

109TH CONGRESS
1ST SESSION

H. R. 3199

IN THE SENATE OF THE UNITED STATES

JULY 25, 2005

Received

AN ACT

To extend and modify authorities needed to combat
terrorism, 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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “USA PATRIOT and Terrorism Prevention Reauthoriza-
 4 tion Act of 2005”.

5 (b) TABLE OF CONTENTS.—The table of contents for
 6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—USA PATRIOT AND TERRORISM PREVENTION
 REAUTHORIZATION ACT

Sec. 101. References to USA Patriot Act.

Sec. 102. USA Patriot Act sunset provisions.

Sec. 103. Repeal of sunset provision relating to individual terrorists as agents
 of foreign powers.

Sec. 104. Repeal of sunset provision relating to section 2332b and the material
 support sections of title 18, United States Code.

Sec. 105. Sharing of electronic, wire, and oral interception information under
 section 203(b) of the USA Patriot Act.

Sec. 106. Duration of FISA surveillance of non-United States persons under
 section 207 of the USA Patriot Act.

Sec. 107. Access to certain business records under section 215 of the USA Pa-
 triot Act.

Sec. 108. Report on emergency disclosures under section 212 of the USA Pa-
 triot Act.

Sec. 109. Specificity and notification for roving surveillance authority under
 section 206 of the USA Patriot Act.

Sec. 110. Prohibition on planning terrorist attacks on mass transportation.

Sec. 111. Forfeiture.

Sec. 112. Adding offenses to the definition of Federal crime of terrorism.

Sec. 113. Amendments to section 2516(1) of title 18, United States Code.

Sec. 114. Definition of period of reasonable delay under section 213 of the USA
 Patriot Act.

Sec. 115. Attacks against railroad carriers and mass transportation systems.

Sec. 116. Judicial review of national security letters.

Sec. 117. Confidentiality of national security letters.

Sec. 118. Violations of nondisclosure provisions of national security letters.

Sec. 119. Reports.

Sec. 120. Definition for forfeiture provisions under section 806 of the USA Pa-
 triot Act.

Sec. 121. Limitation on authority to delay notice.

Sec. 122. Interception of communications.

Sec. 123. Penal provisions regarding trafficking in contraband cigarettes or
 smokeless tobacco.

Sec. 124. Prohibition of narco-terrorism.

Sec. 125. Interfering with the operation of an aircraft.

Sec. 126. Sense of Congress relating to lawful political activity.

Sec. 127. Repeal of first responder grant program.

Sec. 128. Faster and smarter funding for first responders.

- Sec. 129. Oversight.
- Sec. 130. GAO report on an inventory and status of homeland security first responder training.
- Sec. 131. Removal of civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.
- Sec. 132. Report by Attorney General.
- Sec. 133. Sense of Congress.

TITLE II—TERRORIST DEATH PENALTY ENHANCEMENT

- Sec. 201. Short title.

Subtitle A—Terrorist Penalties Enhancement Act

- Sec. 211. Terrorist offense resulting in death.
- Sec. 212. Denial of Federal benefits to terrorists.
- Sec. 213. Death penalty procedures for certain air piracy cases occurring before enactment of the Federal Death Penalty Act of 1994.
- Sec. 214. Ensuring death penalty for terrorist offenses which create grave risk of death.
- Sec. 215. Postrelease supervision of terrorists.

Subtitle B—Prevention of Terrorist Access to Destructive Weapons Act

- Sec. 221. Death penalty for certain terror related crimes.

Subtitle C—Federal Death Penalty Procedures

- Sec. 231. Modification of death penalty provisions.

TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

- Sec. 301. Short title.
- Sec. 302. Entry by false pretenses to any seaport.
- Sec. 303. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.
- Sec. 304. Use of a dangerous weapon or explosive on a passenger vessel.
- Sec. 305. Criminal sanctions for violence against maritime navigation, placement of destructive devices.
- Sec. 306. Transportation of dangerous materials and terrorists.
- Sec. 307. Destruction of, or interference with, vessels or maritime facilities.
- Sec. 308. Theft of interstate or foreign shipments or vessels.
- Sec. 309. Increased penalties for noncompliance with manifest requirements.
- Sec. 310. Stowaways on vessels or aircraft.
- Sec. 311. Bribery affecting port security.
- Sec. 312. Penalties for smuggling goods into the United States.
- Sec. 313. Smuggling goods from the United States.

TITLE IV—COMBATING TERRORISM FINANCING

- Sec. 401. Short title.
- Sec. 402. Increased penalties for terrorism financing.
- Sec. 403. Terrorism-related specified activities for money laundering.
- Sec. 404. Assets of persons committing terrorist acts against foreign countries or international organizations.
- Sec. 405. Money laundering through Hawalas.

Sec. 406. Technical and conforming amendments relating to the USA Patriot Act.

Sec. 407. Technical corrections to financing of terrorism statute.

Sec. 408. Cross reference correction.

Sec. 409. Amendment to amendatory language.

Sec. 410. Designation of additional money laundering predicate.

1 TITLE I—USA PATRIOT AND TER- 2 RORISM PREVENTION REAU- 3 THORIZATION ACT

4 SEC. 101. REFERENCES TO USA PATRIOT ACT.

5 A reference in this Act to the USA PATRIOT ACT
6 shall be deemed a reference to the Uniting and Strength-
7 ening America by Providing Appropriate Tools Required
8 to Intercept and Obstruct Terrorism (USA PATRIOT
9 ACT) Act of 2001.

10 SEC. 102. USA PATRIOT ACT SUNSET PROVISIONS.

11 (a) IN GENERAL.—Section 224 of the USA PA-
12 TRIOT ACT is repealed.

13 (b) SECTIONS 206 AND 215 SUNSET.—Effective De-
14 cember 31, 2015, the Foreign Intelligence Surveillance
15 Act of 1978 is amended so that sections 501, 502, and
16 105(c)(2) read as they read on October 25, 2001.

17 SEC. 103. REPEAL OF SUNSET PROVISION RELATING TO IN- 18 DIVIDUAL TERRORISTS AS AGENTS OF FOR- 19 EIGN POWERS.

20 Section 6001 of the Intelligence Reform and Ter-
21 rorism Prevention Act of 2004 (Public Law 108–458; 118
22 Stat. 3742) is amended by—

1 (1) striking subsection (b); and

2 (2) striking “(a)” and all that follows through

3 “Section” and inserting “Section”.

4 **SEC. 104. REPEAL OF SUNSET PROVISION RELATING TO**
5 **SECTION 2332B AND THE MATERIAL SUPPORT**
6 **SECTIONS OF TITLE 18, UNITED STATES**
7 **CODE.**

8 Section 6603 of the Intelligence Reform and Ter-
9 rorism Prevention Act of 2004 (Public Law 108–458; 118
10 Stat. 3762) is amended by striking subsection (g).

11 **SEC. 105. SHARING OF ELECTRONIC, WIRE, AND ORAL**
12 **INTERCEPTION INFORMATION UNDER SEC-**
13 **TION 203(B) OF THE USA PATRIOT ACT.**

14 Section 2517(6) of title 18, United States Code, is
15 amended by adding at the end the following: “Within a
16 reasonable time after a disclosure of the contents of a
17 communication under this subsection, an attorney for the
18 Government shall file, under seal, a notice with a judge
19 whose order authorized or approved the interception of
20 that communication, stating the fact that such contents
21 were disclosed and the departments, agencies, or entities
22 to which the disclosure was made.”.

1 **SEC. 106. DURATION OF FISA SURVEILLANCE OF NON-**
2 **UNITED STATES PERSONS UNDER SECTION**
3 **207 OF THE USA PATRIOT ACT.**

4 (a) **ELECTRONIC SURVEILLANCE.**—Section 105(e) of
5 the Foreign Intelligence Surveillance Act of 1978 (50
6 U.S.C. 1805(e)) is amended—

7 (1) in paragraph (1)(B), by striking “, as de-
8 fined in section 101(b)(1)(A)” and inserting “who is
9 not a United States person”; and

10 (2) in subsection (2)(B), by striking “as defined
11 in section 101(b)(1)(A)” and inserting “who is not
12 a United States person”.

13 (b) **PHYSICAL SEARCH.**—Section 304(d) of such Act
14 (50 U.S.C. 1824(d)) is amended—

15 (1) in paragraph (1)(B), by striking “as defined
16 in section 101(b)(1)(A)” and inserting “who is not
17 a United States person”; and

18 (2) in paragraph (2), by striking “as defined in
19 section 101(b)(1)(A)” and inserting “who is not a
20 United States person”.

21 (c) **PEN REGISTERS, TRAP AND TRACE DEVICES.**—
22 Section 402(e) of such Act (50 U.S.C. 1842(e)) is amend-
23 ed—

24 (1) by striking “(e) An” and inserting “(e)(1)
25 Except as provided in paragraph (2), an”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(2) In the case of an application under subsection
4 (c) where the applicant has certified that the information
5 likely to be obtained is foreign intelligence information not
6 concerning a United States person, an order, or an exten-
7 sion of an order, under this section may be for a period
8 not to exceed one year.”.

9 **SEC. 107. ACCESS TO CERTAIN BUSINESS RECORDS UNDER**
10 **SECTION 215 OF THE USA PATRIOT ACT.**

11 (a) ESTABLISHMENT OF RELEVANCE STANDARD.—
12 Subsection (b)(2) of section 501 of the Foreign Intel-
13 ligence Surveillance Act of 1978 (50 U.S.C. 1861) is
14 amended by striking “to obtain” and all that follows and
15 inserting “and that the information likely to be obtained
16 from the tangible things is reasonably expected to be (A)
17 foreign intelligence information not concerning a United
18 States person, or (B) relevant to an ongoing investigation
19 to protect against international terrorism or clandestine
20 intelligence activities.”.

21 (b) CLARIFICATION OF JUDICIAL DISCRETION.—
22 Subsection (c)(1) of such section is amended to read as
23 follows:

24 “(c)(1) Upon an application made pursuant to this
25 section, if the judge finds that the application meets the

1 requirements of subsections (a) and (b), the judge shall
2 enter an ex parte order as requested, or as modified, ap-
3 proving the release of records.”.

4 (c) AUTHORITY TO DISCLOSE TO ATTORNEY.—Sub-
5 section (d) of such section is amended to read as follows:

6 “(d)(1) No person shall disclose to any person (other
7 than a qualified person) that the United States has sought
8 or obtained tangible things under this section.

9 “(2) An order under this section shall notify the per-
10 son to whom the order is directed of the nondisclosure re-
11 quirement under paragraph (1).

12 “(3) Any person to whom an order is directed under
13 this section who discloses that the United States has
14 sought to obtain tangible things under this section to a
15 qualified person with respect to the order shall inform
16 such qualified person of the nondisclosure requirement
17 under paragraph (1) and that such qualified person is also
18 subject to such nondisclosure requirement.

19 “(4) A qualified person shall be subject to any non-
20 disclosure requirement applicable to a person to whom an
21 order is directed under this section in the same manner
22 as such person.

23 “(5) In this subsection, the term ‘qualified person’
24 means—

1 “(A) any person necessary to produce the tan-
2 gible things pursuant to an order under this section;
3 or

4 “(B) an attorney to obtain legal advice with re-
5 spect to an order under this section.”.

6 (d) JUDICIAL REVIEW.—

7 (1) PETITION REVIEW PANEL.—Section 103 of
8 the Foreign Intelligence Surveillance Act of 1978
9 (50 U.S.C. 1803) is amended by adding at the end
10 the following new subsection:

11 “(e)(1) Three judges designated under subsection (a)
12 who reside within 20 miles of the District of Columbia,
13 or if all of such judges are unavailable, other judges of
14 the court established under subsection (a) as may be des-
15 ignated by the Presiding Judge of such court (who is des-
16 ignated by the Chief Justice of the United States from
17 among the judges of the court), shall comprise a petition
18 review panel which shall have jurisdiction to review peti-
19 tions filed pursuant to section 501(f)(1).

20 “(2) Not later than 60 days after the date of the en-
21 actment of the USA PATRIOT and Terrorism Prevention
22 Reauthorization Act of 2005, the court established under
23 subsection (a) shall develop and issue procedures for the
24 review of petitions filed pursuant to section 501(f)(1) by
25 the panel established under paragraph (1). Such proce-

1 dures shall provide that review of a petition shall be con-
2 ducted ex parte and in camera and shall also provide for
3 the designation of an Acting Presiding Judge.”.

4 (2) PROCEEDINGS.—Section 501 of the Foreign
5 Intelligence Surveillance Act of 1978 (50 U.S.C.
6 1861) is further amended by adding at the end the
7 following new subsection:

8 “(f)(1) A person receiving an order to produce any
9 tangible thing under this section may challenge the legal-
10 ity of that order by filing a petition in the panel estab-
11 lished by section 103(e)(1). The Presiding Judge shall
12 conduct an initial review of the petition. If the Presiding
13 Judge determines that the petition is frivolous, the Pre-
14 siding Judge shall immediately deny the petition and
15 promptly provide a written statement of the reasons for
16 the determination for the record. If the Presiding Judge
17 determines that the petition is not frivolous, the Presiding
18 Judge shall immediately assign the petition to one of the
19 judges serving on such panel. The assigned judge shall
20 promptly consider the petition in accordance with proce-
21 dures developed and issued pursuant to section 103(e)(2).
22 The judge considering the petition may modify or set aside
23 the order only if the judge finds that the order does not
24 meet the requirements of this section or is otherwise un-
25 lawful. If the judge does not modify or set aside the order,

1 the judge shall immediately affirm the order and order the
2 recipient to comply therewith. A petition for review of a
3 decision to affirm, modify, or set aside an order by the
4 United States or any person receiving such order shall be
5 to the court of review established under section 103(b),
6 which shall have jurisdiction to consider such petitions.
7 The court of review shall immediately provide for the
8 record a written statement of the reasons for its decision
9 and, on petition of the United States or any person receiv-
10 ing such order for writ of certiorari, the record shall be
11 transmitted under seal to the Supreme Court, which shall
12 have jurisdiction to review such decision.

