

# Calendar No. 161

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1214

[Report No. 107-64]

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 SENATE OF THE UNITED STATES

JULY 20, 2001

Mr. HOLLINGS (for himself and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 14, 2001

Reported by Mr. Hollings, without amendment

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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 cargo 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 timely 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 inter-  
9 national cruises provides an attractive target to ter-  
10 rorists seeking to cause mass casualties. Approxi-  
11 mately 80 percent of cruise line passengers are  
12 United States citizens and 20 percent are aliens. Ap-  
13 proximately 92 percent of 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, cargo  
17 shipments for smuggling or theft or other cargo  
18 crimes.

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

1           (13) Identification procedures for arriving  
2 workers and deterring and preventing internal con-  
3 spiracies are increasingly important.

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

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

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

16                   (B) Data about crime in seaports have  
17 been very difficult to collect.

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

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

24                   (E) Many seaports do not have any idea  
25 about the threats they face from crime, ter-

1           rorism, and other security-related activities be-  
2           cause of a lack of credible threat information.

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

9           (G) Access to seaports and operations  
10          within seaports is often uncontrolled.

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

14          (I) Meetings between law enforcement per-  
15          sonnel, carriers, and seaport authorities regard-  
16          ing security are not being held routinely in the  
17          seaports. These meetings could increase coordi-  
18          nation and cooperation at the local level.

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

22          (K) Detection equipment such as large-  
23          scale x-ray machines is lacking at many high-  
24          risk seaports.

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

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

13          (16) United States seaports are international  
14          boundaries that—

15                (A) are particularly vulnerable to threats  
16                of drug smuggling, illegal alien smuggling,  
17                cargo theft, illegal entry of cargo and contra-  
18                band;

19                (B) may present weaknesses in the ability  
20                of the United States to realize its national secu-  
21                rity objectives; and

22                (C) may serve as a vector for terrorist at-  
23                tacks aimed at the population of the United  
24                States.

1           (17) It is in the best interests of the United  
2 States—

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

8           (B) to be mindful of the need for the free  
9 flow of interstate and foreign commerce and the  
10 need to ensure the efficient movement of cargo  
11 in interstate and foreign commerce;

12           (C) to increase United States seaport secu-  
13 rity by establishing a better method of commu-  
14 nication amongst law enforcement officials re-  
15 sponsible for seaport boundary, security, and  
16 trade issues;

17           (D) to formulate guidance for the review of  
18 physical seaport security, recognizing the dif-  
19 ferent character and nature of United States  
20 seaports;

21           (E) to provide financial incentives to help  
22 the States and private sector to increase phys-  
23 ical security of United States seaports;

24           (F) to invest in long-term technology to fa-  
25 cilitate the private sector development of tech-

1 nology that will assist in the non-intrusive time-  
2 ly detection of crime or potential crime;

3 (G) to harmonize data collection on sea-  
4 port-related and other cargo theft, in order to  
5 address areas of potential threat to safety and  
6 security;

7 (H) to create shared inspection facilities to  
8 help facilitate the timely and efficient inspection  
9 of people and cargo in United States seaports;  
10 and

11 (I) to improve Customs reporting proce-  
12 dures to enhance the potential detection of  
13 crime in advance of arrival or departure of car-  
14 goes.

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

16 (a) ESTABLISHMENT.—The Secretary shall establish  
17 a Port Security Task Force—

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

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

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

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

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

4           (6) to help provide guidance for the conditions  
5 under which loan guarantees and grants are made;  
6 and

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

10 (b) MEMBERSHIP.—

11           (1) IN GENERAL.—The Task Force shall in-  
12 clude representatives of the Coast Guard and the  
13 Maritime Administration.

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

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

24                   (A) port authorities;

25                   (B) coastwise management units;

- 1 (C) longshore labor organizations;  
2 (D) ocean shipping companies;  
3 (E) trucking companies;  
4 (F) railroad companies;  
5 (G) transportation workers;  
6 (H) ocean shippers;  
7 (I) freight forwarding companies; and  
8 (J) other representatives whose participa-  
9 tion the Secretary deems beneficial.

10 (c) SUBCOMMITTEES.—The Task Force may estab-  
11 lish subcommittees to facilitate consideration of specific  
12 issues, including port security border protection and mari-  
13 time domain awareness issues.

