports used by United States-  
15 flagged vessels, or by foreign-flagged vessels with  
16 United States citizens as passengers or crew-  
17 members, to develop and enhance security awareness  
18 and practices.

19 (e) ANNUAL REPORT.—The Institute shall transmit  
20 an annual report to the Senate Committee on Commerce,  
21 Science, and Transportation and the House of Represent-  
22 atives Committee on Transportation and Infrastructure on  
23 the expenditure of appropriated funds and the training  
24 and other activities of the Institute.

1 (f) FUNDING.—Of the amounts made available under  
2 section 17(b), there shall be made available to the Sec-  
3 retary, without further appropriation, to carry out this  
4 section—

5 (1) \$2,500,000 for each of fiscal years 2003  
6 and 2004, and

7 (2) \$1,000,000 for each of fiscal years 2005  
8 and 2006,

9 such amounts to remain available until expended.

10 **SEC. 10. PORT SECURITY INFRASTRUCTURE IMPROVE-**  
11 **MENT.**

12 (a) IN GENERAL.—Title XI of the Merchant Marine  
13 Act, 1936 (46 U.S.C. App. 1271 et seq.) is amended by  
14 adding at the end thereof the following:

15 **“SEC. 1113. LOAN GUARANTEES FOR PORT SECURITY IN-**  
16 **FRASTRUCTURE IMPROVEMENTS.**

17 “(a) IN GENERAL.—The Secretary, under section  
18 1103(a) and subject to the terms the Secretary shall pre-  
19 scribe and after consultation with the Coast Guard, the  
20 United States Customs Service, and the Port Security  
21 Task Force established under section 3 of the Port and  
22 Maritime Security Act of 2001, may guarantee or make  
23 a commitment to guarantee the payment of the principal  
24 of, and the interest on, an obligation for seaport security

1 infrastructure improvements for an eligible project at any  
2 United States seaport involved in international trade.

3 “(b) LIMITATIONS.—Guarantees or commitments to  
4 guarantee under this section are subject to the extent ap-  
5 plicable to all the laws, requirements, regulations, and pro-  
6 cedures that apply to guarantees or commitments to guar-  
7 antee made under this title.

8 “(c) TRANSFER OF FUNDS.—The Secretary may ac-  
9 cept the transfer of funds from any other department,  
10 agency, or instrumentality of the United States Govern-  
11 ment and may use those funds to cover the cost (as de-  
12 fined in section 502 of the Federal Credit Reform Act of  
13 1990 (2 U.S.C. 61a)) of making guarantees or commit-  
14 ments to guarantee loans entered into under this section.

15 “(d) ELIGIBLE PROJECTS.—A project is an eligible  
16 project for purposes of a loan guarantee or commitment  
17 under subsection (a) if it is for the construction or acquisi-  
18 tion of—

19 “(1) equipment or facilities to be used for sea-  
20 port security monitoring and recording;

21 “(2) security gates and fencing;

22 “(3) security-related lighting systems;

23 “(4) remote surveillance systems;

24 “(5) concealed video systems; or

1           “(6) other security infrastructure or equipment  
2           that contributes to the overall security of passengers,  
3           cargo, or crewmembers.

4   **“SEC. 1114. GRANTS.**

5           “(a) FINANCIAL ASSISTANCE.—The Secretary may  
6           provide financial assistance for eligible projects (within the  
7           meaning of that term under section 1113(d)), including  
8           to reimburse costs previously incurred for such a project.

9           “(b) MATCHING REQUIREMENTS.—

10           “(1) 75-PERCENT FEDERAL FUNDING.—Except  
11           as provided in paragraph (2), Federal funds for any  
12           eligible project under this section shall not exceed 75  
13           percent of the total cost of such project. In calcu-  
14           lating that percentage, the non-Federal share of  
15           project costs may be provided by in-kind contribu-  
16           tions and other noncash support.

17           “(2) EXCEPTIONS.—

18           “(A) SMALL PROJECTS.—There are no  
19           matching requirements for grants under sub-  
20           section (a) for projects costing not more than  
21           \$25,000.

22           “(B) HIGHER LEVEL OF SUPPORT RE-  
23           QUIRED.—If the Secretary determines that a  
24           proposed project merits support and cannot be  
25           undertaken without a higher rate of Federal

1 support, then the Secretary may approve grants  
2 under this section with a matching requirement  
3 other than that specified in paragraph (1).