13 “(2) Judicial proceedings under this subsection shall
14 be concluded as expeditiously as possible. The judge con-
15 sidering a petition filed under this subsection shall provide
16 for the record a written statement of the reasons for the
17 decision. The record of proceedings, including petitions
18 filed, orders granted, and statements of reasons for deci-
19 sion, shall be maintained under security measures estab-
20 lished by the Chief Justice of the United States in con-
21 sultation with the Attorney General and the Director of
22 National Intelligence.

23 “(3) All petitions under this subsection shall be filed
24 under seal, and the court, upon the government’s request,
25 shall review any government submission, which may in-

1 clude classified information, as well as the government's
2 application and related materials, ex parte and in cam-
3 era.”.

4 (e) FBI DIRECTOR REQUIRED TO APPLY FOR ORDER
5 OF PRODUCTION OF RECORDS FROM LIBRARY OR BOOK-
6 STORE.—Section 501(a) of the Foreign Intelligence Sur-
7 veillance Act of 1978 (50 U.S.C. 1861(a)) is amended—

8 (1) in paragraph (1), by striking “The Direc-
9 tor” and inserting “Subject to paragraph (3), the
10 Director”; and

11 (2) by adding at the end the following new
12 paragraph:

13 “(3) In the case of an application for an order requir-
14 ing the production of tangible things described in para-
15 graph (1) from a library or bookstore, the Director of the
16 Federal Bureau of Investigation shall not delegate the au-
17 thority to make such application to a designee.”.

18 **SEC. 108. REPORT ON EMERGENCY DISCLOSURES UNDER**

19 **SECTION 212 OF THE USA PATRIOT ACT.**

20 Section 2702 of title 18, United States Code, is
21 amended by adding at the end the following:

22 “(d) REPORT.—On an annual basis, the Attorney
23 General shall submit to the Committees on the Judiciary
24 of the House and the Senate a report containing—

1 “(1) the number of accounts from which the
2 Department of Justice has received voluntary disclo-
3 sures under subsection (b)(8); and

4 “(2) a summary of the basis for disclosure in
5 those instances where—

6 “(A) voluntary disclosure under subsection
7 (b)(8) was made to the Department of Justice;
8 and

9 “(B) the investigation pertaining to those
10 disclosures was closed without the filing of
11 criminal charges.”.

12 **SEC. 109. SPECIFICITY AND NOTIFICATION FOR ROVING**
13 **SURVEILLANCE AUTHORITY UNDER SECTION**
14 **206 OF THE USA PATRIOT ACT.**

15 (a) INCLUSION OF SPECIFIC FACTS IN APPLICA-
16 TION.—Section 105(c)(2)(B) of the Foreign Intelligence
17 Surveillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is
18 amended by striking “where the Court finds” and insert-
19 ing “where the Court finds, based upon specific facts pro-
20 vided in the application,”.

21 (b) NOTIFICATION OF SURVEILLANCE OF NEW FA-
22 CILITY OR PLACE.—Section 105(c)(2) of such Act is
23 amended—

24 (1) in subparagraph (C), by striking “and” at
25 the end;

1 (2) in subparagraph (D), by striking the period
2 at the end and inserting “; and”; and

3 (3) by adding at the end the following new sub-
4 paragraph:

5 “(E) that, in the case of electronic surveil-
6 lance directed at a facility or place that is not
7 known at the time the order is issued, the appli-
8 cant shall notify a judge having jurisdiction
9 under section 103 at the earliest reasonable
10 time as determined by the court, but in no case
11 later than 15 days, after electronic surveillance
12 begins to be directed at a new facility or place,
13 and such notice shall contain a statement of the
14 facts and circumstances relied upon by the ap-
15 plicant to justify the belief that the facility or
16 place at which the electronic surveillance is or
17 was directed is being used, or is about to be
18 used, by the target of electronic surveillance
19 and shall specify the total number of electronic
20 surveillances that have been or are being con-
21 ducted under the authority of the order.”.

22 **SEC. 110. PROHIBITION ON PLANNING TERRORIST AT-**
23 **TACKS ON MASS TRANSPORTATION.**

24 Section 1993(a) of title 18, United States Code, is
25 amended—

1 (1) by striking “or” at the of paragraph (7);

2 (2) by redesignating paragraph (8) as para-
3 graph (9); and

4 (3) by inserting after paragraph (7) the fol-
5 lowing:

6 “(8) surveils, photographs, videotapes, dia-
7 grams, or otherwise collects information with the in-
8 tent to plan or assist in planning any of the acts de-
9 scribed in the paragraphs (1) through (7); or”.

10 **SEC. 111. FORFEITURE.**

11 Section 981(a)(1)(B)(i) of title 18, United States
12 Code, is amended by inserting “trafficking in nuclear,
13 chemical, biological, or radiological weapons technology or
14 material, or” after “involves”.

15 **SEC. 112. ADDING OFFENSES TO THE DEFINITION OF FED-**
16 **ERAL CRIME OF TERRORISM.**

17 Section 2332b)(g)(5)(B)(i) of title 18, United States
18 Code, is amended—

19 (1) by inserting “, 2339D (relating to military-
20 type training from a foreign terrorist organization)”
21 before “, or 2340A”; and

22 (2) by inserting “832 (relating to nuclear and
23 weapons of mass destruction threats),” after “831
24 (relating to nuclear materials),”.

1 **SEC. 113. AMENDMENTS TO SECTION 2516(1) OF TITLE 18,**
2 **UNITED STATES CODE.**

3 (a) PARAGRAPH (c) AMENDMENT.—Section
4 2516(1)(c) of title 18, United States Code, is amended—

5 (1) by inserting “section 37 (relating to violence
6 at international airports), section 175b (relating to
7 biological agents or toxins)” after “the following sec-
8 tions of this title.”;

9 (2) by inserting “section 832 (relating to nu-
10 clear and weapons of mass destruction threats), sec-
11 tion 842 (relating to explosive materials), section
12 930 (relating to possession of weapons in Federal fa-
13 cilities),” after “section 751 (relating to escape),”;

14 (3) by inserting “section 1114 (relating to offi-
15 cers and employees of the United States), section
16 1116 (relating to protection of foreign officials), sec-
17 tions 1361–1363 (relating to damage to government
18 buildings and communications), section 1366 (relat-
19 ing to destruction of an energy facility), ” after
20 “section 1014 (relating to loans and credit applica-
21 tions generally; renewals and discounts),”;

22 (4) by inserting “section 1993 (relating to ter-
23 rorist attacks against mass transportation), sections
24 2155 and 2156 (relating to national-defense utili-
25 ties), sections 2280 and 2281 (relating to violence

1 against maritime navigation),” after “section 1344
2 (relating to bank fraud),”; and

3 (5) by inserting “section 2340A (relating to tor-
4 ture),” after “section 2321 (relating to trafficking in
5 certain motor vehicles or motor vehicle parts),”.

6 (b) PARAGRAPH (p) AMENDMENT.—Section
7 2516(1)(p) is amended by inserting “, section 1028A (re-
8 lating to aggravated identity theft)” after “other docu-
9 ments”.

10 (c) PARAGRAPH (q) AMENDMENT.—Section
11 2516(1)(q) of title 18 United States Code is amended—

12 (1) by inserting “2339” after “2232h”; and

13 (2) by inserting “2339D” after “2339C”.

14 **SEC. 114. DEFINITION OF PERIOD OF REASONABLE DELAY**

15 **UNDER SECTION 213 OF THE USA PATRIOT**

16 **ACT.**

17 Section 3103a(b)(3) of title 18, United States Code,
18 is amended—

19 (1) by striking “of its” and inserting “, which
20 shall not be more than 180 days, after its”; and

21 (2) by inserting “for additional periods of not
22 more than 90 days each” after “may be extended”.

1 **SEC. 115. ATTACKS AGAINST RAILROAD CARRIERS AND**
2 **MASS TRANSPORTATION SYSTEMS.**

3 (a) IN GENERAL.—Chapter 97 of title 18, United
4 States Code, is amended by striking sections 1992 through
5 1993 and inserting the following:

6 **“§ 1992. Terrorist attacks and other violence against**
7 **railroad carriers and against mass trans-**
8 **portation systems on land, on water, or**
9 **through the air**

10 “(a) GENERAL PROHIBITIONS.—Whoever, in a cir-
11 cumstance described in subsection (c), knowingly—

12 “(1) wrecks, derails, sets fire to, or disables
13 railroad on-track equipment or a mass transpor-
14 tation vehicle;

15 “(2) with intent to endanger the safety of any
16 person, or with a reckless disregard for the safety of
17 human life, and without the authorization of the
18 railroad carrier or mass transportation provider—

19 “(A) places any biological agent or toxin,
20 destructive substance, or destructive device in,
21 upon, or near railroad on-track equipment or a
22 mass transportation vehicle; or

23 “(B) releases a hazardous material or a bi-
24 ological agent or toxin on or near any property
25 described in subparagraph (A) or (B) of para-
26 graph (3);

1 “(3) sets fire to, undermines, makes unwork-
2 able, unusable, or hazardous to work on or use, or
3 places any biological agent or toxin, destructive sub-
4 stance, or destructive device in, upon, or near any—

5 “(A) tunnel, bridge, viaduct, trestle, track,
6 electromagnetic guideway, signal, station, depot,
7 warehouse, terminal, or any other way, struc-
8 ture, property, or appurtenance used in the op-
9 eration of, or in support of the operation of, a
10 railroad carrier, without the authorization of
11 the railroad carrier, and with intent to, or
12 knowing or having reason to know such activity
13 would likely, derail, disable, or wreck railroad
14 on-track equipment;

15 “(B) garage, terminal, structure, track,
16 electromagnetic guideway, supply, or facility
17 used in the operation of, or in support of the
18 operation of, a mass transportation vehicle,
19 without the authorization of the mass transpor-
20 tation provider, and with intent to, or knowing
21 or having reason to know such activity would
22 likely, derail, disable, or wreck a mass transpor-
23 tation vehicle used, operated, or employed by a
24 mass transportation provider; or

1 “(4) removes an appurtenance from, damages,
2 or otherwise impairs the operation of a railroad sig-
3 nal system or mass transportation signal or dis-
4 patching system, including a train control system,
5 centralized dispatching system, or highway-railroad
6 grade crossing warning signal, without authorization
7 from the railroad carrier or mass transportation pro-
8 vider;

9 “(5) with intent to endanger the safety of any
10 person, or with a reckless disregard for the safety of
11 human life, interferes with, disables, or incapacitates
12 any dispatcher, driver, captain, locomotive engineer,
13 railroad conductor, or other person while the person
14 is employed in dispatching, operating, or maintain-
15 ing railroad on-track equipment or a mass transpor-
16 tation vehicle;

17 “(6) commits an act, including the use of a
18 dangerous weapon, with the intent to cause death or
19 serious bodily injury to any person who is on prop-
20 erty described in subparagraph (A) or (B) of para-
21 graph (3), except that this subparagraph shall not
22 apply to rail police officers acting in the course of
23 their law enforcement duties under section 28101 of
24 title 49, United States Code;

1 “(7) conveys false information, knowing the in-
2 formation to be false, concerning an attempt or al-
3 leged attempt that was made, is being made, or is
4 to be made, to engage in a violation of this sub-
5 section; or

6 “(8) attempts, threatens, or conspires to engage
7 in any violation of any of paragraphs (1) through
8 (7),

9 shall be fined under this title or imprisoned not more than
10 20 years, or both.

11 “(b) AGGRAVATED OFFENSE.—Whoever commits an
12 offense under subsection (a) of this section in a cir-
13 cumstance in which—

14 “(1) the railroad on-track equipment or mass
15 transportation vehicle was carrying a passenger or
16 employee at the time of the offense;

17 “(2) the railroad on-track equipment or mass
18 transportation vehicle was carrying high-level radio-
19 active waste or spent nuclear fuel at the time of the
20 offense;

21 “(3) the railroad on-track equipment or mass
22 transportation vehicle was carrying a hazardous ma-
23 terial at the time of the offense that—

1 “(A) was required to be placarded under
2 subpart F of part 172 of title 49, Code of Fed-
3 eral Regulations; and

4 “(B) is identified as class number 3, 4, 5,
5 6.1, or 8 and packing group I or packing group
6 II, or class number 1, 2, or 7 under the haz-
7 ardous materials table of section 172.101 of
8 title 49, Code of Federal Regulations; or

9 “(4) the offense results in the death of any per-
10 son,
11 shall be fined under this title or imprisoned for any term
12 of years or life, or both. In the case of a violation described
13 in paragraph (2) of this subsection, the term of imprison-
14 ment shall be not less than 30 years; and, in the case of
15 a violation described in paragraph (4) of this subsection,
16 the offender shall be fined under this title and imprisoned
17 for life and be subject to the death penalty.

18 “(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A
19 circumstance referred to in subsection (a) is any of the
20 following:

21 “(1) Any of the conduct required for the offense
22 is, or, in the case of an attempt, threat, or con-
23 spiracy to engage in conduct, the conduct required
24 for the completed offense would be, engaged in, on,
25 against, or affecting a mass transportation provider

1 or railroad carrier engaged in or affecting interstate
2 or foreign commerce.

3 “(2) Any person travels or communicates across
4 a State line in order to commit the offense, or trans-
5 ports materials across a State line in aid of the com-
6 mission of the offense.