14 (d) LAW ENFORCEMENT SUBCOMMITTEE.—The  
15 Task Force shall establish a subcommittee comprised of  
16 Federal, State, and local government law enforcement  
17 agencies to address port security issues, including resource  
18 commitments and law enforcement sensitive matters.

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

22 (f) ACCEPTANCE OF CONTRIBUTIONS; JOINT VEN-  
23 TURE ARRANGEMENTS.—In carrying out its responsibil-  
24 ities under this Act, the Task Force, or a member organi-  
25 zation or representative acting with the Task Force's con-

1 sent, may accept contributions of funds, material, services,  
2 and the use of personnel and facilities from public and  
3 private entities by contract or other arrangement if the  
4 confidentiality of security-sensitive information is main-  
5 tained and access to such information is limited appro-  
6 priately.

7 (g) FUNDING.—Of the amounts made available under  
8 section 17(b) there shall be made available to the Sec-  
9 retary of Transportation for activities of the Task Force  
10 \$1,000,000 for each of fiscal years 2003 through 2006  
11 without further appropriation.

12 **SEC. 4. ESTABLISHMENT OF LOCAL PORT SECURITY COM-**  
13 **MITTEES.**

14 (a) IN GENERAL.—The United States Coast Guard  
15 shall establish seaport security committees—

16 (1) to utilize the information made available  
17 under this Act;

18 (2) to define the physical boundaries within  
19 which to conduct vulnerability assessments in rec-  
20 ognition of the unique characteristics of each port;

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

23 (4) to implement the guidance promulgated  
24 under section 7;

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

6           (6) to conduct an exercise at least once every  
7           3 years to verify the effectiveness of each port au-  
8           thority and marine terminal security plan.

9           (b) MEMBERSHIP.—In establishing those committees,  
10          the United States Coast Guard may utilize or augment  
11          any existing harbor safety committee or seaport readiness  
12          committee, but the membership of the seaport security  
13          committee shall include representatives of—

14                 (1) the port authority;

15                 (2) Federal, State and local government;

16                 (3) Federal, State, and local government law  
17          enforcement agencies;

18                 (4) labor organizations and transportation  
19          workers;

20                 (5) local management organizations; and

21                 (6) private sector representatives whose inclu-  
22          sion is deemed beneficial by the Captain-of-the-Port.

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

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

4 (e) ACCEPTANCE OF CONTRIBUTIONS; JOINT VEN-  
5 TURE ARRANGEMENTS.—In carrying out its responsibil-  
6 ities under this Act, a local seaport security committee,  
7 or a member organization or representative acting with  
8 the committee's consent, may accept contributions of  
9 funds, material, services, and the use of personnel and fa-  
10 cilities from public and private entities by contract or  
11 other arrangement if the confidentiality of security-sen-  
12 sitive information is maintained and access to such infor-  
13 mation is limited appropriately.

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

19 **SEC. 5. COAST GUARD PORT SECURITY VULNERABILITY AS-**  
20 **SESSMENTS.**

21 (a) IN GENERAL.—The Commandant of the Coast  
22 Guard, in consultation with the Defense Threat Reduction  
23 Agency, the Center for Civil Force Protection, and other  
24 appropriate public and private sector organizations, shall

1 develop standards and procedures for conducting seaport  
2 security vulnerability assessments.

3 (b) INITIAL SCHEDULE.—The Coast Guard, in co-  
4 operation with local port authority committee officials with  
5 proper security clearances, shall complete no fewer than  
6 10 seaport security vulnerability assessments annually,  
7 until it has completed such assessments for the 50 ports  
8 determined by the Commandant to be the most strategic  
9 or economically strategic ports in the United States. If a  
10 seaport security vulnerability assessment has been con-  
11 ducted within 5 years by or on behalf of a port authority  
12 or marine terminal authority, and the Commandant deter-  
13 mines that it was conducted in a manner that is generally  
14 consistent with the standards and procedures developed  
15 under subsection (a), the Commandant may accept that  
16 assessment rather than conducting another seaport secu-  
17 rity vulnerability assessment for that port.

