

Union Calendar No. 458

115TH CONGRESS
2^D SESSION

H. R. 5131

[Report No. 115-602]

To improve the effectiveness of Federal efforts to identify and address homeland security risks to surface transportation, secure against vehicle-based attacks, and conduct a feasibility assessment of introducing new security technologies and measures, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2018

Mrs. WATSON COLEMAN (for herself, Mr. THOMPSON of Mississippi, and Mr. KATKO) introduced the following bill; which was referred to the Committee on Homeland Security

MARCH 19, 2018

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

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

[For text of introduced bill, see copy of bill as introduced on February 27, 2018]

A BILL

To improve the effectiveness of Federal efforts to identify and address homeland security risks to surface transportation, secure against vehicle-based attacks, and conduct a feasibility assessment of introducing new security technologies and measures, 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 “Surface Transportation*
5 *Security Improvement Act of 2018”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
9 *TEES.—The term “appropriate congressional commit-*
10 *tees” means the Committee on Homeland Security of*
11 *the House of Representatives and the Committee on*
12 *Commerce, Science, and Transportation of the Senate.*

13 (2) *PUBLIC AND PRIVATE SECTOR STAKE-*
14 *HOLDERS.—The term “public and private sector*
15 *stakeholders” has the meaning given such term in sec-*
16 *tion 114(u)(1)(C) of title 49, United States Code.*

17 (3) *SURFACE TRANSPORTATION ASSET.—The*
18 *term “surface transportation asset” includes facilities,*
19 *equipment, or systems used to provide transportation*
20 *services by—*

21 (A) *a public transportation agency (as such*
22 *term is defined in section 1402(5) of the Imple-*
23 *menting Recommendations of the 9/11 Commis-*
24 *sion Act of 2007 (Public Law 110–53; 6 U.S.C.*
25 *1131(5)));*

1 (B) a railroad carrier (as such term is de-
2 fined in section 20102(3) of title 49, United
3 States Code);

4 (C) an owner or operator of—

5 (i) an entity offering scheduled, fixed-
6 route transportation services by over-the-
7 road bus (as such term is defined in section
8 1501(4) of the Implementing Recommenda-
9 tions of the 9/11 Commission Act of 2007
10 (Public Law 110–53; 6 U.S.C. 1151(4))); or

11 (ii) a bus terminal; or

12 (D) other transportation facilities, equip-
13 ment, or systems, as determined by the Sec-
14 retary.

15 **SEC. 3. NATIONAL STRATEGY FOR TRANSPORTATION SECU-**
16 **RITY REVIEW.**

17 Not later than one year after the date of the enactment
18 of this Act, the Comptroller General of the United States
19 shall evaluate the degree to which the 2016 Biennial Na-
20 tional Strategy for Transportation Security, as required
21 pursuant to section 114(s) of title 49, United States Code,
22 that was issued on August 11, 2016, by the Administrator
23 of the Transportation Security Administration, is reflected
24 in Federal transportation security programs, budgets, re-

1 *search, staffing levels, and related efforts and, in carrying*
2 *out such evaluation, shall consider the degree to which—*

3 *(1) such strategy is sufficiently forward-looking*
4 *to guide future Federal efforts relating to transpor-*
5 *tation security;*

6 *(2) Federal transportation security programs,*
7 *budgets, research, staffing levels, and related efforts*
8 *for fiscal year 2018 and beyond are guided by such*
9 *strategy; and*

10 *(3) the annual progress reports submitted to*
11 *Congress pursuant to such section subsequent to the*
12 *issuance of such strategy provide information on the*
13 *degree to which such strategy guides Federal efforts*
14 *relating to transportation security.*

15 **SEC. 4. RISK SCENARIOS.**

16 *(a) IN GENERAL.—The Secretary of Homeland Secu-*
17 *rity shall annually develop, consistent with the transpor-*
18 *tation modal security plans required under section 114(s)*
19 *of title 49, United States Code, risk-based priorities based*
20 *on risk assessments conducted or received by the Secretary*
21 *across all transportation modes that consider threats,*
22 *vulnerabilities, and consequences.*

23 *(b) SCENARIOS.—The Secretary of Homeland Security*
24 *shall ensure that the risk-based priorities identified pursu-*
25 *ant to subsection (a) are informed by an analysis of ter-*

1 *rorist attack scenarios for each transportation mode, in-*
2 *cluding cyber attack scenarios and intelligence and open*
3 *source information about current and evolving threats.*

4 *(c) REPORT.—Not later than 120 days after each de-*
5 *velopment of risk-based priorities under subsection (a), the*
6 *Secretary of Homeland Security shall provide to the appro-*
7 *priate congressional committees a report that includes the*
8 *following:*

9 *(1) Copies of the risk assessments for each trans-*
10 *portation mode.*

11 *(2) A summary that ranks the risks within and*
12 *across modes.*

13 *(3) A description of the risk-based priorities for*
14 *securing the transportation sector that identifies and*
15 *prioritizes the greatest security needs of such trans-*
16 *portation sector, both across and within modes, in the*
17 *order that such priorities should be addressed.*