7 “(d) DEFINITIONS.—In this section—

8 “(1) the term ‘biological agent’ has the meaning
9 given to that term in section 178(1);

10 “(2) the term ‘dangerous weapon’ means a
11 weapon, device, instrument, material, or substance,
12 animate or inanimate, that is used for, or is readily
13 capable of, causing death or serious bodily injury, in-
14 cluding a pocket knife with a blade of more than 2½
15 inches in length and a box cutter;

16 “(3) the term ‘destructive device’ has the mean-
17 ing given to that term in section 921(a)(4);

18 “(4) the term ‘destructive substance’ means an
19 explosive substance, flammable material, infernal
20 machine, or other chemical, mechanical, or radio-
21 active device or material, or matter of a combustible,
22 contaminative, corrosive, or explosive nature, except
23 that the term ‘radioactive device’ does not include
24 any radioactive device or material used solely for

1 medical, industrial, research, or other peaceful pur-
2 poses;

3 “(5) the term ‘hazardous material’ has the
4 meaning given to that term in chapter 51 of title 49;

5 “(6) the term ‘high-level radioactive waste’ has
6 the meaning given to that term in section 2(12) of
7 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
8 10101(12));

9 “(7) the term ‘mass transportation’ has the
10 meaning given to that term in section 5302(a)(7) of
11 title 49, except that the term includes school bus,
12 charter, and sightseeing transportation;

13 “(8) the term ‘on-track equipment’ means a
14 carriage or other contrivance that runs on rails or
15 electromagnetic guideways;

16 “(9) the term ‘railroad on-track equipment’
17 means a train, locomotive, tender, motor unit,
18 freight or passenger car, or other on-track equip-
19 ment used, operated, or employed by a railroad car-
20 rier;

21 “(10) the term ‘railroad’ has the meaning given
22 to that term in chapter 201 of title 49;

23 “(11) the term ‘railroad carrier’ has the mean-
24 ing given to that term in chapter 201 of title 49;

1 “(12) the term ‘serious bodily injury’ has the
2 meaning given to that term in section 1365;

3 “(13) the term ‘spent nuclear fuel’ has the
4 meaning given to that term in section 2(23) of the
5 Nuclear Waste Policy Act of 1982 (42 U.S.C.
6 10101(23));

7 “(14) the term ‘State’ has the meaning given to
8 that term in section 2266;

9 “(15) the term ‘toxin’ has the meaning given to
10 that term in section 178(2); and

11 “(16) the term ‘vehicle’ means any carriage or
12 other contrivance used, or capable of being used, as
13 a means of transportation on land, on water, or
14 through the air.”.

15 (b) CONFORMING AMENDMENTS.—

16 (1) The table of sections at the beginning of
17 chapter 97 of title 18, United States Code, is
18 amended—

19 (A) by striking “**RAILROADS**” in the
20 chapter heading and inserting “**RAILROAD**
21 **CARRIERS AND MASS TRANSPOR-**
22 **TATION SYSTEMS ON LAND, ON**
23 **WATER, OR THROUGH THE AIR”;**

24 (B) by striking the items relating to sec-
25 tions 1992 and 1993; and

1 (C) by inserting after the item relating to
 2 section 1991 the following:

“1992. Terrorist attacks and other violence against railroad carriers and
 against mass transportation systems on land, on water, or
 through the air.”.

3 (2) The table of chapters at the beginning of
 4 part I of title 18, United States Code, is amended
 5 by striking the item relating to chapter 97 and in-
 6 serting the following:

**“97. Railroad carriers and mass transportation systems
 on land, on water, or through the air 1991”.**

7 (3) Title 18, United States Code, is amended—

8 (A) in section 2332b(g)(5)(B)(i), by strik-
 9 ing “1992 (relating to wrecking trains), 1993
 10 (relating to terrorist attacks and other acts of
 11 violence against mass transportation systems),”
 12 and inserting “1992 (relating to terrorist at-
 13 tacks and other acts of violence against railroad
 14 carriers and against mass transportation sys-
 15 tems on land, on water, or through the air),”;

16 (B) in section 2339A, by striking “1993,”;
 17 and

18 (C) in section 2516(1)(c) by striking
 19 “1992 (relating to wrecking trains),” and in-
 20 serting “1992 (relating to terrorist attacks and
 21 other acts of violence against railroad carriers

1 and against mass transportation systems on
2 land, on water, or through the air),”.

3 **SEC. 116. JUDICIAL REVIEW OF NATIONAL SECURITY LET-**
4 **TERS.**

5 Chapter 223 of title 18, United States Code, is
6 amended—

7 (1) by inserting at the end of the table of sec-
8 tions the following new item:

“3511. Judicial review of requests for information.”;

9 and

10 (2) by inserting after section 3510 the fol-
11 lowing:

12 **“§ 3511. Judicial review of requests for information**

13 “(a) The recipient of a request for records, a report,
14 or other information under section 2709(b) of this title,
15 section 625(a) or (b) or 626(a) of the Fair Credit Report-
16 ing Act, section 1114(a)(5)(A) of the Right to Financial
17 Privacy Act, or section 802(a) of the National Security
18 Act of 1947 may, in the United States district court for
19 the district in which that person or entity does business
20 or resides, petition for an order modifying or setting aside
21 the request. The court may modify or set aside the request
22 if compliance would be unreasonable or oppressive.

23 “(b) The recipient of a request for records, a report,
24 or other information under section 2709(b) of this title,
25 section 625(a) or (b) or 626(a) of the Fair Credit Report-

1 ing Act, section 1114(a)(5)(A) of the Right to Financial
2 Privacy Act, or section 802(a) of the National Security
3 Act of 1947, may petition any court described in sub-
4 section (a) for an order modifying or setting aside a non-
5 disclosure requirement imposed in connection with such a
6 request.

7 “(1) If the petition is filed within one year of
8 the request for records, a report, or other informa-
9 tion under section 2709(b) of this title, section
10 625(a) or (b) or 626(a) of the Fair Credit Reporting
11 Act, section 1114(a)(5)(A) of the Right to Financial
12 Privacy Act, or section 802(a) of the National Secu-
13 rity Act of 1947, the court may modify or set aside
14 such a nondisclosure requirement if it finds that
15 there is no reason to believe that disclosure may en-
16 danger the national security of the United States,
17 interfere with a criminal, counterterrorism, or coun-
18 terintelligence investigation, interfere with diplo-
19 matic relations, or endanger the life or physical safe-
20 ty of any person. The certification made at the time
21 of the request that disclosure may endanger of the
22 national security of the United States or interfere
23 with diplomatic relations shall be treated as conclu-
24 sive unless the court finds that the certification was
25 made in bad faith.

1 “(2) If the petition is filed one year or more
2 after the request for records, a report, or other in-
3 formation under section 2709(b) of this title, section
4 625(a) or (b) or 626(a) of the Fair Credit Reporting
5 Act, section 1114 (a)(5)(A) of the Right to Finan-
6 cial Privacy Act, or section 802(a) of the National
7 Security Act of 1947, the issuing officer, within
8 ninety days of the filing of the petition, shall either
9 terminate the nondisclosure requirement or re-certify
10 that disclosure may result a danger to the national
11 security of the United States, interference with a
12 criminal, counterterrorism, or counterintelligence in-
13 vestigation, interference with diplomatic relations, or
14 danger to the life or physical safety of any person.
15 In the event or re-certification, the court may modify
16 or set aside such a nondisclosure requirement if it
17 finds that there is no reason to believe that disclo-
18 sure may endanger the national security of the
19 United States, interfere with a criminal,
20 counterterrorism, or counterintelligence investiga-
21 tion, interfere with diplomatic relations, or endanger
22 the life or physical safety of any person. The re-cer-
23 tification that disclosure may endanger of the na-
24 tional security of the United States or interfere with
25 diplomatic relations shall be treated as conclusive

1 unless the court finds that the re-certification was
2 made in bad faith. If the court denies a petition for
3 an order modifying or setting aside a nondisclosure
4 requirement under this paragraph, the recipient
5 shall be precluded for a period of one year from fil-
6 ing another petition to modify or set aside such non-
7 disclosure requirement.

8 “(c) In the case of a failure to comply with a request
9 for records, a report, or other information made to any
10 person or entity under section 2709(b) of this title, section
11 625(a) or (b) or 626(a) of the Fair Credit Reporting Act,
12 section 1114(a)(5)(A) of the Right to Financial Privacy
13 Act, or section 802(a) of the National Security Act of
14 1947, the Attorney General may invoke the aid of any
15 court of the United States within the jurisdiction in which
16 the investigation is carried on or the person or entity re-
17 sides, carries on business, or may be found, to compel
18 compliance with the request. The court may issue an order
19 requiring the person or entity to comply with the request.
20 Any failure to obey the order of the court may be punished
21 by the court as contempt thereof. Any process under this
22 section may be served in any judicial district in which the
23 person or entity may be found.

24 “(d) In all proceedings under this section, subject to
25 any right to an open hearing in a contempt proceeding,

1 the court must close any hearing to the extent necessary
2 to prevent an unauthorized disclosure of a request for
3 records, a report, or other information made to any person
4 or entity under section 2709(b) of this title, section 625(a)
5 or (b) or 626(a) of the Fair Credit Reporting Act, section
6 1114(a)(5)(A) of the Right to Financial Privacy Act, or
7 section 802(a) of the National Security Act of 1947. Peti-
8 tions, filings, records, orders, and subpoenas must also be
9 kept under seal to the extent and as long as necessary
10 to prevent the unauthorized disclosure of a request for
11 records, a report, or other information made to any person
12 or entity under section 2709(b) of this title, section 625(a)
13 or (b) or 626(a) of the Fair Credit Reporting Act, section
14 1114(a)(5)(A) of the Right to Financial Privacy Act, or
15 section 802(a) of the National Security Act of 1947.

16 “(e) In all proceedings under this section, the court
17 shall, upon the Federal Government’s request, review the
18 submission of the Government, which may include classi-
19 fied information, ex parte and in camera.”.

20 **SEC. 117. CONFIDENTIALITY OF NATIONAL SECURITY LET-**
21 **TERS.**

22 (a) Section 2709(c) of title 18, United States Code,
23 is amended to read:

24 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

1 “(1) If the Director of the Federal Bureau of
2 Investigation, or his designee in a position not lower
3 than Deputy Assistant Director at Bureau head-
4 quarters or a Special Agent in Charge in a Bureau
5 field office designated by the Director, certifies that
6 otherwise there may result a danger to the national
7 security of the United States, interference with a
8 criminal, counterterrorism, or counterintelligence in-
9 vestigation, interference with diplomatic relations, or
10 danger to the life or physical safety of any person,
11 no wire or electronic communications service pro-
12 vider, or officer, employee, or agent thereof, shall
13 disclose to any person (other than those to whom
14 such disclosure is necessary in order to comply with
15 the request or an attorney to obtain legal advice
16 with respect to the request) that the Federal Bureau
17 of Investigation has sought or obtained access to in-
18 formation or records under this section.

19 “(2) The request shall notify the person or enti-
20 ty to whom the request is directed of the nondisclo-
21 sure requirement under paragraph (1).

22 “(3) Any recipient disclosing to those persons
23 necessary to comply with the request or to an attor-
24 ney to obtain legal advice with respect to the request
25 shall inform such person of any applicable nondisclo-

1 sure requirement. Any person who receives a disclo-
2 sure under this subsection shall be subject to the
3 same prohibitions on disclosure under paragraph
4 (1).”.

5 (b) Section 625(d) of the Fair Credit Reporting Act
6 (15 U.S.C. 1681u(d)) is amended to read:

7 “(d) CONFIDENTIALITY.—

8 “(1) If the Director of the Federal Bureau of
9 Investigation, or his designee in a position not lower
10 than Deputy Assistant Director at Bureau head-
11 quarters or a Special Agent in Charge in a Bureau
12 field office designated by the Director, certifies that
13 otherwise there may result a danger to the national
14 security of the United States, interference with a
15 criminal, counterterrorism, or counterintelligence in-
16 vestigation, interference with diplomatic relations, or
17 danger to the life or physical safety of any person,
18 no consumer reporting agency or officer, employee,
19 or agent of a consumer reporting agency shall dis-
20 close to any person (other than those to whom such
21 disclosure is necessary in order to comply with the
22 request or an attorney to obtain legal advice with re-
23 spect to the request) that the Federal Bureau of In-
24 vestigation has sought or obtained the identity of fi-
25 nancial institutions or a consumer report respecting

1 any consumer under subsection (a), (b), or (c), and
2 no consumer reporting agency or officer, employee,
3 or agent of a consumer reporting agency shall in-
4 clude in any consumer report any information that
5 would indicate that the Federal Bureau of Investiga-
6 tion has sought or obtained such information on a
7 consumer report.

8 “(2) The request shall notify the person or enti-
9 ty to whom the request is directed of the nondisclo-
10 sure requirement under paragraph (1).

11 “(3) Any recipient disclosing to those persons
12 necessary to comply with the request or to an attor-
13 ney to obtain legal advice with respect to the request
14 shall inform such persons of any applicable non-
15 disclosure requirement. Any person who receives a
16 disclosure under this subsection shall be subject to
17 the same prohibitions on disclosure under paragraph
18 (1).”.

19 (c) Section 626(c) of the Fair Credit Reporting Act
20 (15 U.S.C. 1681v(c)) is amended to read:

21 “(c) CONFIDENTIALITY.—

22 “(1) If the head of a government agency au-
23 thorized to conduct investigations or, or intelligence
24 or counterintelligence activities or analysis related
25 to, international terrorism, or his designee, certifies

1 that otherwise there may result a danger to the na-
2 tional security of the United States, interference
3 with a criminal, counterterrorism, or counterintel-
4 ligence investigation, interference with diplomatic re-
5 lations, or danger to the life or physical safety of
6 any person, no consumer reporting agency or officer,
7 employee, or agent of such consumer reporting agen-
8 cy, shall disclose to any person (other than those to
9 whom such disclosure is necessary in order to com-
10 ply with the request or an attorney to obtain legal
11 advice with respect to the request), or specify in any
12 consumer report, that a government agency has
13 sought or obtained access to information under sub-
14 section (a).