18 (c) REVIEW BY PORT AUTHORITY.—The Com-  
19 mandant shall make the seaport security vulnerability as-  
20 sessment for a seaport available for review and comment  
21 by officials of the port authority with proper security  
22 clearances or marine terminal operator representatives  
23 with proper security clearances.

24 (d) MAPS AND CHARTS.—

1           (1) COLLECTION AND DISTRIBUTION.—The  
2 Commandant and the Administrator shall, working  
3 through local seaport security committees where  
4 appropriate—

5           (A) collect, store securely, and maintain  
6 maps and charts of all United States seaports  
7 that clearly indicate the location of infrastruc-  
8 ture and overt-security equipment;

9           (B) make those maps and charts available  
10 upon request, on a secure and confidential  
11 basis, to—

12           (i) the Maritime Administration;

13           (ii) the United States Coast Guard;

14           (iii) the United States Customs Serv-  
15 ice;

16           (iv) the Department of Defense;

17           (v) the Federal Bureau of Investiga-  
18 tion; and

19           (vi) the Immigration and Naturaliza-  
20 tion Service.

21           (2) OTHER AGENCIES.—The Coast Guard and  
22 the Maritime Administration shall establish a proc-  
23 ess for providing relevant maps and charts collected  
24 under paragraph (1), and other relevant material,  
25 available, on a secure and confidential basis, to ap-

1       appropriate Federal, State, and local government agen-  
2       cies, and seaport authorities, for the purpose of ob-  
3       taining the comments of those agencies before com-  
4       pleting a seaport vulnerability assessment for each  
5       such seaport.

6               (3) SECURE STORAGE AND LIMITED ACCESS.—  
7       The Coast Guard and the Maritime Administration  
8       shall establish procedures that ensure that maps,  
9       charts, and other material made available to Fed-  
10      eral, State, and local government agencies, seaport  
11      authorities, and local seaport security committees  
12      are maintained in a secure and confidential manner  
13      and that access thereto is limited appropriately.

14      (e) ANNUAL STATUS REPORT TO CONGRESS.—Not-  
15      withstanding section 7(c) of the Ports and Waterways  
16      Safety Act (33 U.S.C. 1226(c)), the Coast Guard and the  
17      Maritime Administration shall report annually to the Sen-  
18      ate Committee on Commerce, Science, and Transportation  
19      and the House of Representatives Committee on Trans-  
20      portation and Infrastructure on the status of seaport secu-  
21      rity in a form that does not compromise, or present a  
22      threat to the disclosure of security-sensitive information  
23      about, the seaport security vulnerability assessments con-  
24      ducted under this Act. The report may include rec-  
25      ommendations for further improvements in seaport secu-

1 rity measures and for any additional enforcement meas-  
2 ures necessary to ensure compliance with the seaport secu-  
3 rity plan requirements of this Act.

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

9 **SEC. 6. MARITIME TRANSPORTATION SECURITY PRO-**  
10 **GRAMS.**

11 (a) IN GENERAL.—The Commandant and the Ad-  
12 ministrator shall jointly initiate a rulemaking proceeding  
13 to prescribe regulations to protect the public from threats  
14 originating from vessels in maritime transportation origi-  
15 nating or terminating in a United States seaport against  
16 an act of crime or terrorism. In prescribing a regulation  
17 under this subsection, the Commandant and the Adminis-  
18 trator shall—

19 (1) consult with the Secretary of the Treasury,  
20 the Attorney General, the heads of other depart-  
21 ments, agencies, and instrumentalities of the United  
22 States Government, State and local authorities, and  
23 the Task Force; and

24 (2) consider whether a proposed regulation is  
25 consistent with—

1 (A) protecting the public; and

2 (B) the public interest in promoting mari-  
3 time transportation and commerce.

4 (b) SECURITY PROGRAMS.—

5 (1) PROGRAM TO BE ESTABLISHED.—Each port  
6 authority and marine terminal authority for an area  
7 designated under section 4(a)(2) at which a port se-  
8 curity vulnerability assessment has been conducted  
9 under this Act shall establish a maritime transpor-  
10 tation security program within 1 year after the as-  
11 sessment is completed.