4 “(c) ALLOCATION.—The Secretary shall ensure that  
5 financial assistance provided under subsection (a) during  
6 a fiscal year is distributed so that funds are awarded for  
7 eligible projects that address emerging priorities or threats  
8 identified by the Task Force under section 5 of the Port  
9 and Maritime Security Act of 2001.

10 “(d) PROJECT PROPOSALS.—Each proposal for a  
11 grant under this section shall include the following:

12 “(1) The name of the individual or entity re-  
13 sponsible for conducting the project.

14 “(2) A succinct statement of the purposes of  
15 the project.

16 “(3) A description of the qualifications of the  
17 individuals who will conduct the project.

18 “(4) An estimate of the funds and time re-  
19 quired to complete the project.

20 “(5) Evidence of support of the project by ap-  
21 propriate representatives of States or territories of  
22 the United States or other government jurisdictions  
23 in which the project will be conducted.

1           “(6) Information regarding the source and  
2           amount of matching funding available to the appli-  
3           cant, as appropriate.

4           “(7) Any other information the Secretary con-  
5           siders to be necessary for evaluating the eligibility of  
6           the project for funding under this title.”.

7           (b) ANNUAL ACCOUNTING.—The Secretary of Trans-  
8           portation shall submit an annual summary of loan guaran-  
9           tees and commitments to make loan guarantees under sec-  
10          tion 1113 of the Merchant Marine Act, 1936, and grants  
11          made under section 1114 of that Act, to the Task Force.  
12          The Task Force shall make that information available to  
13          the public and to local seaport security committees  
14          through appropriate media of communication, including  
15          the Internet.

16          (c) FUNDING.—Of amounts made available under  
17          section 17(b), there shall be made available to the Sec-  
18          retary of Transportation without further appropriation—

19                 (1) \$8,000,000 for each of the fiscal years  
20                 2003, 2004, 2005, and 2006 as guaranteed loan  
21                 costs (as defined in section 502(5) of the Federal  
22                 Credit Reform Act of 1990; 2 U.S.C. 661a(5)),

23                 (2) \$10,000,000 for each of such fiscal years  
24                 for grants under section 1114 of the Merchant Ma-  
25                 rine Act, 1936, and

1           (3) \$2,000,000 for each such fiscal year to  
2           cover administrative expenses related to loan guar-  
3           antees and grants,  
4           such amounts to remain available until expended.

5           (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
6           tion to the amounts made available under subsection  
7           (c)(2), there are authorized to be appropriated to the Sec-  
8           retary of Transportation for grants under section 1114  
9           of the Merchant Marine Act, 1936, \$10,000,000 for each  
10          of the fiscal years 2003, 2004, 2005, and 2006.

11       **SEC. 11. SCREENING AND DETECTION EQUIPMENT.**

12          (a) FUNDING.—Of amounts made available under  
13          section 17(b), there shall be made available to the Com-  
14          missioner of Customs without further appropriation for  
15          the purchase of non-intrusive screening and detection  
16          equipment for use at United States seaports—

- 17               (1) \$15,000,000 for fiscal year 2003,  
18               (2) \$16,000,000 for fiscal year 2004,  
19               (3) \$18,000,000 for fiscal year 2005, and  
20               (4) \$19,000,000 for fiscal year 2006,

21          such sums to remain available until expended.

22          (b) ACCOUNTING.—The Commissioner shall submit a  
23          report for each such fiscal year to the Senate Committee  
24          on Commerce, Science, and Transportation and the House  
25          of Representatives Committee on Transportation and In-

1 frastructure on the expenditure of funds appropriated pur-  
2 suant to this section.

3 **SEC. 12. ANNUAL REPORT ON MARITIME SECURITY AND**  
4 **TERRORISM.**

5 Section 905 of the International Maritime and Port  
6 Security Act (46 U.S.C. App. 1802) is amended by adding  
7 at the end thereof the following: “Beginning with the first  
8 report submitted under this section after the date of en-  
9 actment of the Port and Maritime Security Act of 2001,  
10 the Secretary shall include a description of activities un-  
11 dertaken under that Act and an analysis of the effect of  
12 those activities on seaport security against acts of ter-  
13 rorism.”.

14 **SEC. 13. REVISION OF PORT SECURITY PLANNING GUIDE.**

15 The Secretary of Transportation, acting through the  
16 Maritime Administration and after consultation with the  
17 Task Force and the Coast Guard, shall publish a revised  
18 version of the document entitled “Port Security: A Na-  
19 tional Planning Guide”, incorporating the guidance pro-  
20 mulgated under section 7, within 3 years after the date  
21 of enactment of this Act, and make that revised version  
22 available on the Internet.