15 “(2) The request shall notify the person or enti-
16 ty to whom the request is directed of the nondisclo-
17 sure requirement under paragraph (1).

18 “(3) Any recipient disclosing to those persons
19 necessary to comply with the request or to any attor-
20 ney to obtain legal advice with respect to the request
21 shall inform such persons of any applicable non-
22 disclosure requirement. Any person who receives a
23 disclosure under this subsection shall be subject to
24 the same prohibitions on disclosure under paragraph
25 (1).”.

1 (d) Section 1114(a)(5)(D) of the Right to Financial
2 Privacy Act (12 U.S.C. 3414(a)(5)(D)) is amended to
3 read:

4 “(D) PROHIBITION OF CERTAIN DISCLO-
5 SURE.—

6 “(i) If the Director of the Federal Bu-
7 reau of Investigation, or his designee in a
8 position not lower than Deputy Assistant
9 Director at Bureau headquarters or a Spe-
10 cial Agent in Charge in a Bureau field of-
11 fice designated by the Director, certifies
12 that otherwise there may result a danger
13 to the national security of the United
14 States, interference with a criminal,
15 counterterrorism, or counterintelligence in-
16 vestigation, interference with diplomatic re-
17 lations, or danger to the life or physical
18 safety of any person, no financial institu-
19 tion, or officer, employee, or agent of such
20 institution, shall disclose to any person
21 (other than those to whom such disclosure
22 is necessary in order to comply with the re-
23 quest or an attorney to obtain legal advice
24 with respect to the request) that the Fed-
25 eral Bureau of Investigation has sought or

1 obtained access to a customer’s or entity’s
2 financial records under paragraph (5).

3 “(ii) The request shall notify the per-
4 son or entity to whom the request is di-
5 rected of the nondisclosure requirement
6 under paragraph (1).

7 “(iii) Any recipient disclosing to those
8 persons necessary to comply with the re-
9 quest or to an attorney to obtain legal ad-
10 vice with respect to the request shall in-
11 form such persons of any applicable non-
12 disclosure requirement. Any person who re-
13 ceives a disclosure under this subsection
14 shall be subject to the same prohibitions on
15 disclosure under paragraph (1).”.

16 (e) Section 802(b) of the National Security Act of
17 1947 (50 U.S.C. 436(b)) is amended to read as follows:

18 “(b) PROHIBITION OF CERTAIN DISCLOSURE.—

19 “(1) If an authorized investigative agency de-
20 scribed in subsection (a) certifies that otherwise
21 there may result a danger to the national security of
22 the United States, interference with a criminal,
23 counterterrorism, or counterintelligence investiga-
24 tion, interference with diplomatic relations, or dan-
25 ger to the life or physical safety of any person, no

1 governmental or private entity, or officer, employee,
2 or agent of such entity, may disclose to any person
3 (other than those to whom such disclosure is nec-
4 essary in order to comply with the request or an at-
5 torney to obtain legal advice with respect to the re-
6 quest) that such entity has received or satisfied a re-
7 quest made by an authorized investigative agency
8 under this section.

9 “(2) The request shall notify the person or enti-
10 ty to whom the request is directed of the nondisclo-
11 sure requirement under paragraph (1).

12 “(3) Any recipient disclosing to those persons
13 necessary to comply with the request or to an attor-
14 ney to obtain legal advice with respect to the request
15 shall inform such persons of any applicable non-
16 disclosure requirement. Any person who receives a
17 disclosure under this subsection shall be subject to
18 the same prohibitions on disclosure under paragraph
19 (1).”.

20 **SEC. 118. VIOLATIONS OF NONDISCLOSURE PROVISIONS OF**
21 **NATIONAL SECURITY LETTERS.**

22 Section 1510 of title 18, United States Code, is
23 amended by adding at the end the following:

24 “(e) Whoever knowingly violates section 2709(c)(1)
25 of this title, sections 625(d) or 626(c) of the Fair Credit

1 Reporting Act (15 U.S.C. 1681u(d) or 1681v(c)), section
2 1114(a)(3) or 1114(a)(5)(D) of the Right to Financial
3 Privacy Act (12 U.S.C. 3414(a)(3) or 3414(a)(5)(D)), or
4 section 802(b) of the National Security Act of 1947 (50
5 U.S.C. 436(b)) shall be imprisoned for not more than one
6 year, and if the violation is committed with the intent to
7 obstruct an investigation or judicial proceeding, shall be
8 imprisoned for not more than five years.”.

9 **SEC. 119. REPORTS.**

10 Any report made to a committee of Congress regard-
11 ing national security letters under section 2709(c)(1) of
12 title 18, United States Code, sections 625(d) or 626(c)
13 of the Fair Credit Reporting Act (15 U.S.C. 1681u(d) or
14 1681v(c)), section 1114(a)(3) or 1114(a)(5)(D) of the
15 Right to Financial Privacy Act (12 U.S.C. 3414(a)(3) or
16 3414(a)(5)(D)), or section 802(b) of the National Security
17 Act of 1947 (50 U.S.C. 436(b)) shall also be made to the
18 Committees on the Judiciary of the House of Representa-
19 tives and the Senate.

20 **SEC. 120. DEFINITION FOR FORFEITURE PROVISIONS**

21 **UNDER SECTION 806 OF THE USA PATRIOT**
22 **ACT.**

23 Section 981(a)(1)(G) of title 18, United States Code,
24 is amended by striking “section 2331” each place it ap-
25 pears and inserting “2332b(g)(5)(B)”.

1 **SEC. 121. LIMITATION ON AUTHORITY TO DELAY NOTICE.**

2 (a) IN GENERAL.—Section 3103a(b)(1) of title 18,
3 United States Code, is amended by inserting “, except if
4 the adverse results consists only of unduly delaying a
5 trial” after “2705”.

6 (b) REPORTING REQUIREMENT.—Section 3103a of
7 title 18, United States Code, is amended by adding at the
8 end the following:

9 “(c) REPORTS.—On an annual basis, the Administra-
10 tive Office of the United States Courts shall report to the
11 Committees on the Judiciary of the House of Representa-
12 tives and the Senate the number of search warrants grant-
13 ed during the reporting period, and the number of delayed
14 notices authorized during that period, indicating the ad-
15 verse result that occasioned that delay.”.

16 **SEC. 122. INTERCEPTION OF COMMUNICATIONS.**

17 Section 2516(1) of title 18, United States Code, is
18 amended—

19 (1) in paragraph (c)—

20 (A) by inserting before “section 201 (brib-
21 ery of public officials and witnesses)” the fol-
22 lowing: “section 81 (arson within special mari-
23 time and territorial jurisdiction),”;

24 (B) by inserting before “subsection (d),
25 (e), (f), (g), (h), or (i) of section 844 (unlawful
26 use of explosives)” the following: “subsections

1 (m) or (n) of section 842 (relating to plastic ex-
 2 plosives),”; and

3 (C) by inserting before “section 1992 (re-
 4 lating to wrecking trains)” the following: “, sec-
 5 tion 930(c) (relating to attack on federal facil-
 6 ity with firearm), section 956 (conspiracy to
 7 harm persons or property overseas),”; and
 8 (2) in paragraph (j)—

9 (A) by striking “or” before “section 46502
 10 (relating to aircraft piracy)” and inserting a
 11 comma after “section 60123(b) (relating to the
 12 destruction of a natural gas pipeline”; and

13 (B) by inserting “, the second sentence of
 14 section 46504 (relating to assault on a flight
 15 crew with dangerous weapon), or section
 16 46505(b)(3) or (c) (relating to explosive or in-
 17 cendiary devices, or endangerment of human
 18 life, by means of weapons on aircraft)” before
 19 of “title 49”.

20 **SEC. 123. PENAL PROVISIONS REGARDING TRAFFICKING IN**
 21 **CONTRABAND CIGARETTES OR SMOKELESS**
 22 **TOBACCO.**

23 (a) **THRESHOLD QUANTITY FOR TREATMENT AS**
 24 **CONTRABAND CIGARETTES.**—(1) Section 2341(2) of title

1 18, United States Code, is amended by striking “60,000
2 cigarettes” and inserting “10,000 cigarettes”.

3 (2) Section 2342(b) of that title is amended by strik-
4 ing “60,000” and inserting “10,000”.

5 (3) Section 2343 of that title is amended—

6 (A) in subsection (a), by striking “60,000” and
7 inserting “10,000”; and

8 (B) in subsection (b), by striking “60,000” and
9 inserting “10,000”.

10 (b) CONTRABAND SMOKELESS TOBACCO.—(1) Sec-
11 tion 2341 of that title is amended—

12 (A) in paragraph (4), by striking “and” at the
13 end;

14 (B) in paragraph (5), by striking the period at
15 the end and inserting a semicolon; and

16 (C) by adding at the end the following new
17 paragraphs:

18 “(6) the term ‘smokeless tobacco’ means any
19 finely cut, ground, powdered, or leaf tobacco that is
20 intended to be placed in the oral or nasal cavity or
21 otherwise consumed without being combusted;

22 “(7) the term ‘contraband smokeless tobacco’
23 means a quantity in excess of 500 single-unit con-
24 sumer-sized cans or packages of smokeless tobacco,

1 or their equivalent, that are in the possession of any
2 person other than—

3 “(A) a person holding a permit issued pur-
4 suant to chapter 52 of the Internal Revenue
5 Code of 1986 as manufacturer of tobacco prod-
6 ucts or as an export warehouse proprietor, a
7 person operating a customs bonded warehouse
8 pursuant to section 311 or 555 of the Tariff
9 Act of 1930 (19 U.S.C. 1311, 1555), or an
10 agent of such person;

11 “(B) a common carrier transporting such
12 smokeless tobacco under a proper bill of lading
13 or freight bill which states the quantity, source,
14 and designation of such smokeless tobacco;

15 “(C) a person who—

16 “(i) is licensed or otherwise author-
17 ized by the State where such smokeless to-
18 bacco is found to engage in the business of
19 selling or distributing tobacco products;
20 and

21 “(ii) has complied with the account-
22 ing, tax, and payment requirements relat-
23 ing to such license or authorization with
24 respect to such smokeless tobacco; or

1 “(D) an officer, employee, or agent of the
2 United States or a State, or any department,
3 agency, or instrumentality of the United States
4 or a State (including any political subdivision of
5 a State), having possession of such smokeless
6 tobacco in connection with the performance of
7 official duties;”.

8 (2) Section 2342(a) of that title is amended by insert-
9 ing “or contraband smokeless tobacco” after “contraband
10 cigarettes”.

11 (3) Section 2343(a) of that title is amended by insert-
12 ing “, or any quantity of smokeless tobacco in excess of
13 500 single-unit consumer-sized cans or packages,” before
14 “in a single transaction”.

15 (4) Section 2344(c) of that title is amended by insert-
16 ing “or contraband smokeless tobacco” after “contraband
17 cigarettes”.

18 (5) Section 2345 of that title is amended by inserting
19 “or smokeless tobacco” after “cigarettes” each place it ap-
20 pears.

21 (6) Section 2341 of that title is further amended in
22 paragraph (2), as amended by subsection (a)(1) of this
23 section, in the matter preceding subparagraph (A), by
24 striking “State cigarette taxes in the State where such
25 cigarettes are found, if the State” and inserting “State

1 or local cigarette taxes in the State or locality where such
2 cigarettes are found, if the State or local government”.

3 (c) RECORDKEEPING, REPORTING, AND INSPEC-
4 TION.—Section 2343 of that title, as amended by this sec-
5 tion, is further amended—

6 (1) in subsection (a)—

7 (A) in the matter preceding paragraph (1),
8 by striking “only—” and inserting “such infor-
9 mation as the Attorney General considers ap-
10 propriate for purposes of enforcement of this
11 chapter, including—”; and

12 (B) in the flush matter following para-
13 graph (3), by striking the second sentence;

14 (2) by redesignating subsection (b) as sub-
15 section (c);

16 (3) by inserting after subsection (a) the fol-
17 lowing new subsection (b):

18 “(b) Any person, except for a tribal government, who
19 engages in a delivery sale, and who ships, sells, or distrib-
20 utes any quantity in excess of 10,000 cigarettes, or any
21 quantity in excess of 500 single-unit consumer-sized cans
22 or packages of smokeless tobacco, or their equivalent,
23 within a single month, shall submit to the Attorney Gen-
24 eral, pursuant to rules or regulations prescribed by the
25 Attorney General, a report that sets forth the following:

1 “(1) The person’s beginning and ending inven-
2 tory of cigarettes and cans or packages of smokeless
3 tobacco (in total) for such month.

4 “(2) The total quantity of cigarettes and cans
5 or packages of smokeless tobacco that the person re-
6 ceived within such month from each other person
7 (itemized by name and address).

8 “(3) The total quantity of cigarettes and cans
9 or packages of smokeless tobacco that the person
10 distributed within such month to each person
11 (itemized by name and address) other than a retail
12 purchaser.”; and

13 (4) by adding at the end the following new sub-
14 sections:

15 “(d) Any report required to be submitted under this
16 chapter to the Attorney General shall also be submitted
17 to the Secretary of the Treasury and to the attorneys gen-
18 eral and the tax administrators of the States from where
19 the shipments, deliveries, or distributions both originated
20 and concluded.