12 (2) GENERAL REQUIREMENTS.—A security pro-  
13 gram established under paragraph (1) shall provide  
14 a law enforcement program and capability at that  
15 seaport that is adequate to ensure the safety of the  
16 public from threats of crime and terrorism.

17 (3) SPECIFIC REQUIREMENTS.—A security pro-  
18 gram established under paragraph (1) shall be  
19 linked to the Captain-of-the-Port authorities for  
20 maritime trade and shall include—

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

24 (B) provisions for establishing and main-  
25 taining procedural security for processing pas-

1 sengers, cargo, and crewmembers, and per-  
2 sonnel security for the employment of individ-  
3 uals and service providers;

4 (C) a credentialing process to limit access  
5 to sensitive areas;

6 (D) a process to restrict vehicular access  
7 to seaport areas and facilities;

8 (E) restrictions on carrying firearms and  
9 other prohibited weapons; and

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

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

22 (1) the measures the tenant will use, within the  
23 tenant's leased areas or areas designated for the ten-  
24 ant's exclusive use under an agreement with the port  
25 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 State or local security program,  
11 policy, or law. In reviewing any such program, the Cap-  
12 tain-of-the-Port shall—

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

16 (2) ensure that no security program established  
17 under subsection (b)(3) conflicts with any applicable  
18 provision of 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 notify the  
2           port authority or marine terminal authority in  
3           writing of the reasons for the disapproval; and

4           (B) the port authority or marine terminal  
5           authority shall submit a revised security plan  
6           within 6 months after receiving the notification  
7           of disapproval.

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

15          (g) NO EROSION OF OTHER AUTHORITY.—Nothing  
16          in this section precludes any agency, instrumentality, or  
17          department of the United States from exercising, or limits  
18          its authority to exercise, any other statutory or regulatory  
19          authority to initiate or enforce seaport security standards.

20       **SEC. 7. SECURITY PROGRAM GUIDANCE.**

21          (a) IN GENERAL.—The Commandant and the Ad-  
22          ministrators, in consultation with the Task Force, shall de-  
23          velop voluntary security guidance that will serve as a  
24          benchmark for the review of security plans that—

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

3           (2) include a set of recommended “best prac-  
4           tices” guidelines for the use of maritime terminal  
5           operators; and

6           (3) take into account the different nature and  
7           characteristics of United States seaports and the  
8           need to promote commerce.

9           (b) REVISION.—The Commandant and the Maritime  
10          Administrator shall review the guidelines developed under  
11          subsection (a) not less frequently than every 5 years and  
12          revise them as necessary.

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

15               (1) GENERAL SECURITY.—The establishment of  
16               practices for physical security of seaport areas and  
17               approaches, procedural security for processing pas-  
18               sengers, cargo, and crewmembers, and personnel se-  
19               curity for employment of individuals and service pro-  
20               viders.

21               (2) ACCESS TO SENSITIVE AREAS.—The use of  
22               a credentials process, administered by public or pri-  
23               vate sector security services, to limit access to sen-  
24               sitive areas.

1           (3) VEHICULAR ACCESS.—The use of restric-  
2           tions on vehicular access to seaport areas and facili-  
3           ties, including requirements that seaport authorities  
4           and primary users of seaports implement procedures  
5           that achieve appropriate levels of control of vehicular  
6           access and accountability for enforcement of con-  
7           trolled access by vehicles.

8           (4) FIREARMS.—Restrictions on carrying fire-  
9           arms.

10          (5) CERTIFICATION OF PRIVATE SECURITY OF-  
11          FICERS.—A private security officer certification pro-  
12          gram to improve the professionalism of seaport secu-  
13          rity officers.

14 **SEC. 8. INTERNATIONAL SEAPORT SECURITY.**

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

1 (b) MARITIME ADMINISTRATION; PORT ACCREDITA-  
2 TION PROGRAM.—The Administrator shall make every ef-  
3 fort to have the guidance developed under section 7(a)  
4 adopted by appropriate organizations as security stand-  
5 ards and shall encourage the establishment of a program  
6 for the private sector accreditation of seaports that imple-  
7 ment security standards that are consistent with the guid-  
8 ance.