18 *(4) Information on the underlying methodologies*
19 *used to assess risks across and within each transpor-*
20 *tation mode and the basis for any assumptions re-*
21 *garding threats, vulnerabilities, and consequences*
22 *made in assessing and prioritizing risks within each*
23 *such mode and across modes.*

1 (d) *CLASSIFICATION.*—*The information provided*
2 *under subsection (c) may be submitted in a classified for-*
3 *mat or unclassified format, as appropriate.*

4 **SEC. 5. ASSESSMENTS AND SECURITY PLANS; FRONTLINE**
5 **EMPLOYEE SECURITY TRAINING.**

6 (a) *REPORT.*—*Not later than 60 days after the date*
7 *of the enactment of this Act, the Secretary of Homeland Se-*
8 *curity shall submit to the appropriate congressional com-*
9 *mittees and the Inspector General of the Department of*
10 *Homeland Security a report on—*

11 (1) *the status of regulations requiring assess-*
12 *ments and security plans as specified in sections*
13 *1405, 1512, and 1531 of the Implementing Rec-*
14 *ommendations of the 9/11 Commission Act of 2007 (6*
15 *U.S.C. 1134, 1162, and 1181) that includes a*
16 *timeline for the issuance of a final rulemaking subse-*
17 *quent to the December 16, 2016, publication in the*
18 *Federal Register of an advance notice of proposed*
19 *rulemaking; and*

20 (2) *the status of regulations for a security train-*
21 *ing program to prepare transportation employees for*
22 *potential security threats and conditions as specified*
23 *in sections 1408, 1517, and 1534 of the Implementing*
24 *Recommendations of the 9/11 Commission Act of 2007*
25 *(6 U.S.C. 1137, 1167, and 1184) that includes a*

1 *timeline for the issuance of a final rulemaking subse-*
2 *quent to the December 16, 2016, publication in the*
3 *Federal Register of a notice of proposed rulemaking.*

4 *(b) INSPECTOR GENERAL REVIEW.—Not later than*
5 *120 days after submission of the report under subsection*
6 *(a), the Inspector General of the Department of Homeland*
7 *Security shall submit to the appropriate congressional com-*
8 *mittees a review of such report that includes information*
9 *on—*

10 *(1) departmental efforts to finalize rulemaking;*

11 *and*

12 *(2) recommendations, as necessary, to ensure im-*
13 *plementation of the regulations referred to in such*
14 *subsection.*

15 **SEC. 6. RESEARCH AND DEVELOPMENT.**

16 *(a) EMERGING ISSUES.—Not later than 180 days after*
17 *the date of the enactment of this Act, the Secretary of Home-*
18 *land Security, acting through the Under Secretary for*
19 *Science and Technology of the Department of Homeland Se-*
20 *curity and in coordination with the Administrator of the*
21 *Transportation Security Administration, shall submit to*
22 *the appropriate congressional committees a feasibility as-*
23 *essment of modifying the security of surface transportation*
24 *assets by—*

1 (1) *introducing next generation technologies to be*
2 *integrated into systems of surface transportation as-*
3 *sets to detect explosives, including through the deploy-*
4 *ment of mobile explosives detection technologies to*
5 *conduct risk-based passenger and property screening*
6 *at such systems;*

7 (2) *providing surface transportation asset opera-*
8 *tors with access to the Transportation Security Ad-*
9 *ministration's Secure Flight Program or a similar*
10 *passenger vetting system maintained by the Trans-*
11 *portation Security Administration;*

12 (3) *deploying a credential authentication tech-*
13 *nology or other means of identification document in-*
14 *spection to high-risk surface transportation assets to*
15 *assist operators conducting passenger vetting; and*

16 (4) *deploying scalable, cost-effective technology*
17 *solutions to detect chemical, biological, radiological,*
18 *nuclear, or explosive threats within high-risk surface*
19 *transportation assets that are capable of passive, con-*
20 *tinuous, and real-time sensing and detection of, and*
21 *alerting passengers and operating personnel to, the*
22 *presence of such a threat.*

23 (b) *CONSIDERATIONS.—In carrying out the assessment*
24 *required under subsection (a), the Secretary of Homeland*
25 *Security, acting through the Under Secretary for Science*

1 *and Technology of the Department of Homeland Security*
2 *and in coordination with the Administrator of the Trans-*
3 *portation Security Administration, shall address the tech-*
4 *nological, privacy, operational, passenger facilitation, and*
5 *public acceptance considerations involved with each secu-*
6 *rity measure contemplated in such assessment.*

7 **SEC. 7. BEST PRACTICES TO SECURE AGAINST VEHICLE-**
8 **BASED ATTACKS.**

9 *Not later than 180 days after the date of the enactment*
10 *of this Act, the Secretary of Homeland Security shall dis-*
11 *seminate best practices to public and private sector stake-*
12 *holders regarding how to enhance transportation security*
13 *against the threat of a vehicle-based terrorist attack.*