21 “(e) In this section, the term ‘delivery sale’ means
22 any sale of cigarettes or smokeless tobacco in interstate
23 commerce to a consumer if—

24 “(1) the consumer submits the order for such
25 sale by means of a telephone or other method of

1 voice transmission, the mails, or the Internet or
2 other online service, or by any other means where
3 the consumer is not in the same physical location as
4 the seller when the purchase or offer of sale is made;
5 or

6 “(2) the cigarettes or smokeless tobacco are de-
7 livered by use of the mails, common carrier, private
8 delivery service, or any other means where the con-
9 sumer is not in the same physical location as the
10 seller when the consumer obtains physical possession
11 of the cigarettes or smokeless tobacco.

12 “(f) In this section, the term ‘interstate commerce’
13 means commerce between a State and any place outside
14 the State, or commerce between points in the same State
15 but through any place outside the State.”.

16 (d) DISPOSAL OR USE OF FORFEITED CIGARETTES
17 AND SMOKELESS TOBACCO.—Section 2344(c) of that
18 title, as amended by this section, is further amended by
19 striking “seizure and forfeiture,” and all that follows and
20 inserting “seizure and forfeiture, and any cigarettes or
21 smokeless tobacco so seized and forfeited shall be either—

22 “(1) destroyed and not resold; or

23 “(2) used for undercover investigative oper-
24 ations for the detection and prosecution of crimes,
25 and then destroyed and not resold.”.

1 (e) EFFECT ON STATE AND LOCAL LAW.—Section
2 2345 of that title is amended—

3 (1) in subsection (a), by striking “a State to
4 enact and enforce” and inserting “a State or local
5 government to enact and enforce its own”; and

6 (2) in subsection (b), by striking “of States,
7 through interstate compact or otherwise, to provide
8 for the administration of State” and inserting “of
9 State or local governments, through interstate com-
10 pact or otherwise, to provide for the administration
11 of State or local”.

12 (f) ENFORCEMENT.—Section 2346 of that title is
13 amended—

14 (1) by inserting “(a)” before “The Attorney
15 General”; and

16 (2) by adding at the end the following new sub-
17 section:

18 “(b)(1) A State, through its attorney general, a local
19 government, through its chief law enforcement officer (or
20 a designee thereof), or any person who holds a permit
21 under chapter 52 of the Internal Revenue Code of 1986,
22 may bring an action in the United States district courts
23 to prevent and restrain violations of this chapter by any
24 person (or by any person controlling such person), except
25 that any person who holds a permit under chapter 52 of

1 the Internal Revenue Code of 1986 may not bring such
2 an action against a State or local government. No civil
3 action may be commenced under this paragraph against
4 an Indian tribe or an Indian in Indian country (as defined
5 in section 1151).

6 “(2) A State, through its attorney general, or a local
7 government, through its chief law enforcement officer (or
8 a designee thereof), may in a civil action under paragraph
9 (1) also obtain any other appropriate relief for violations
10 of this chapter from any person (or by any person control-
11 ling such person), including civil penalties, money dam-
12 ages, and injunctive or other equitable relief. Nothing in
13 this chapter shall be deemed to abrogate or constitute a
14 waiver of any sovereign immunity of a State or local gov-
15 ernment, or an Indian tribe against any unconsented law-
16 suit under this chapter, or otherwise to restrict, expand,
17 or modify any sovereign immunity of a State or local gov-
18 ernment, or an Indian tribe.

19 “(3) The remedies under paragraphs (1) and (2) are
20 in addition to any other remedies under Federal, State,
21 local, or other law.

22 “(4) Nothing in this chapter shall be construed to
23 expand, restrict, or otherwise modify any right of an au-
24 thorized State official to proceed in State court, or take

1 other enforcement actions, on the basis of an alleged viola-
 2 tion of State or other law.

3 “(5) Nothing in this chapter shall be construed to
 4 expand, restrict, or otherwise modify any right of an au-
 5 thorized local government official to proceed in State
 6 court, or take other enforcement actions, on the basis of
 7 an alleged violation of local or other law.”.

8 (g) CONFORMING AND CLERICAL AMENDMENTS.—

9 (1) The section heading for section 2343 of that title is
 10 amended to read as follows:

11 **“§ 2343. Recordkeeping, reporting, and inspection”.**

12 (2) The section heading for section 2345 of such title
 13 is amended to read as follows:

14 **“§ 2345. Effect on State and local law”.**

15 (3) The table of sections at the beginning of chapter
 16 114 of that title is amended—

17 (A) by striking the item relating to section
 18 2343 and inserting the following new item:

“2343. Recordkeeping, reporting, and inspection.”;

19 and

20 (B) by striking the item relating to section
 21 2345 and insert the following new item:

“2345. Effect on State and local law.”.

22 (4)(A) The heading for chapter 114 of that title is
 23 amended to read as follows:

1 **“CHAPTER 114—TRAFFICKING IN CONTRA-**
 2 **BAND CIGARETTES AND SMOKELESS**
 3 **TOBACCO”.**

4 (B) The table of chapters at the beginning of part
 5 I of that title is amended by striking the item relating
 6 to section 114 and inserting the following new item:

**“114. Trafficking in contraband cigarettes and smokeless
 tobacco 2341”.**

7 **SEC. 124. PROHIBITION OF NARCO-TERRORISM.**

8 Part A of the Controlled Substance Import and Ex-
 9 port Act (21 U.S.C. 951 et seq.) is amended by inserting
 10 after section 1010 the following:

11 “NARCO-TERRORISTS WHO AID AND SUPPORT

12 TERRORISTS OR FOREIGN TERRORIST ORGANIZATIONS

13 “SEC. 1010A. (a) PROHIBITED ACTS.—Whoever, in
 14 a circumstance described in subsection (c), manufactures,
 15 distributes, imports, exports, or possesses with intent to
 16 distribute or manufacture a controlled substance,
 17 flunitrazepam, or listed chemical, or attempts or conspires
 18 to do so, knowing or intending that such activity, directly
 19 or indirectly, aids or provides support, resources, or any-
 20 thing of pecuniary value to—

21 “(1) a foreign terrorist organization; or

22 “(2) any person or group involved in the plan-
 23 ning, preparation for, or carrying out of, a terrorist

1 offense, shall be punished as provided under sub-
2 section (b).

3 “(b) PENALTIES.—Whoever violates subsection (a)
4 shall be fined under this title, imprisoned for not less than
5 20 years and not more than life and shall be sentenced
6 to a term of supervised release of not less than 5 years.

7 “(c) JURISDICTION.—There is jurisdiction over an of-
8 fense under this section if—

9 “(1) the prohibited drug activity or the terrorist
10 offense is in violation of the criminal laws of the
11 United States;

12 “(2) the offense or the prohibited drug activity
13 occurs in or affects interstate or foreign commerce;

14 “(3) the offense, the prohibited drug activity or
15 the terrorist offense involves the use of the mails or
16 a facility of interstate or foreign commerce;

17 “(4) the terrorist offense occurs in or affects
18 interstate or foreign commerce or would have oc-
19 curred in or affected interstate or foreign commerce
20 had it been consummated;

21 “(5) an offender provides anything of pecuniary
22 value to a foreign terrorist organization;

23 “(6) an offender provides anything of pecuniary
24 value for a terrorist offense that is designed to influ-

1 ence the policy or affect the conduct of the United
2 States government;

3 “(7) an offender provides anything of pecuniary
4 value for a terrorist offense that occurs in part with-
5 in the United States and is designed to influence the
6 policy or affect the conduct of a foreign government;

7 “(8) an offender provides anything of pecuniary
8 value for a terrorist offense that causes or is de-
9 signed to cause death or serious bodily injury to a
10 national of the United States while that national is
11 outside the United States, or substantial damage to
12 the property of a legal entity organized under the
13 laws of the United States (including any of its
14 States, districts, commonwealths, territories, or pos-
15 sessions) while that property is outside of the United
16 States;

17 “(9) the offense occurs in whole or in part with-
18 in the United States, and an offender provides any-
19 thing of pecuniary value for a terrorist offense that
20 is designed to influence the policy or affect the con-
21 duct of a foreign government;

22 “(10) the offense or the prohibited drug activity
23 occurs in whole or in part outside of the United
24 States (including on the high seas), and a perpe-
25 trator of the offense or the prohibited drug activity

1 is a national of the United States or a legal entity
2 organized under the laws of the United States (in-
3 cluding any of its States, districts, commonwealths,
4 territories, or possessions); or

5 “(11) after the conduct required for the offense
6 occurs an offender is brought into or found in the
7 United States, even if the conduct required for the
8 offense occurs outside the United States.

9 “(d) PROOF REQUIREMENTS.—The prosecution shall
10 not be required to prove that any defendant knew that
11 an organization was designated as a ‘foreign terrorist or-
12 ganization’ under the Immigration and Nationality Act.

13 “(e) DEFINITIONS.—In this section, the following
14 definitions shall apply:

15 “(1) ANYTHING OF PECUNIARY VALUE.—The
16 term ‘anything of pecuniary value’ has the meaning
17 given the term in section 1958(b)(1) of title 18,
18 United States Code.

19 “(2) TERRORIST OFFENSE.—The term ‘ter-
20 rorist offense’ means—

21 “(A) an act which constitutes an offense
22 within the scope of a treaty, as defined under
23 section 2339C(e)(7) of title 18, United States
24 Code, which has been implemented by the
25 United States;

“(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

“(3) **TERRORIST ORGANIZATION.**—The term ‘terrorist organization’ has the meaning given the term in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).”.

SEC. 125. INTERFERING WITH THE OPERATION OF AN AIRCRAFT.

Section 32 of title 18, United States Code, is amended—

(1) in subsection (a), by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8) respectively;

(2) by inserting after paragraph (4) of subsection (a), the following:

“(5) interferes with or disables, with intent to endanger the safety of any person or with a reckless disregard for the safety of human life, anyone engaged in the authorized operation of such aircraft or

1 any air navigation facility aiding in the navigation of
 2 any such aircraft;”;

3 (3) in subsection (a)(8), by striking “para-
 4 graphs (1) through (6)” and inserting “paragraphs
 5 (1) through (7)”; and

6 (4) in subsection (c), by striking “paragraphs
 7 (1) through (5)” and inserting “paragraphs (1)
 8 through (6)”.

9 **SEC. 126. SENSE OF CONGRESS RELATING TO LAWFUL PO-**
 10 **LITICAL ACTIVITY.**

11 It is the sense of Congress that the Federal Govern-
 12 ment should not investigate an American citizen for al-
 13 leged criminal conduct solely on the basis of the citizen’s
 14 membership in a non-violent political organization or the
 15 fact that the citizen was engaging in other lawful political
 16 activity.

17 **SEC. 127. REPEAL OF FIRST RESPONDER GRANT PROGRAM.**

18 Section 1014 of the USA PATRIOT ACT is amended
 19 by striking subsection (c).

20 **SEC. 128. FASTER AND SMARTER FUNDING FOR FIRST RE-**
 21 **SPONDERS.**

22 (a) IN GENERAL.—The Homeland Security Act of
 23 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is
 24 amended—

1 (1) in section 1(b) in the table of contents by
 2 adding at the end the following:

“TITLE XVIII—FUNDING FOR FIRST RESPONDERS

- “1801. Definitions.
- “1802. Faster and Smarter Funding for First Responders.
- “1803. Covered grant eligibility and criteria.
- “1804. Risk-based evaluation and prioritization.
- “1805. Task Force on Terrorism Preparedness for First Responders.
- “1806. Use of funds and accountability requirements.
- “1807. National standards for first responder equipment and training.”.

3 (2) by adding at the end the following:

4 **“TITLE XVIII—FUNDING FOR**
 5 **FIRST RESPONDERS**

6 **“SEC. 1801. DEFINITIONS.**

7 “In this title:

8 “(1) BOARD.—The term ‘Board’ means the
 9 First Responder Grants Board established under
 10 section 1804.

11 “(2) COVERED GRANT.—The term ‘covered
 12 grant’ means any grant to which this title applies
 13 under section 1802.

14 “(3) DIRECTLY ELIGIBLE TRIBE.—The term
 15 ‘directly eligible tribe’ means any Indian tribe or
 16 consortium of Indian tribes that—

17 “(A) meets the criteria for inclusion in the
 18 qualified applicant pool for Self-Governance
 19 that are set forth in section 402(c) of the In-
 20 dian Self-Determination and Education Assist-
 21 ance Act (25 U.S.C. 458bb(c));

1 “(B) employs at least 10 full-time per-
2 sonnel in a law enforcement or emergency re-
3 sponse agency with the capacity to respond to
4 calls for law enforcement or emergency services;
5 and

6 “(C)(i) is located on, or within 5 miles of,
7 an international border or waterway;

8 “(ii) is located within 5 miles of a facility
9 designated as high-risk critical infrastructure
10 by the Secretary;

11 “(iii) is located within or contiguous to one
12 of the 50 largest metropolitan statistical areas
13 in the United States; or

14 “(iv) has more than 1,000 square miles of
15 Indian country, as that term is defined in sec-
16 tion 1151 of title 18, United States Code.

17 “(4) ELEVATIONS IN THE THREAT ALERT
18 LEVEL.—The term ‘elevations in the threat alert
19 level’ means any designation (including those that
20 are less than national in scope) that raises the
21 homeland security threat level to either the highest
22 or second highest threat level under the Homeland
23 Security Advisory System referred to in section
24 201(d)(7).

1 “(5) EMERGENCY PREPAREDNESS.—The term
2 ‘emergency preparedness’ shall have the same mean-
3 ing that term has under section 602 of the Robert
4 T. Stafford Disaster Relief and Emergency Assist-
5 ance Act (42 U.S.C. 5195a).