9 (c) INTERNATIONAL PORT SECURITY IMPROVEMENT  
10 ACTIVITIES.—

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

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

24 (3) DISSEMINATION OF INFORMATION  
25 ABROAD.—The Administrator shall work with the

1 Secretary of State to facilitate the dissemination of  
2 seaport security program information to port au-  
3 thorities and marine terminal operators in other  
4 countries.

5 (d) FUNDING.—Of the amounts made available under  
6 section 17(b) there shall be made available to the Adminis-  
7 trator \$500,000 for each of fiscal years 2003 through  
8 2006 without further appropriation to carry out this sec-  
9 tion, such sums to remain available until expended.

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

11 (a) IN GENERAL.—The Secretary shall establish a  
12 program, in consultation with the Federal Law Enforce-  
13 ment Center, the United States Merchant Marine Acad-  
14 emy’s Global Maritime and Transportation School, and  
15 the Maritime Security Council, and the International As-  
16 sociation of Airport and Seaport Police, to develop stand-  
17 ards and procedures for training and certification of mari-  
18 time security professionals.

19 (b) ESTABLISHMENT OF SECURITY INSTITUTE.—The  
20 Secretary shall establish the Maritime Security Institute  
21 at the United States Merchant Marine Academy’s Global  
22 Maritime and Transportation School to train and certify  
23 maritime security professionals in accordance with inter-  
24 nationally recognized law enforcement standards. Institute  
25 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) Individuals who are employed, whether in  
6 the public or private sector, in maritime law enforce-  
7 ment or security activities.

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

11 (A) at United States ports;

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

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

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

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

24 (2) The training and certification of maritime  
25 security professionals in accordance with inter-

1 nationally accepted law enforcement and security  
2 guidelines, policies, and procedures.

3 (3) The training of students and instructors in  
4 all aspects of prevention, detection, investigation,  
5 and reporting of criminal activities in the inter-  
6 national maritime environment.

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

14 (e) ANNUAL REPORT.—The Institute shall transmit  
15 an annual report to the Senate Committee on Commerce,  
16 Science, and Transportation and the House of Represent-  
17 atives Committee on Transportation and Infrastructure on  
18 the expenditure of appropriated funds and the training  
19 and other activities of the Institute.

20 (f) FUNDING.—Of the amounts made available under  
21 section 17(b), there shall be made available to the Sec-  
22 retary, without further appropriation, to carry out this  
23 section—

24 (1) \$2,500,000 for each of fiscal years 2003  
25 and 2004, and

1           (2) \$1,000,000 for each of fiscal years 2005  
2           and 2006,  
3           such amounts to remain available until expended.

4   **SEC. 10. PORT SECURITY INFRASTRUCTURE IMPROVE-**  
5                                   **MENT.**

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

9   **“SEC. 1113. LOAN GUARANTEES FOR PORT SECURITY IN-**  
10                                   **FRASTRUCTURE IMPROVEMENTS.**

11           “(a) IN GENERAL.—The Secretary, under section  
12   1103(a) and subject to the terms the Secretary shall pre-  
13   scribe and after consultation with the United States Coast  
14   Guard, the United States Customs Service, and the Port  
15   Security Task Force established under section 3 of the  
16   Port and Maritime Security Act of 2001, may guarantee  
17   or make a commitment to guarantee the payment of the  
18   principal of, and the interest on, an obligation for seaport  
19   security infrastructure improvements for an eligible  
20   project at any United States seaport involved in inter-  
21   national trade.

22           “(b) LIMITATIONS.—Guarantees or commitments to  
23   guarantee under this section are subject to the extent ap-  
24   plicable to all the laws, requirements, regulations, and pro-

1 cedures that apply to guarantees or commitments to guar-  
2 antee made under this title.

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

10 “(d) **ELIGIBLE PROJECTS.**—A project is eligible for  
11 a loan guarantee or commitment under subsection (a) if  
12 it is for the construction or acquisition of—

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

15 “(2) security gates and fencing;

16 “(3) security-related lighting systems;

17 “(4) remote surveillance systems;

18 “(5) concealed video systems; or

19 “(6) other security infrastructure or equipment  
20 that contributes to the overall security of passengers,  
21 cargo, or crewmembers.

22 **“SEC. 1114. GRANTS.**

23 “(a) **FINANCIAL ASSISTANCE.**—The Secretary may  
24 provide financial assistance for eligible projects (within the  
25 meaning of section 1113(d)).