1 **SEC. 14. SECRETARY OF TRANSPORTATION TO COORDI-**  
2 **NATE PORT-RELATED CRIME DATA COLLEC-**  
3 **TION.**

4 (a) IN GENERAL.—The Secretary of Transportation  
5 shall—

6 (1) require, to the extent feasible, United States  
7 government agencies with significant regulatory or  
8 law enforcement responsibilities at United States  
9 seaports to modify their information databases to  
10 ensure the collection and retrievability of data relat-  
11 ing to crime at or affecting such seaports;

12 (2) evaluate the feasibility of capturing data on  
13 cargo theft offenses (including such offenses occur-  
14 ring outside such seaports) that would indicate the  
15 port of entry, the port where the shipment origi-  
16 nated, where the theft occurred, and maintaining the  
17 confidentiality of shipper and carrier unless volun-  
18 tarily disclosed, and, if feasible, implement its cap-  
19 ture;

20 (3) if the capture of data under paragraph (2)  
21 is feasible—

22 (A) establish an outreach program to work  
23 with State law enforcement officials to har-  
24 monize the reporting of data on cargo theft  
25 among the States and with the United States  
26 government's reports; and

1           (B) if the harmonization of the reporting  
2           of such data among the States is not feasible,  
3           evaluate the feasibility of using private data-  
4           bases on cargo theft and disseminating cargo  
5           theft information that maintains the confiden-  
6           tiality of shipper and carrier to the Captain of  
7           the Port of the port of entry for further dis-  
8           semination to appropriate law enforcement offi-  
9           cials; and

10          (4) restrict the use of all data captured or dis-  
11          seminated under this subsection to use by law en-  
12          forcement authorities for law enforcement or port se-  
13          curity measures.

14          (b) REPORT ON FEASIBILITY.—The Secretary of  
15          Transportation shall report to the Senate Committee on  
16          Commerce, Science, and Transportation and the House of  
17          Representatives Committee on Transportation and Infra-  
18          structure within 1 year after the date of enactment of this  
19          Act on the feasibility of each activity authorized by sub-  
20          section (a).

21          (c) INTERSTATE OR FOREIGN SHIPMENTS BY CAR-  
22          RIER.—

23                (1) IN GENERAL.—Section 659 of title 18,  
24          United States Code, is amended—

1 (A) by striking “with intent to convert to  
2 his own use” each place it appears;

3 (B) by inserting “trailer,” after  
4 “motortruck,” in the first undesignated para-  
5 graph;

6 (C) by inserting “air cargo container,”  
7 after “aircraft,” in the first undesignated para-  
8 graph;

9 (D) by inserting a comma and “or from  
10 any intermodal container, trailer, container  
11 freight station, warehouse, or freight consolida-  
12 tion facility,” after “air navigation facility” in  
13 the first undesignated paragraph;

14 (E) by striking “one year” and inserting  
15 “3 years” in the fifth undesignated paragraph;

16 (F) by adding at the end of the fifth un-  
17 designated paragraph the following: “Notwith-  
18 standing the preceding sentence, the court may,  
19 upon motion of the Attorney General, reduce  
20 any penalty imposed under this paragraph with  
21 respect to any defendant who provides informa-  
22 tion leading to the arrest and conviction of any  
23 dealer or wholesaler of stolen goods or chattels  
24 moving as or which are a part of or which con-  
25 stitute an interstate or foreign shipment.”;

1           (G) by inserting after the first sentence in  
2           the penultimate undesignated paragraph the  
3           following: “For purposes of this section, goods  
4           and chattel shall be construed to be moving as  
5           an interstate or foreign shipment at all points  
6           between the point of origin and the final des-  
7           tination (as evidenced by the waybill or other  
8           shipping document of the shipment), regardless  
9           of any temporary stop while awaiting trans-  
10          shipment or otherwise.”; and

11           (H) by adding at the end the following:

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

20           (2) FEDERAL SENTENCING GUIDELINES.—Pur-  
21          suant to section 994 of title 28, United States Code,  
22          the United States Sentencing Commission shall  
23          amend the Federal sentencing guidelines to provide  
24          a sentencing enhancement of not less than 2 levels

1 for any offense under section 659 of title 18, United  
2 States Code, as amended by this section.

3 (3) REPORT TO CONGRESS.—The Attorney  
4 General shall annually submit to Congress a report,  
5 which shall include an evaluation of law enforcement  
6 activities relating to the investigation and prosecu-  
7 tion of offenses under section 659 of title 18, United  
8 States Code.