6 “(6) ESSENTIAL CAPABILITIES.—The term ‘es-
7 sential capabilities’ means the levels, availability,
8 and competence of emergency personnel, planning,
9 training, and equipment across a variety of dis-
10 ciplines needed to effectively and efficiently prevent,
11 prepare for, respond to, and recover from acts of
12 terrorism consistent with established practices.

13 “(7) FIRST RESPONDER.—The term ‘first re-
14 sponder’ shall have the same meaning as the term
15 ‘emergency response provider’.

16 “(8) INDIAN TRIBE.—The term ‘Indian tribe’
17 means any Indian tribe, band, nation, or other orga-
18 nized group or community, including any Alaskan
19 Native village or regional or village corporation as
20 defined in or established pursuant to the Alaskan
21 Native Claims Settlement Act (43 U.S.C. 1601 et
22 seq.), which is recognized as eligible for the special
23 programs and services provided by the United States
24 to Indians because of their status as Indians.

25 “(9) REGION.—The term ‘region’ means—

1 “(A) any geographic area consisting of all
2 or parts of 2 or more contiguous States, coun-
3 ties, municipalities, or other local governments
4 that have a combined population of at least
5 1,650,000 or have an area of not less than
6 20,000 square miles, and that, for purposes of
7 an application for a covered grant, is rep-
8 resented by 1 or more governments or govern-
9 mental agencies within such geographic area,
10 and that is established by law or by agreement
11 of 2 or more such governments or governmental
12 agencies in a mutual aid agreement; or

13 “(B) any other combination of contiguous
14 local government units (including such a com-
15 bination established by law or agreement of two
16 or more governments or governmental agencies
17 in a mutual aid agreement) that is formally cer-
18 tified by the Secretary as a region for purposes
19 of this Act with the consent of—

20 “(i) the State or States in which they
21 are located, including a multi-State entity
22 established by a compact between two or
23 more States; and

1 “(ii) the incorporated municipalities,
2 counties, and parishes that they encom-
3 pass.

4 “(10) TASK FORCE.—The term ‘Task Force’
5 means the Task Force on Terrorism Preparedness
6 for First Responders established under section 1805.

7 “(11) TERRORISM PREPAREDNESS.—The term
8 ‘terrorism preparedness’ means any activity designed
9 to improve the ability to prevent, prepare for, re-
10 spond to, mitigate against, or recover from threat-
11 ened or actual terrorist attacks.

12 **“SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RE-**
13 **SPONDERS.**

14 “(a) COVERED GRANTS.—This title applies to grants
15 provided by the Department to States, regions, or directly
16 eligible tribes for the primary purpose of improving the
17 ability of first responders to prevent, prepare for, respond
18 to, mitigate against, or recover from threatened or actual
19 terrorist attacks, especially those involving weapons of
20 mass destruction, administered under the following:

21 “(1) STATE HOMELAND SECURITY GRANT PRO-
22 GRAM.—The State Homeland Security Grant Pro-
23 gram of the Department, or any successor to such
24 grant program.

1 “(2) URBAN AREA SECURITY INITIATIVE.—The
2 Urban Area Security Initiative of the Department,
3 or any successor to such grant program.

4 “(3) LAW ENFORCEMENT TERRORISM PREVEN-
5 TION PROGRAM.—The Law Enforcement Terrorism
6 Prevention Program of the Department, or any suc-
7 cessor to such grant program.

8 “(b) EXCLUDED PROGRAMS.—This title does not
9 apply to or otherwise affect the following Federal grant
10 programs or any grant under such a program:

11 “(1) NONDEPARTMENT PROGRAMS.—Any Fed-
12 eral grant program that is not administered by the
13 Department.

14 “(2) FIRE GRANT PROGRAMS.—The fire grant
15 programs authorized by sections 33 and 34 of the
16 Federal Fire Prevention and Control Act of 1974
17 (15 U.S.C. 2229, 2229a).

18 “(3) EMERGENCY MANAGEMENT PLANNING
19 AND ASSISTANCE ACCOUNT GRANTS.—The Emer-
20 gency Management Performance Grant program and
21 the Urban Search and Rescue Grants program au-
22 thorized by title VI of the Robert T. Stafford Dis-
23 aster Relief and Emergency Assistance Act (42
24 U.S.C. 5195 et seq.); the Departments of Veterans
25 Affairs and Housing and Urban Development, and

1 Independent Agencies Appropriations Act, 2000
2 (113 Stat. 1047 et seq.); and the Earthquake Haz-
3 ards Reduction Act of 1977 (42 U.S.C. 7701 et
4 seq.).

5 **“SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.**

6 “(a) GRANT ELIGIBILITY.—Any State, region, or di-
7 rectly eligible tribe shall be eligible to apply for a covered
8 grant.

9 “(b) GRANT CRITERIA.—The Secretary shall award
10 covered grants to assist States and local governments in
11 achieving, maintaining, and enhancing the essential capa-
12 bilities for terrorism preparedness established by the Sec-
13 retary.

14 “(c) STATE HOMELAND SECURITY PLANS.—

15 “(1) SUBMISSION OF PLANS.—The Secretary
16 shall require that any State applying to the Sec-
17 retary for a covered grant must submit to the Sec-
18 retary a 3-year State homeland security plan that—

19 “(A) describes the essential capabilities
20 that communities within the State should pos-
21 sess, or to which they should have access, based
22 upon the terrorism risk factors relevant to such
23 communities, in order to meet the Department’s
24 goals for terrorism preparedness;

1 “(B) demonstrates the extent to which the
2 State has achieved the essential capabilities
3 that apply to the State;

4 “(C) demonstrates the needs of the State
5 necessary to achieve, maintain, or enhance the
6 essential capabilities that apply to the State;

7 “(D) includes a prioritization of such needs
8 based on threat, vulnerability, and consequence
9 assessment factors applicable to the State;

10 “(E) describes how the State intends—

11 “(i) to address such needs at the city,
12 county, regional, tribal, State, and inter-
13 state level, including a precise description
14 of any regional structure the State has es-
15 tablished for the purpose of organizing
16 homeland security preparedness activities
17 funded by covered grants;

18 “(ii) to use all Federal, State, and
19 local resources available for the purpose of
20 addressing such needs; and

21 “(iii) to give particular emphasis to
22 regional planning and cooperation, includ-
23 ing the activities of multijurisdictional
24 planning agencies governed by local offi-

1 cials, both within its jurisdictional borders
2 and with neighboring States;

3 “(F) with respect to the emergency pre-
4 paredness of first responders, addresses the
5 unique aspects of terrorism as part of a com-
6 prehensive State emergency management plan;
7 and

8 “(G) provides for coordination of response
9 and recovery efforts at the local level, including
10 procedures for effective incident command in
11 conformance with the National Incident Man-
12 agement System.

13 “(2) CONSULTATION.—The State plan sub-
14 mitted under paragraph (1) shall be developed in
15 consultation with and subject to appropriate com-
16 ment by local governments and first responders
17 within the State.

18 “(3) APPROVAL BY SECRETARY.—The Sec-
19 retary may not award any covered grant to a State
20 unless the Secretary has approved the applicable
21 State homeland security plan.

22 “(4) REVISIONS.—A State may revise the appli-
23 cable State homeland security plan approved by the
24 Secretary under this subsection, subject to approval
25 of the revision by the Secretary.

1 “(d) CONSISTENCY WITH STATE PLANS.—The Sec-
2 retary shall ensure that each covered grant is used to sup-
3 plement and support, in a consistent and coordinated
4 manner, the applicable State homeland security plan or
5 plans.

6 “(e) APPLICATION FOR GRANT.—

7 “(1) IN GENERAL.—Except as otherwise pro-
8 vided in this subsection, any State, region, or di-
9 rectly eligible tribe may apply for a covered grant by
10 submitting to the Secretary an application at such
11 time, in such manner, and containing such informa-
12 tion as is required under this subsection, or as the
13 Secretary may reasonably require.

14 “(2) DEADLINES FOR APPLICATIONS AND
15 AWARDS.—All applications for covered grants must
16 be submitted at such time as the Secretary may rea-
17 sonably require for the fiscal year for which they are
18 submitted. The Secretary shall award covered grants
19 pursuant to all approved applications for such fiscal
20 year as soon as practicable, but not later than
21 March 1 of such year.

22 “(3) AVAILABILITY OF FUNDS.—All funds
23 awarded by the Secretary under covered grants in a
24 fiscal year shall be available for obligation through
25 the end of the subsequent fiscal year.

1 “(4) MINIMUM CONTENTS OF APPLICATION.—

2 The Secretary shall require that each applicant in-
3 clude in its application, at a minimum—

4 “(A) the purpose for which the applicant
5 seeks covered grant funds and the reasons why
6 the applicant needs the covered grant to meet
7 the essential capabilities for terrorism prepared-
8 ness within the State, region, or directly eligible
9 tribe to which the application pertains;

10 “(B) a description of how, by reference to
11 the applicable State homeland security plan or
12 plans under subsection (c), the allocation of
13 grant funding proposed in the application, in-
14 cluding, where applicable, the amount not
15 passed through under section 1806(g)(1), would
16 assist in fulfilling the essential capabilities for
17 terrorism preparedness specified in such plan or
18 plans;

19 “(C) a statement of whether a mutual aid
20 agreement applies to the use of all or any por-
21 tion of the covered grant funds;

22 “(D) if the applicant is a State, a descrip-
23 tion of how the State plans to allocate the cov-
24 ered grant funds to regions, local governments,
25 and Indian tribes;

1 “(E) if the applicant is a region—

2 “(i) a precise geographical description
3 of the region and a specification of all par-
4 ticipating and nonparticipating local gov-
5 ernments within the geographical area
6 comprising that region;

7 “(ii) a specification of what govern-
8 mental entity within the region will admin-
9 ister the expenditure of funds under the
10 covered grant; and

11 “(iii) a designation of a specific indi-
12 vidual to serve as regional liaison;

13 “(F) a capital budget showing how the ap-
14 plicant intends to allocate and expend the cov-
15 ered grant funds;

16 “(G) if the applicant is a directly eligible
17 tribe, a designation of a specific individual to
18 serve as the tribal liaison; and

19 “(H) a statement of how the applicant in-
20 tends to meet the matching requirement, if any,
21 that applies under section 1806(g)(2).

22 “(5) REGIONAL APPLICATIONS.—

23 “(A) RELATIONSHIP TO STATE APPLICA-
24 TIONS.—A regional application—

1 “(i) shall be coordinated with an ap-
2 plication submitted by the State or States
3 of which such region is a part;

4 “(ii) shall supplement and avoid dupli-
5 cation with such State application; and

6 “(iii) shall address the unique regional
7 aspects of such region’s terrorism pre-
8 paredness needs beyond those provided for
9 in the application of such State or States.

10 “(B) STATE REVIEW AND SUBMISSION.—

11 To ensure the consistency required under sub-
12 section (d) and the coordination required under
13 subparagraph (A) of this paragraph, an appli-
14 cant that is a region must submit its applica-
15 tion to each State of which any part is included
16 in the region for review and concurrence prior
17 to the submission of such application to the
18 Secretary. The regional application shall be
19 transmitted to the Secretary through each such
20 State within 30 days of its receipt, unless the
21 Governor of such a State notifies the Secretary,
22 in writing, that such regional application is in-
23 consistent with the State’s homeland security
24 plan and provides an explanation of the reasons
25 therefor.

1 “(C) DISTRIBUTION OF REGIONAL
2 AWARDS.—If the Secretary approves a regional
3 application, then the Secretary shall distribute
4 a regional award to the State or States submit-
5 ting the applicable regional application under
6 subparagraph (B), and each such State shall,
7 not later than the end of the 45-day period be-
8 ginning on the date after receiving a regional
9 award, pass through to the region all covered
10 grant funds or resources purchased with such
11 funds, except those funds necessary for the
12 State to carry out its responsibilities with re-
13 spect to such regional application: *Provided*,
14 That in no such case shall the State or States
15 pass through to the region less than 80 percent
16 of the regional award.

17 “(D) CERTIFICATIONS REGARDING DIS-
18 TRIBUTION OF GRANT FUNDS TO REGIONS.—
19 Any State that receives a regional award under
20 subparagraph (C) shall certify to the Secretary,
21 by not later than 30 days after the expiration
22 of the period described in subparagraph (C)
23 with respect to the grant, that the State has
24 made available to the region the required funds

1 and resources in accordance with subparagraph
2 (C).

3 “(E) DIRECT PAYMENTS TO REGIONS.—If
4 any State fails to pass through a regional
5 award to a region as required by subparagraph
6 (C) within 45 days after receiving such award
7 and does not request or receive an extension of
8 such period under section 1806(h)(2), the re-
9 gion may petition the Secretary to receive di-
10 rectly the portion of the regional award that is
11 required to be passed through to such region
12 under subparagraph (C).

13 “(F) REGIONAL LIAISONS.—A regional li-
14 aison designated under paragraph (4)(E)(iii)
15 shall—

16 “(i) coordinate with Federal, State,
17 local, regional, and private officials within
18 the region concerning terrorism prepared-
19 ness;

20 “(ii) develop a process for receiving
21 input from Federal, State, local, regional,
22 and private sector officials within the re-
23 gion to assist in the development of the re-
24 gional application and to improve the re-
25 gion’s access to covered grants; and

1 “(iii) administer, in consultation with
2 State, local, regional, and private officials
3 within the region, covered grants awarded
4 to the region.

5 “(6) TRIBAL APPLICATIONS.—

6 “(A) SUBMISSION TO THE STATE OR
7 STATES.—To ensure the consistency required
8 under subsection (d), an applicant that is a di-
9 rectly eligible tribe must submit its application
10 to each State within the boundaries of which
11 any part of such tribe is located for direct sub-
12 mission to the Department along with the appli-
13 cation of such State or States.