1 “(b) MATCHING REQUIREMENTS.—

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

9 “(2) EXCEPTIONS.—

10 “(A) SMALL PROJECTS.—There are no  
11 matching requirements for grants under sub-  
12 section (a) for projects costing not more than  
13 \$25,000.

14 “(B) HIGHER LEVEL OF SUPPORT RE-  
15 QUIRED.—If the Secretary determines that a  
16 proposed project merits support and cannot be  
17 undertaken without a higher rate of Federal  
18 support, then the Secretary may approve grants  
19 under this section with a matching requirement  
20 other than that specified in paragraph (1).

21 “(c) ALLOCATION.—The Secretary shall ensure that  
22 financial assistance provided under subsection (a) during  
23 a fiscal year is distributed so that funds are awarded for  
24 eligible projects that address emerging priorities or threats

1 identified by the Task Force under section 5 of the Port  
2 and Maritime Security Act of 2001.

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

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

7 “(2) A succinct statement of the purposes of  
8 the project.

9 “(3) A description of the qualifications of the  
10 individuals who will conduct the project.

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

13 “(5) Evidence of support of the project by ap-  
14 propriate representatives of States or territories of  
15 the United States or other government jurisdictions  
16 in which the project will be conducted.

17 “(6) Information regarding the source and  
18 amount of matching funding available to the appli-  
19 cant, as appropriate.

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

23 (b) ANNUAL ACCOUNTING.—The Secretary of Trans-  
24 portation shall submit an annual summary of loan guaran-  
25 tees and commitments to make loan guarantees under sec-

1 tion 1113 of the Merchant Marine Act, 1936, and grants  
2 made under section 1114 of that Act, to the Task Force.  
3 The Task Force shall make that information available to  
4 the public and to local seaport security committees  
5 through appropriate media of communication, including  
6 the Internet.

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

10 (1) \$8,000,000 for each of the fiscal years  
11 2003, 2004, 2005, and 2006 as guaranteed loan  
12 costs (as defined in section 502(5) of the Federal  
13 Credit Reform Act of 1990; 2 U.S.C. 661a(5)),

14 (2) \$10,000,000 for each of such fiscal years  
15 for grants under section 1114 of the Merchant Ma-  
16 rine Act, 1936, and

17 (3) \$2,000,000 for each such fiscal year to  
18 cover administrative expenses related to loan guar-  
19 antees and grants,

20 such amounts to remain available until expended.

21 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
22 tion to the amounts made available under subsection  
23 (c)(2), there are authorized to be appropriated to the Sec-  
24 retary of Transportation for grants under section 1114

1 of the Merchant Marine Act, 1936, \$10,000,000 for each  
2 of the fiscal years 2003, 2004, 2005, and 2006.

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

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

9 (1) \$15,000,000 for fiscal year 2003,

10 (2) \$16,000,000 for fiscal year 2004,

11 (3) \$18,000,000 for fiscal year 2005, and

12 (4) \$19,000,000 for fiscal year 2006,

13 such sums to remain available until expended.

14 (b) ACCOUNTING.—The Commissioner shall submit a  
15 report for each such fiscal year to the Senate Committee  
16 on Commerce, Science, and Transportation and the House  
17 of Representatives Committee on Transportation and In-  
18 frastructure on the expenditure of funds appropriated pur-  
19 suant to this section.

20 **SEC. 12. ANNUAL REPORT ON MARITIME SECURITY AND**  
21 **TERRORISM.**

22 Section 905 of the International Maritime and Port  
23 Security Act (46 U.S.C. App. 1802) is amended by adding  
24 at the end thereof the following: “Beginning with the first  
25 report submitted under this section after the date of en-

1 actment of the Port and Maritime Security Act of 2001,  
2 the Secretary shall include a description of activities un-  
3 dertaken under that Act and an analysis of the effect of  
4 those activities on seaport security against acts of ter-  
5 rorism.”.

