

110TH CONGRESS
2^D SESSION

H. R. 5531

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

To amend the Homeland Security Act of 2002 to clarify
criteria for certification relating to Advanced
Spectroscopic Portal monitors, 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 “Next Generation Radi-
3 ation Screening Act of 2008”.

4 **SEC. 2. MEMORANDUM OF UNDERSTANDING REGARDING**
5 **ADVANCED SPECTROSCOPIC PORTAL MON-**
6 **ITORS.**

7 (a) IN GENERAL.—Title XIX of the Homeland Secu-
8 rity Act of 2002 is amended by adding at the end the fol-
9 lowing new sections:

10 **“SEC. 1908. ADVANCED SPECTROSCOPIC PORTAL MON-**
11 **ITORS.**

12 “(a) FINDINGS.—Congress finds the following:

13 “(1) The consequences of radiological or nu-
14 clear terrorism would be catastrophic.

15 “(2) A system such as the Advanced
16 Spectroscopic Portal (ASP) is intended to improve
17 the process of screening passengers and cargo to
18 prevent the illicit transport of radiological and nu-
19 clear material.

20 “(3) A system such as the ASP can always be
21 improved, even after it is deployed.

22 “(4) There is no upper limit to the functionality
23 that can be incorporated into an engineering project
24 of this magnitude.

25 “(5) Delaying deployment of the ASP to in-
26 crease functionality beyond what is minimally re-

1 quired for deployment may limit the ability of the
2 United States to screen passengers and cargo for ra-
3 diological and nuclear material.

4 “(6) There are operational differences between
5 primary and secondary screening procedures. Con-
6 sideration should be given to the implication these
7 differences have on the minimum functionality for
8 systems deployed for use in primary and secondary
9 screening procedures.

10 “(b) AGREEMENT ON FUNCTIONALITY OF ADVANCED
11 SPECTROSCOPIC PORTAL MONITORS.—The Director of
12 the Domestic Nuclear Detection Office and the Commis-
13 sioner of Customs and Border Protection shall enter into
14 an agreement regarding the minimum required
15 functionality for the deployment of ASP by United States
16 Customs and Border Protection (CBP).

17 “(c) REPORT TO CONGRESS.—Not later than 60 days
18 after the date of the enactment of this section, the Sec-
19 retary shall provide Congress with the signed memo-
20 randum of understanding between the Office and CBP.

21 **“SEC. 1909. CRITERIA FOR CERTIFICATION.**

22 “(a) FINDINGS.—Congress finds the following:

23 “(1) In developing criteria for Advanced
24 Spectroscopic Portal (ASP) performance, special
25 consideration should be given to the unique chal-

1 lenges associated with detecting the presence of il-
2 licit radiological or nuclear material that may be
3 masked by the presence of radiation from naturally
4 occurring radioactive material or legitimate radio-
5 active sources such as those associated with medical
6 or industrial use of radiation.

7 “(2) Title IV of division E of the Consolidated
8 Appropriations Act, 2008 (Public Law 110–161) re-
9 quires the Secretary to submit to Congress a report
10 certifying that ‘a significant increase in operational
11 effectiveness will be achieved’ with the ASP before
12 ‘funds appropriated under this heading shall be obli-
13 gated for full-scale procurement of Advanced
14 Spectroscopic Portal Monitors’, and requires that
15 ‘the Secretary shall submit separate and distinct cer-
16 tifications prior to the procurement of Advanced
17 Spectroscopic Portal Monitors for primary and sec-
18 ondary deployment that address the unique require-
19 ments for operational effectiveness of each type of
20 deployment.’.

21 “(b) SPECIFICATION OF SIGNIFICANT INCREASE IN
22 OPERATIONAL EFFECTIVENESS.—

23 “(1) IN GENERAL.—The Secretary shall, in ac-
24 cordance with the requirements of title IV of division
25 E of the Consolidated Appropriations Act, 2008, and

1 in consultation with the National Academies, develop
2 quantitative metrics that demonstrate any signifi-
3 cant increased operational effectiveness (or lack
4 thereof) of deploying the ASP in Primary and Sec-
5 ondary Screening sites, as determined by United
6 States Customs and Border Protection (CBP).

7 “(2) METRICS.—The metrics referred to in
8 paragraph (1) shall include the following:

9 “(A) A quantitative definition of ‘signifi-
10 cant increase in operational effectiveness’.

11 “(B) All relevant threat materials.

12 “(C) All relevant masking scenarios.

13 “(D) Cost benefit analysis in accordance
14 with the Federal Accounting Standards Advi-
15 sory Board Generally Accepted Accounting
16 Principles.

17 “(E) Any other measure the Director and
18 the Commissioner determine appropriate.

19 “(c) CONSIDERATION OF EXTERNAL REVIEWS IN
20 THE DECISION TO CERTIFY.—In determining whether or
21 not to certify that the ASP shows a significant increase
22 in operational effectiveness, the Secretary may consider
23 the following:

24 “(1) Relevant reports on the ASP from the
25 Government Accountability Office.

1 “(2) An assessment of the ASP by the Inde-
2 pendent Review Team led by the Homeland Security
3 Institute.

4 “(3) An assessment of the ASP in consultation
5 with the National Academies.

6 “(4) Any other information the Secretary deter-
7 mines relevant.

8 **“SEC. 1910. AUTHORIZATION OF SECURING THE CITIES INI-**
9 **TIATIVE.**

10 “(a) FINDINGS.—Congress finds the following:

11 “(1) The Securing the Cities Initiative of the
12 Department uses next generation radiation detection
13 technology to detect the transport of nuclear and ra-
14 diological material in urban areas by terrorists or
15 other unauthorized individuals.

16 “(2) The technology used by partners in the Se-
17 curing the Cities Initiative leverages Advanced
18 Spectroscopic Portal (ASP) technology used at ports
19 of entry.

20 “(3) The Securing the Cities Initiative has fos-
21 tered unprecedented collaboration and coordination
22 among its Federal, State, and local partners.

23 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
24 is authorized to be appropriated to the Director of the Do-
25 mestic Nuclear Detection Office of the Department

1 \$40,000,000 for fiscal year 2009 and such sums as may
2 be necessary for each subsequent fiscal year for the Secur-
3 ing the Cities Initiative.”.

4 (b) CONFORMING AMENDMENT.—The table of con-
5 tents in section 1(b) of the Homeland Security Act of
6 2002 is amended by inserting after the item relating to
7 section 1907 the following new items:

“Sec. 1908. Advanced spectroscopic portal monitors.

“Sec. 1909. Criteria for certification.

“Sec. 1910. Authorization of Securing the Cities Initiative.”.

Passed the House of Representatives July 30, 2008.

Attest:

LORRAINE C. MILLER,

Clerk.