14 “(B) OPPORTUNITY FOR STATE COM-
15 MENT.—Before awarding any covered grant to
16 a directly eligible tribe, the Secretary shall pro-
17 vide an opportunity to each State within the
18 boundaries of which any part of such tribe is lo-
19 cated to comment to the Secretary on the con-
20 sistency of the tribe’s application with the
21 State’s homeland security plan. Any such com-
22 ments shall be submitted to the Secretary con-
23 currently with the submission of the State and
24 tribal applications.

1 “(C) FINAL AUTHORITY.—The Secretary
2 shall have final authority to determine the con-
3 sistency of any application of a directly eligible
4 tribe with the applicable State homeland secu-
5 rity plan or plans, and to approve any applica-
6 tion of such tribe. The Secretary shall notify
7 each State within the boundaries of which any
8 part of such tribe is located of the approval of
9 an application by such tribe.

10 “(D) TRIBAL LIAISON.—A tribal liaison
11 designated under paragraph (4)(G) shall—

12 “(i) coordinate with Federal, State,
13 local, regional, and private officials con-
14 cerning terrorism preparedness;

15 “(ii) develop a process for receiving
16 input from Federal, State, local, regional,
17 and private sector officials to assist in the
18 development of the application of such
19 tribe and to improve the tribe’s access to
20 covered grants; and

21 “(iii) administer, in consultation with
22 State, local, regional, and private officials,
23 covered grants awarded to such tribe.

24 “(E) LIMITATION ON THE NUMBER OF DI-
25 RECT GRANTS.—The Secretary may make cov-

1 ered grants directly to not more than 20 di-
2 rectly eligible tribes per fiscal year.

3 “(F) TRIBES NOT RECEIVING DIRECT
4 GRANTS.—An Indian tribe that does not receive
5 a grant directly under this section is eligible to
6 receive funds under a covered grant from the
7 State or States within the boundaries of which
8 any part of such tribe is located, consistent with
9 the homeland security plan of the State as de-
10 scribed in subsection (c). If a State fails to
11 comply with section 1806(g)(1), the tribe may
12 request payment under section 1806(h)(3) in
13 the same manner as a local government.

14 “(7) EQUIPMENT STANDARDS.—If an applicant
15 for a covered grant proposes to upgrade or purchase,
16 with assistance provided under the grant, new equip-
17 ment or systems that do not meet or exceed any ap-
18 plicable national voluntary consensus standards es-
19 tablished by the Secretary, the applicant shall in-
20 clude in the application an explanation of why such
21 equipment or systems will serve the needs of the ap-
22 plicant better than equipment or systems that meet
23 or exceed such standards.

1 **“SEC. 1804. RISK-BASED EVALUATION AND**
2 **PRIORITIZATION.**

3 “(a) FIRST RESPONDER GRANTS BOARD.—

4 “(1) ESTABLISHMENT OF BOARD.—The Sec-
5 retary shall establish a First Responder Grants
6 Board, consisting of—

7 “(A) the Secretary;

8 “(B) the Under Secretary for Emergency
9 Preparedness and Response;

10 “(C) the Under Secretary for Border and
11 Transportation Security;

12 “(D) the Under Secretary for Information
13 Analysis and Infrastructure Protection;

14 “(E) the Under Secretary for Science and
15 Technology;

16 “(F) the Director of the Office for Domes-
17 tic Preparedness;

18 “(G) the Administrator of the United
19 States Fire Administration; and

20 “(H) the Administrator of the Animal and
21 Plant Health Inspection Service.

22 “(2) CHAIRMAN.—

23 “(A) IN GENERAL.—The Secretary shall be
24 the Chairman of the Board.

25 “(B) EXERCISE OF AUTHORITIES BY DEP-
26 UTY SECRETARY.—The Deputy Secretary of

1 Homeland Security may exercise the authorities
2 of the Chairman, if the Secretary so directs.

3 “(b) FUNCTIONS OF UNDER SECRETARIES.—The
4 Under Secretaries referred to in subsection (a)(1) shall
5 seek to ensure that the relevant expertise and input of the
6 staff of their directorates are available to and considered
7 by the Board.

8 “(c) PRIORITIZATION OF GRANT APPLICATIONS.—

9 “(1) FACTORS TO BE CONSIDERED.—The
10 Board shall evaluate and annually prioritize all
11 pending applications for covered grants based upon
12 the degree to which they would, by achieving, main-
13 taining, or enhancing the essential capabilities of the
14 applicants on a nationwide basis, lessen the threat
15 to, vulnerability of, and consequences for persons
16 (including transient commuting and tourist popu-
17 lations) and critical infrastructure. Such evaluation
18 and prioritization shall be based upon the most cur-
19 rent risk assessment available by the Directorate for
20 Information Analysis and Infrastructure Protection
21 of the threats of terrorism against the United
22 States. The Board shall coordinate with State, local,
23 regional, and tribal officials in establishing criteria
24 for evaluating and prioritizing applications for cov-
25 ered grants.

1 “(2) CRITICAL INFRASTRUCTURE SECTORS.—

2 The Board specifically shall consider threats of ter-
3 rorism against the following critical infrastructure
4 sectors in all areas of the United States, urban and
5 rural:

6 “(A) Agriculture and food.

7 “(B) Banking and finance.

8 “(C) Chemical industries.

9 “(D) The defense industrial base.

10 “(E) Emergency services.

11 “(F) Energy.

12 “(G) Government facilities.

13 “(H) Postal and shipping.

14 “(I) Public health and health care.

15 “(J) Information technology.

16 “(K) Telecommunications.

17 “(L) Transportation systems.

18 “(M) Water.

19 “(N) Dams.

20 “(O) Commercial facilities.

21 “(P) National monuments and icons.

22 The order in which the critical infrastructure sectors
23 are listed in this paragraph shall not be construed
24 as an order of priority for consideration of the im-
25 portance of such sectors.

1 “(3) TYPES OF THREAT.—The Board specifi-
2 cally shall consider the following types of threat to
3 the critical infrastructure sectors described in para-
4 graph (2), and to populations in all areas of the
5 United States, urban and rural:

6 “(A) Biological threats.

7 “(B) Nuclear threats.

8 “(C) Radiological threats.

9 “(D) Incendiary threats.

10 “(E) Chemical threats.

11 “(F) Explosives.

12 “(G) Suicide bombers.

13 “(H) Cyber threats.

14 “(I) Any other threats based on proximity
15 to specific past acts of terrorism or the known
16 activity of any terrorist group.

17 The order in which the types of threat are listed in
18 this paragraph shall not be construed as an order of
19 priority for consideration of the importance of such
20 threats.

21 “(4) CONSIDERATION OF ADDITIONAL FAC-
22 TORS.—The Board shall take into account any other
23 specific threat to a population (including a transient
24 commuting or tourist population) or critical infra-
25 structure sector that the Board has determined to

1 exist. In evaluating the threat to a population or
2 critical infrastructure sector, the Board shall give
3 greater weight to threats of terrorism based upon
4 their specificity and credibility, including any pat-
5 tern of repetition.

6 “(5) MINIMUM AMOUNTS.—After evaluating
7 and prioritizing grant applications under paragraph
8 (1), the Board shall ensure that, for each fiscal
9 year—

10 “(A) each of the States, other than the
11 Virgin Islands, American Samoa, Guam, and
12 the Northern Mariana Islands, that has an ap-
13 proved State homeland security plan receives no
14 less than 0.25 percent of the funds available for
15 covered grants for that fiscal year for purposes
16 of implementing its homeland security plan in
17 accordance with the prioritization of needs
18 under section 1803(c)(1)(D);

19 “(B) each of the States, other than the
20 Virgin Islands, American Samoa, Guam, and
21 the Northern Mariana Islands, that has an ap-
22 proved State homeland security plan and that
23 meets one or both of the additional high-risk
24 qualifying criteria under paragraph (6) receives
25 no less than 0.45 percent of the funds available

1 for covered grants for that fiscal year for pur-
2 poses of implementing its homeland security
3 plan in accordance with the prioritization of
4 needs under section 1803(c)(1)(D);

5 “(C) the Virgin Islands, American Samoa,
6 Guam, and the Northern Mariana Islands each
7 receives no less than 0.08 percent of the funds
8 available for covered grants for that fiscal year
9 for purposes of implementing its approved State
10 homeland security plan in accordance with the
11 prioritization of needs under section
12 1803(c)(1)(D); and

13 “(D) directly eligible tribes collectively re-
14 ceive no less than 0.08 percent of the funds
15 available for covered grants for such fiscal year
16 for purposes of addressing the needs identified
17 in the applications of such tribes, consistent
18 with the homeland security plan of each State
19 within the boundaries of which any part of any
20 such tribe is located, except that this clause
21 shall not apply with respect to funds available
22 for a fiscal year if the Secretary receives less
23 than 5 applications for such fiscal year from
24 such tribes under section 1803(e)(6)(A) or does
25 not approve at least one such application.

1 “(6) ADDITIONAL HIGH-RISK QUALIFYING CRI-
2 TERIA.—For purposes of paragraph (5)(B), addi-
3 tional high-risk qualifying criteria consist of—

4 “(A) having a significant international
5 land border; or

6 “(B) adjoining a body of water within
7 North America through which an international
8 boundary line extends.

9 “(d) EFFECT OF REGIONAL AWARDS ON STATE MIN-
10 IMUM.—Any regional award, or portion thereof, provided
11 to a State under section 1803(e)(5)(C) shall not be consid-
12 ered in calculating the minimum State award under sub-
13 section (c)(5) of this section.

14 **“SEC. 1805. TASK FORCE ON TERRORISM PREPAREDNESS**
15 **FOR FIRST RESPONDERS.**

16 “(a) ESTABLISHMENT.—To assist the Secretary in
17 updating, revising, or replacing essential capabilities for
18 terrorism preparedness, the Secretary shall establish an
19 advisory body pursuant to section 871(a) not later than
20 60 days after the date of the enactment of this section,
21 which shall be known as the Task Force on Terrorism Pre-
22 paredness for First Responders.

23 “(b) UPDATE, REVISE, OR REPLACE.—The Secretary
24 shall regularly update, revise, or replace the essential ca-

1 pabilities for terrorism preparedness as necessary, but not
2 less than every 3 years.

3 “(c) REPORT.—

4 “(1) IN GENERAL.—The Task Force shall sub-
5 mit to the Secretary, by not later than 12 months
6 after its establishment by the Secretary under sub-
7 section (a) and not later than every 2 years there-
8 after, a report on its recommendations for essential
9 capabilities for terrorism preparedness.

10 “(2) CONTENTS.—Each report shall—

11 “(A) include a priority ranking of essential
12 capabilities in order to provide guidance to the
13 Secretary and to the Congress on determining
14 the appropriate allocation of, and funding levels
15 for, first responder needs;

16 “(B) set forth a methodology by which any
17 State or local government will be able to deter-
18 mine the extent to which it possesses or has ac-
19 cess to the essential capabilities that States and
20 local governments having similar risks should
21 obtain;

22 “(C) describe the availability of national
23 voluntary consensus standards, and whether
24 there is a need for new national voluntary con-

1 sensus standards, with respect to first re-
2 sponder training and equipment;

3 “(D) include such additional matters as
4 the Secretary may specify in order to further
5 the terrorism preparedness capabilities of first
6 responders; and

7 “(E) include such revisions to the contents
8 of previous reports as are necessary to take into
9 account changes in the most current risk as-
10 sessment available by the Directorate for Infor-
11 mation Analysis and Infrastructure Protection
12 or other relevant information as determined by
13 the Secretary.

14 “(3) CONSISTENCY WITH FEDERAL WORKING
15 GROUP.—The Task Force shall ensure that its rec-
16 ommendations for essential capabilities for terrorism
17 preparedness are, to the extent feasible, consistent
18 with any preparedness goals or recommendations of
19 the Federal working group established under section
20 319F(a) of the Public Health Service Act (42 U.S.C.
21 247d–6(a)).

22 “(4) COMPREHENSIVENESS.—The Task Force
23 shall ensure that its recommendations regarding es-
24 sential capabilities for terrorism preparedness are

1 made within the context of a comprehensive State
2 emergency management system.

3 “(5) PRIOR MEASURES.—The Task Force shall
4 ensure that its recommendations regarding essential
5 capabilities for terrorism preparedness take into ac-
6 count any capabilities that State or local officials
7 have determined to be essential and have undertaken
8 since September 11, 2001, to prevent, prepare for,
9 respond to, or recover from terrorist attacks.

10 “(d) MEMBERSHIP.—

11 “(1) IN GENERAL.—The Task Force shall con-
12 sist of 25 members appointed by the Secretary, and
13 shall, to the extent practicable, represent a geo-
14 graphic (including urban and rural) and substantive
15 cross section of governmental and nongovernmental
16 first responder disciplines from the State and local
17 levels, including as appropriate—

18 “(A) members selected from the emergency
19 response field, including fire service and law en-
20 forcement, hazardous materials response, emer-
21 gency medical services, and emergency manage-
22 ment personnel (including public works per-
23 sonnel routinely engaged in emergency re-
24 sponse);

1 “(B) health scientists, emergency and in-
2 patient medical providers, and public health
3 professionals, including experts in emergency
4 health care response to chemical, biological, ra-
5 diological, and nuclear terrorism, and experts in
6 providing mental health care during emergency
7 response operations;

8 “(C) experts from Federal, State, and local
9 governments, and the private sector, rep-
10 resenting standards-setting organizations, in-
11 cluding representation from the voluntary con-
12 sensus codes and standards development com-
13 munity, particularly those with expertise in first
14 responder disciplines; and

15 “(D) State and local officials with exper-
16 tise in terrorism preparedness, subject to the
17 condition that if any such official is an elected
18 official representing one of the two major polit-
19 ical parties, an equal number of elected officials
20 shall be selected from each such party.