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

7 The Secretary of Transportation, acting through the  
8 Maritime Administration and after consultation with the  
9 Task Force and the United States Coast Guard, shall pub-  
10 lish a revised version of the document entitled “Port Secu-  
11 rity: A National Planning Guide”, incorporating the guid-  
12 ance promulgated under section 7, within 3 years after  
13 the date of enactment of this Act, and make that docu-  
14 ment available on the Internet.

15 **SEC. 14. SECRETARY OF TRANSPORTATION TO COORDI-**  
16 **NATE PORT-RELATED CRIME DATA COLLEC-**  
17 **TION.**

18 (a) IN GENERAL.—The Secretary of Transportation  
19 shall—

20 (1) require, to the extent feasible, United States  
21 government agencies with significant regulatory or  
22 law enforcement responsibilities at United States  
23 seaports to modify their information databases to  
24 ensure the collection and retrievability of data relat-  
25 ing to crime at or affecting such seaports;

1           (2) evaluate the feasibility of capturing data on  
2 cargo theft offenses (including such offenses occur-  
3 ring outside such seaports) that would indicate the  
4 port of entry, the port where the shipment origi-  
5 nated, where the theft occurred, and maintaining the  
6 confidentiality of shipper and carrier unless volun-  
7 tarily disclosed, and, if feasible, implement its cap-  
8 ture;

9           (3) if feasible, and in conjunction with the Task  
10 Force, establish an outreach program to work with  
11 State law enforcement officials to harmonize the re-  
12 porting of data on cargo theft among the States and  
13 with the United States government's reports;

14           (4) if the harmonization of the reporting of  
15 such data among the States is not feasible, evaluate  
16 the feasibility of using private data bases on cargo  
17 theft and disseminating confidential cargo theft in-  
18 formation to local port security committees for fur-  
19 ther dissemination to appropriate law enforcement  
20 officials; and

21           (5) in conjunction with the Task Force, estab-  
22 lish an outreach program to work with local port se-  
23 curity committees to disseminate cargo theft infor-  
24 mation to appropriate law enforcement officials.

1           (b) REPORT ON FEASIBILITY.—The Secretary of  
2 Transportation shall report to the Senate Committee on  
3 Commerce, Science, and Transportation and the House of  
4 Representatives Committee on Transportation and Infra-  
5 structure within 1 year after the date of enactment of this  
6 Act on the feasibility of each activity authorized by sub-  
7 section (a).

8           (c) INTERSTATE OR FOREIGN SHIPMENTS BY CAR-  
9 RIER.—

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

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

14                   (B) by inserting “trailer,” after  
15 “motortruck,” in the first undesignated para-  
16 graph;

17                   (C) by inserting “air cargo container,”  
18 after “aircraft,” in the first undesignated para-  
19 graph;

20                   (D) by inserting a comma and “or from  
21 any intermodal container, trailer, container  
22 freight station, warehouse, or freight consolida-  
23 tion facility,” after “air navigation facility” in  
24 the first undesignated paragraph;

1 (E) by striking “one year” and inserting  
2 “3 years” in the fifth undesignated paragraph;

3 (F) by adding at the end of the fifth un-  
4 designated paragraph the following: “Notwith-  
5 standing the preceding sentence, the court may,  
6 upon motion of the Attorney General, reduce  
7 any penalty imposed under this paragraph with  
8 respect to any defendant who provides informa-  
9 tion leading to the arrest and conviction of any  
10 dealer or wholesaler of stolen goods or chattels  
11 moving as or which are a part of or which con-  
12 stitute an interstate or foreign shipment.”;

13 (G) by inserting after the first sentence in  
14 the penultimate undesignated paragraph the  
15 following: “For purposes of this section, goods  
16 and chattel shall be construed to be moving as  
17 an interstate or foreign shipment at all points  
18 between the point of origin and the final des-  
19 tination (as evidenced by the waybill or other  
20 shipping document of the shipment), regardless  
21 of any temporary stop while awaiting trans-  
22 shipment or otherwise.”; and

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

24 “It shall be an affirmative defense (on which the de-  
25 fendant bears the burden of persuasion by a preponder-

1 ance of the evidence) to an offense under this section that  
2 the defendant bought, received, or possessed the goods,  
3 chattels, money, or baggage at issue with the sole intent  
4 to report the matter to an appropriate law enforcement  
5 officer or to the owner of the goods, chattels, money, or  
6 baggage.”.