9 (d) FUNDING.—Out of amounts made available under  
10 section 17(b), there shall be made available to the Sec-  
11 retary of Transportation, without further appropriation,  
12 \$1,000,000 for each of fiscal years 2003, 2004, 2005, and  
13 2006, to modify existing data bases to capture data on  
14 cargo theft offenses and to make grants to States to har-  
15 monize data on cargo theft, such sums to remain available  
16 until expended.

17 **SEC. 15. SHARED DOCKSIDE INSPECTION FACILITIES.**

18 (a) IN GENERAL.—The Secretary of the Treasury,  
19 the Secretary of Agriculture, the Secretary of Transpor-  
20 tation, and the Attorney General shall work with each  
21 other, the Task Force, and the States to establish shared  
22 dockside inspection facilities at United States seaports for  
23 Federal and State agencies.

24 (b) FUNDING.—Of the amounts made available under  
25 section 17(b), there shall be made available to the Sec-

1 retary of the Transportation, without further appropria-  
2 tion, \$1,000,000 for each of fiscal years 2003, 2004,  
3 2005, and 2006, such sums to remain available until ex-  
4 pended, to establish shared dockside inspection facilities  
5 at United States seaports in consultation with the Sec-  
6 retary of the Treasury, the Secretary of Agriculture, and  
7 the Attorney General.

8 **SEC. 16. IMPROVED CUSTOMS REPORTING PROCEDURES.**

9 In a manner that is consistent with the promulgation  
10 of the manifesting and in-bond regulations and with the  
11 phased-in implementation of those regulations in the de-  
12 velopment of the Automated Commercial Environment  
13 Project, the United States Customs Service shall improve  
14 reporting of imports at United States seaports—

15 (1) by promulgating regulations to require, not-  
16 withstanding the second sentence of section 411(b)  
17 of the Tariff Act of 1930 (19 U.S.C. 1411(b)), all  
18 ocean manifests to be transmitted in electronic form  
19 to the Service in sufficient time for the information  
20 to be used effectively by the Service;

21 (2) by promulgating regulations to require, not-  
22 withstanding sections 552, 553, and 1641 of such  
23 Act (19 U.S.C. 1552, 1553, and 1641), all entries  
24 of goods, including in-bond entries, to provide the  
25 same information required for entries of goods re-

1 leased into the commerce of the United States to the  
2 Service before the goods are released for shipment  
3 from the seaport of first arrival; and

4 (3) by distributing the information described in  
5 paragraphs (1) and (2) on a real-time basis to any  
6 Federal, State, or local government agency that has  
7 a regulatory or law-enforcement interest in the  
8 goods.

9 **SEC. 17. 4-YEAR REAUTHORIZATION OF TONNAGE DUTIES.**

10 (a) IN GENERAL.—

11 (1) EXTENSION OF DUTIES.—Section 36 of the  
12 Act of August 5, 1909 (36 Stat. 111; 46 U.S.C.  
13 App. 121), is amended by striking “through 2002,”  
14 each place it appears and inserting “through 2006,”.

15 (2) CONFORMING AMENDMENT.—The Act enti-  
16 tled “An Act concerning tonnage duties on vessels  
17 entering otherwise than by sea”, approved March 8,  
18 1910 (36 Stat 234; 46 U.S.C. App. 132), is amend-  
19 ed by striking “through 2002,” and inserting  
20 “through 2006,”.

21 (b) AVAILABILITY OF FUNDS.—Amounts deposited in  
22 the general fund of the Treasury as receipts of tonnage  
23 charges collected as a result of the amendments made by  
24 subsection (a) shall be made available in each of fiscal  
25 years 2003 through 2006 to carry out this Act, as pro-

1 vided in sections 3(g), 4(f), 5(f), 8(d), 9(f), 10(c), 11(a),  
2 14(d), and 15(b).

3 **SEC. 18. DEFINITIONS.**

4 In this Act:

5 (1) ADMINISTRATOR.—The term “Adminis-  
6 trator” means the Administrator of the Maritime  
7 Administration.

8 (2) CAPTAIN-OF-THE-PORT.—The term “Cap-  
9 tain-of-the-Port” means the Coast Guard’s Captain-  
10 of-the-Port.

11 (3) COMMANDANT.—The term “Commandant”  
12 means the Commandant of the Coast Guard.

13 (4) SECRETARY.—Except as otherwise provided,  
14 the term “Secretary” means the Secretary of Trans-  
15 portation.

16 (5) TASK FORCE.—The term “Task Force”  
17 means the Port Security Task Force established  
18 under section 3.

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