14 **SEC. 8. SURFACE TRANSPORTATION STAKEHOLDER SUR-**
15 **VEY.**

16 *(a) IN GENERAL.—Not later than 120 days after the*
17 *date of the enactment of this Act, the Secretary of Homeland*
18 *Security shall begin conducting a survey of public and pri-*
19 *vate stakeholders responsible for securing surface transpor-*
20 *tation assets regarding resource challenges, including the*
21 *availability of Federal funding, associated with securing*
22 *such assets that provides an opportunity for respondents to*
23 *set forth information on specific unmet needs.*

24 *(b) REPORT.—Not later than 120 days after beginning*
25 *the survey required under subsection (a), the Secretary of*

1 *Homeland Security shall report to the appropriate congress-*
2 *sional committees regarding the results of such survey and*
3 *the Department of Homeland Security's efforts to address*
4 *any identified security vulnerabilities.*

5 **SEC. 9. INNOVATIVE TECHNOLOGIES AND CAPABILITIES.**

6 (a) *IN GENERAL.*—*The Administrator of the Trans-*
7 *portation Security Administration may establish a task*
8 *force to collaborate with public and private sector stake-*
9 *holders to identify and develop an innovative technology or*
10 *capability with the potential to enhance transportation se-*
11 *curity, including by—*

12 (1) *conducting a field demonstration of such a*
13 *technology or capability in an operational environ-*
14 *ment;*

15 (2) *gathering performance data from such a*
16 *demonstration to inform the acquisition process; and*

17 (3) *to the extent practicable, providing funding*
18 *and promoting efforts to enable participation in a*
19 *demonstration by a small business that has an inno-*
20 *vative technology or capability but does not have ade-*
21 *quate resources to participate in a field demonstra-*
22 *tion under paragraph (1).*

23 (b) *COMPOSITION.*—*The task force authorized under*
24 *subsection (a) shall be chaired by the Administrator of the*
25 *Transportation Security Administration's designee and*

1 *comprised of representatives appointed by the Adminis-*
2 *trator, in consultation with the Chairperson of the Aviation*
3 *Security Advisory Committee (established pursuant to sec-*
4 *tion 44946 of title 49, United States Code).*

5 *(c) ACTIVITIES.—The chair of the task force shall—*

6 *(1) evaluate technologies and capabilities for*
7 *field demonstrations with potential to enhance surface*
8 *transportation security, in addition to technologies*
9 *and capabilities with potential to enhance aviation*
10 *security;*

11 *(2) coordinate with the Science and Technology*
12 *Directorate of the Department of Homeland Security*
13 *to leverage such technologies and capabilities; and*

14 *(3) submit to the Secretary of Homeland Secu-*
15 *urity an annual report regarding the task force’s ac-*
16 *tivities that identifies, for each such technology or ca-*
17 *pability, what mode of transportation could be en-*
18 *hanced by the integration of such technology or capa-*
19 *bility into security operations and, as appropriate,*
20 *plans for deploying such technology or capability.*

21 *(d) RULE OF CONSTRUCTION.—Nothing in this section*
22 *shall require the Administrator of the Transportation Secu-*
23 *urity Administration to acquire an innovative technology or*
24 *capability.*

1 (e) *NON-APPLICABILITY OF FACA.*—*The Federal Advi-*
2 *sory Committee Act (5 U.S.C. App.) shall not apply to the*
3 *task force.*

4 **SEC. 10. SECURITY TECHNOLOGIES TIED TO FOREIGN**
5 **THREAT COUNTRIES.**

6 *Not later than 180 days after the date of the enactment*
7 *of this Act, the Secretary of Homeland Security, acting*
8 *through the Under Secretary for Intelligence and Analysis*
9 *of the Department of Homeland Security, in consultation*
10 *with the Under Secretary for the National Protection and*
11 *Programs Directorate of the Department, shall submit to*
12 *the appropriate congressional committees an assessment of*
13 *terrorist and other threats to the transportation sector, in-*
14 *cluding surface transportation assets, posed by the use of*
15 *security technologies, including software and networked*
16 *technologies, developed or manufactured by firms that are*
17 *owned or closely linked to the governments of countries that*
18 *are known to pose a cyber or homeland security threat.*

19 **SEC. 11. SURFACE TRANSPORTATION SECURITY INSPEC-**
20 **TORS.**

21 (a) *STRATEGY.*—*Not later than 180 days after the date*
22 *of the enactment of this Act, the Administrator of the Trans-*
23 *portation Security Administration shall submit to the ap-*
24 *propriate congressional committees and the Comptroller*
25 *General of the United States a strategy to guide operations*

1 *of surface transportation security inspectors that addresses*
2 *the following:*

3 (1) *Any limitations in data systems for such in-*
4 *spectors, as identified by the Comptroller General.*

5 (2) *Alignment of operations with risk assessment*
6 *findings, including an approach to identifying and*
7 *prioritizing entities and locations for inspections.*

8 (3) *Measurable objectives for the surface trans-*
9 *portation security inspectors program.*

10 (b) *COMPTROLLER GENERAL REVIEW.—Not later than*
11 *180 days after the submission of the strategy required under*
12 *subsection (b), the Comptroller General of the United States*
13 *shall review such strategy and, as appropriate, issue rec-*
14 *ommendations.*

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