7           (2) FEDERAL SENTENCING GUIDELINES.—Pur-  
8           suant to section 994 of title 28, United States Code,  
9           the United States Sentencing Commission shall  
10          amend the Federal sentencing guidelines to provide  
11          a sentencing enhancement of not less than 2 levels  
12          for any offense under section 659 of title 18, United  
13          States Code, as amended by this section.

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

20          (d) FUNDING.—Out of amounts made available under  
21          section 17(b), there shall be made available to the Sec-  
22          retary of Transportation, without further appropriation,  
23          \$1,000,000 for each of fiscal years 2003, 2004, 2005, and  
24          2006, to modify existing data bases to capture data on  
25          cargo theft offenses and to make grants to States to har-

1 monize data on cargo theft, such sums to remain available  
2 until expended.

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

4 (a) IN GENERAL.—The Secretary of the Treasury,  
5 the Secretary of Agriculture, the Secretary of Transpor-  
6 tation, and the Attorney General shall work with each  
7 other, the Task Force, and the States to establish shared  
8 dockside inspection facilities at United States seaports for  
9 Federal and State agencies.

10 (b) FUNDING.—Of the amounts made available under  
11 section 17(b), there shall be made available to the Sec-  
12 retary of the Transportation, without further appropria-  
13 tion, \$1,000,000 for each of fiscal years 2003, 2004,  
14 2005, and 2006, such sums to remain available until ex-  
15 pended, to establish shared dockside inspection facilities  
16 at United States seaports in consultation with the Sec-  
17 retary of the Treasury, the Secretary of Agriculture, and  
18 the Attorney General.

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

20 In an manner that is consistent with the promulga-  
21 tion of the manifesting and in-bond regulations and with  
22 the phased-in implementation of those regulations in the  
23 development of the Automated Commercial Environment  
24 Project, the United States Customs Service shall improve  
25 reporting of imports at United States seaports—

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

7           (2) by promulgating regulations to require, not-  
8     withstanding sections 552, 553, and 1641 of such  
9     Act (19 U.S.C. 1552, 1553, and 1641), all entries  
10    of goods, including in-bond entries, to provide the  
11    same information required for entries of goods re-  
12    leased into the commerce of the United States to the  
13    Service before the goods are released for shipment  
14    from the seaport of first arrival; and

15          (3) by distributing the information described in  
16    paragraphs (1) and (2) on a real-time basis to any  
17    Federal, State, or local government agency that has  
18    a regulatory or law-enforcement interest in the  
19    goods.

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

21       (a) IN GENERAL.—

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

1           (2) CONFORMING AMENDMENT.—The Act enti-  
2           tled “An Act concerning tonnage duties on vessels  
3           entering otherwise than by sea”, approved March 8,  
4           1910 (36 Stat 234; 46 U.S.C. App. 132) is amended  
5           by striking “through 2002,” and inserting “through  
6           2006,”.

7           (b) AVAILABILITY OF FUNDS.—Amounts deposited in  
8           the general fund of the Treasury as receipts of tonnage  
9           charges collected as a result of the amendments made by  
10          subsection (a) shall be made available in each of fiscal  
11          years 2003 through 2006 to carry out this Act, as pro-  
12          vided in sections 3(g), 4(f), 5(f), 8(d), 9(f), 10(c), 11(a),  
13          14(d), and 15(b).

14       **SEC. 18. DEFINITIONS.**

15           In this Act:

16           (1) ADMINISTRATOR.—The term “Adminis-  
17           trator” means the Administrator of the Maritime  
18           Administration.

19           (2) CAPTAIN-OF-THE-PORT.—The term “Cap-  
20           tain-of-the-Port” means the United States Coast  
21           Guard’s Captain-of-the-Port.

22           (3) COMMANDANT.—The term “Commandant”  
23           means the Commandant of the United States Coast  
24           Guard.

1           (4) SECRETARY.—Except as otherwise provided,  
2           the term “Secretary” means the Secretary of Trans-  
3           portation.

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

**Calendar No. 161**

107TH CONGRESS  
1ST SESSION

**S. 1214**

**[Report No. 107-64]**

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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.

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SEPTEMBER 14, 2001

Reported without amendment