21 “(2) COORDINATION WITH THE DEPARTMENT
22 OF HEALTH AND HEALTH SERVICES.—In the selec-
23 tion of members of the Task Force who are health
24 professionals, including emergency medical profes-

1 sionals, the Secretary shall coordinate such selection
2 with the Secretary of Health and Human Services.

3 “(3) EX OFFICIO MEMBERS.—The Secretary
4 and the Secretary of Health and Human Services
5 shall each designate one or more officers of their re-
6 spective Departments to serve as ex officio members
7 of the Task Force. One of the ex officio members
8 from the Department of Homeland Security shall be
9 the designated officer of the Federal Government for
10 purposes of subsection (e) of section 10 of the Fed-
11 eral Advisory Committee Act (5 U.S.C. App.).

12 “(e) APPLICABILITY OF FEDERAL ADVISORY COM-
13 MITTEE ACT.—Notwithstanding section 871(a), the Fed-
14 eral Advisory Committee Act (5 U.S.C. App.), including
15 subsections (a), (b), and (d) of section 10 of such Act,
16 and section 552b(c) of title 5, United States Code, shall
17 apply to the Task Force.

18 **“SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY RE-**
19 **QUIREMENTS.**

20 “(a) IN GENERAL.—A covered grant may be used
21 for—

22 “(1) purchasing or upgrading equipment, in-
23 cluding computer software, to enhance terrorism
24 preparedness;

1 “(2) exercises to strengthen terrorism prepared-
2 ness;

3 “(3) training for prevention (including detec-
4 tion) of, preparedness for, response to, or recovery
5 from attacks involving weapons of mass destruction,
6 including training in the use of equipment and com-
7 puter software;

8 “(4) developing or updating State homeland se-
9 curity plans, risk assessments, mutual aid agree-
10 ments, and emergency management plans to enhance
11 terrorism preparedness;

12 “(5) establishing or enhancing mechanisms for
13 sharing terrorism threat information;

14 “(6) systems architecture and engineering, pro-
15 gram planning and management, strategy formula-
16 tion and strategic planning, life-cycle systems de-
17 sign, product and technology evaluation, and proto-
18 type development for terrorism preparedness pur-
19 poses;

20 “(7) additional personnel costs resulting from—

21 “(A) elevations in the threat alert level of
22 the Homeland Security Advisory System by the
23 Secretary, or a similar elevation in threat alert
24 level issued by a State, region, or local govern-
25 ment with the approval of the Secretary;

1 “(B) travel to and participation in exer-
2 cises and training in the use of equipment and
3 on prevention activities; and

4 “(C) the temporary replacement of per-
5 sonnel during any period of travel to and par-
6 ticipation in exercises and training in the use of
7 equipment and on prevention activities;

8 “(8) the costs of equipment (including software)
9 required to receive, transmit, handle, and store clas-
10 sified information;

11 “(9) protecting critical infrastructure against
12 potential attack by the addition of barriers, fences,
13 gates, and other such devices, except that the cost
14 of such measures may not exceed the greater of—

15 “(A) \$1,000,000 per project; or

16 “(B) such greater amount as may be ap-
17 proved by the Secretary, which may not exceed
18 10 percent of the total amount of the covered
19 grant;

20 “(10) the costs of commercially available inter-
21 operable communications equipment (which, where
22 applicable, is based on national, voluntary consensus
23 standards) that the Secretary, in consultation with
24 the Chairman of the Federal Communications Com-
25 mission, deems best suited to facilitate interoper-

1 ability, coordination, and integration between and
2 among emergency communications systems, and that
3 complies with prevailing grant guidance of the De-
4 partment for interoperable communications;

5 “(11) educational curricula development for
6 first responders to ensure that they are prepared for
7 terrorist attacks;

8 “(12) training and exercises to assist public ele-
9 mentary and secondary schools in developing and
10 implementing programs to instruct students regard-
11 ing age-appropriate skills to prevent, prepare for, re-
12 spond to, mitigate against, or recover from an act of
13 terrorism;

14 “(13) paying of administrative expenses directly
15 related to administration of the grant, except that
16 such expenses may not exceed 3 percent of the
17 amount of the grant;

18 “(14) paying for the conduct of any activity
19 permitted under the Law Enforcement Terrorism
20 Prevention Program, or any such successor to such
21 program; and

22 “(15) other appropriate activities as determined
23 by the Secretary.

24 “(b) PROHIBITED USES.—Funds provided as a cov-
25 ered grant may not be used—

1 “(1) to supplant State or local funds;

2 “(2) to construct buildings or other physical fa-
3 cilities;

4 “(3) to acquire land; or

5 “(4) for any State or local government cost
6 sharing contribution.

7 “(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this
8 section shall be construed to preclude State and local gov-
9 ernments from using covered grant funds in a manner
10 that also enhances first responder preparedness for emer-
11 gencies and disasters unrelated to acts of terrorism, if
12 such use assists such governments in achieving essential
13 capabilities for terrorism preparedness established by the
14 Secretary.

15 “(d) REIMBURSEMENT OF COSTS.—(1) In addition
16 to the activities described in subsection (a), a covered
17 grant may be used to provide a reasonable stipend to paid-
18 on-call or volunteer first responders who are not otherwise
19 compensated for travel to or participation in training cov-
20 ered by this section. Any such reimbursement shall not
21 be considered compensation for purposes of rendering
22 such a first responder an employee under the Fair Labor
23 Standards Act of 1938 (29 U.S.C. 201 et seq.).

24 “(2) An applicant for a covered grant may petition
25 the Secretary for the reimbursement of the cost of any

1 activity relating to prevention (including detection) of, pre-
2 paredness for, response to, or recovery from acts of ter-
3 rorism that is a Federal duty and usually performed by
4 a Federal agency, and that is being performed by a State
5 or local government (or both) under agreement with a
6 Federal agency.

7 “(e) ASSISTANCE REQUIREMENT.—The Secretary
8 may not require that equipment paid for, wholly or in part,
9 with funds provided as a covered grant be made available
10 for responding to emergencies in surrounding States, re-
11 gions, and localities, unless the Secretary undertakes to
12 pay the costs directly attributable to transporting and op-
13 erating such equipment during such response.

14 “(f) FLEXIBILITY IN UNSPENT HOMELAND SECU-
15 RITY GRANT FUNDS.—Upon request by the recipient of
16 a covered grant, the Secretary may authorize the grantee
17 to transfer all or part of funds provided as the covered
18 grant from uses specified in the grant agreement to other
19 uses authorized under this section, if the Secretary deter-
20 mines that such transfer is in the interests of homeland
21 security.

22 “(g) STATE, REGIONAL, AND TRIBAL RESPONSIBIL-
23 ITIES.—

24 “(1) PASS-THROUGH.—The Secretary shall re-
25 quire a recipient of a covered grant that is a State

1 to obligate or otherwise make available to local gov-
2 ernments, first responders, and other local groups,
3 to the extent required under the State homeland se-
4 curity plan or plans specified in the application for
5 the grant, not less than 80 percent of the grant
6 funds, resources purchased with the grant funds
7 having a value equal to at least 80 percent of the
8 amount of the grant, or a combination thereof, by
9 not later than the end of the 45-day period begin-
10 ning on the date the grant recipient receives the
11 grant funds.

12 “(2) COST SHARING.—

13 “(A) IN GENERAL.—The Federal share of
14 the costs of an activity carried out with a cov-
15 ered grant to a State, region, or directly eligible
16 tribe awarded after the 2-year period beginning
17 on the date of the enactment of this section
18 shall not exceed 75 percent.

19 “(B) INTERIM RULE.—The Federal share
20 of the costs of an activity carried out with a
21 covered grant awarded before the end of the 2-
22 year period beginning on the date of the enact-
23 ment of this section shall be 100 percent.

24 “(C) IN-KIND MATCHING.—Each recipient
25 of a covered grant may meet the matching re-

1 quirement under subparagraph (A) by making
2 in-kind contributions of goods or services that
3 are directly linked with the purpose for which
4 the grant is made, including, but not limited to,
5 any necessary personnel overtime, contractor
6 services, administrative costs, equipment fuel
7 and maintenance, and rental space.

8 “(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—

9
10 Any State that receives a covered grant shall certify
11 to the Secretary, by not later than 30 days after the
12 expiration of the period described in paragraph (1)
13 with respect to the grant, that the State has made
14 available for expenditure by local governments, first
15 responders, and other local groups the required
16 amount of grant funds pursuant to paragraph (1).

17 “(4) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—The Federal share described in
18 paragraph (2)(A) may be increased by up to 2 per-
19 cent for any State, region, or directly eligible tribe
20 that, not later than 30 days after the end of each
21 fiscal quarter, submits to the Secretary a report on
22 that fiscal quarter. Each such report must include,
23 for each recipient of a covered grant or a pass-
24 through under paragraph (1)—
25

1 “(A) the amount obligated to that recipient
2 in that quarter;

3 “(B) the amount expended by that recipi-
4 ent in that quarter; and

5 “(C) a summary description of the items
6 purchased by such recipient with such amount.

7 “(5) ANNUAL REPORT ON HOMELAND SECU-
8 RITY SPENDING.—Each recipient of a covered grant
9 shall submit an annual report to the Secretary not
10 later than 60 days after the end of each Federal fis-
11 cal year. Each recipient of a covered grant that is
12 a region must simultaneously submit its report to
13 each State of which any part is included in the re-
14 gion. Each recipient of a covered grant that is a di-
15 rectly eligible tribe must simultaneously submit its
16 report to each State within the boundaries of which
17 any part of such tribe is located. Each report must
18 include the following:

19 “(A) The amount, ultimate recipients, and
20 dates of receipt of all funds received under the
21 grant during the previous fiscal year.

22 “(B) The amount and the dates of dis-
23 bursements of all such funds expended in com-
24 pliance with paragraph (1) or pursuant to mu-
25 tual aid agreements or other sharing arrange-

1 ments that apply within the State, region, or di-
2 rectly eligible tribe, as applicable, during the
3 previous fiscal year.

4 “(C) How the funds were utilized by each
5 ultimate recipient or beneficiary during the pre-
6 ceding fiscal year.

7 “(D) The extent to which essential capa-
8 bilities identified in the applicable State home-
9 land security plan or plans were achieved, main-
10 tained, or enhanced as the result of the expend-
11 iture of grant funds during the preceding fiscal
12 year.

13 “(E) The extent to which essential capa-
14 bilities identified in the applicable State home-
15 land security plan or plans remain unmet.

16 “(6) INCLUSION OF RESTRICTED ANNEXES.—A
17 recipient of a covered grant may submit to the Sec-
18 retary an annex to the annual report under para-
19 graph (5) that is subject to appropriate handling re-
20 strictions, if the recipient believes that discussion in
21 the report of unmet needs would reveal sensitive but
22 unclassified information.

23 “(7) PROVISION OF REPORTS.—The Secretary
24 shall ensure that each annual report under para-
25 graph (5) is provided to the Under Secretary for

1 Emergency Preparedness and Response and the Di-
2 rector of the Office for Domestic Preparedness.

3 “(h) INCENTIVES TO EFFICIENT ADMINISTRATION
4 OF HOMELAND SECURITY GRANTS.—

5 “(1) PENALTIES FOR DELAY IN PASSING
6 THROUGH LOCAL SHARE.—If a recipient of a cov-
7 ered grant that is a State fails to pass through to
8 local governments, first responders, and other local
9 groups funds or resources required by subsection
10 (g)(1) within 45 days after receiving funds under
11 the grant, the Secretary may—

12 “(A) reduce grant payments to the grant
13 recipient from the portion of grant funds that
14 is not required to be passed through under sub-
15 section (g)(1);

16 “(B) terminate payment of funds under
17 the grant to the recipient, and transfer the ap-
18 propriate portion of those funds directly to local
19 first responders that were intended to receive
20 funding under that grant; or

21 “(C) impose additional restrictions or bur-
22 dens on the recipient’s use of funds under the
23 grant, which may include—

1 “(i) prohibiting use of such funds to
2 pay the grant recipient’s grant-related
3 overtime or other expenses;

4 “(ii) requiring the grant recipient to
5 distribute to local government beneficiaries
6 all or a portion of grant funds that are not
7 required to be passed through under sub-
8 section (g)(1); or

9 “(iii) for each day that the grant re-
10 cipient fails to pass through funds or re-
11 sources in accordance with subsection
12 (g)(1), reducing grant payments to the
13 grant recipient from the portion of grant
14 funds that is not required to be passed
15 through under subsection (g)(1), except
16 that the total amount of such reduction
17 may not exceed 20 percent of the total
18 amount of the grant.

19 “(2) EXTENSION OF PERIOD.—The Governor of
20 a State may request in writing that the Secretary
21 extend the 45-day period under section
22 1803(e)(5)(E) or paragraph (1) for an additional
23 15-day period. The Secretary may approve such a
24 request, and may extend such period for additional
25 15-day periods, if the Secretary determines that the

1 resulting delay in providing grant funding to the
2 local government entities that will receive funding
3 under the grant will not have a significant detri-
4 mental impact on such entities' terrorism prepared-
5 ness efforts.

6 “(3) PROVISION OF NON-LOCAL SHARE TO
7 LOCAL GOVERNMENT.—

8 “(A) IN GENERAL.—The Secretary may
9 upon request by a local government pay to the
10 local government a portion of the amount of a
11 covered grant awarded to a State in which the
12 local government is located, if—

13 “(i) the local government will use the
14 amount paid to expedite planned enhance-
15 ments to its terrorism preparedness as de-
16 scribed in any applicable State homeland
17 security plan or plans;

18 “(ii) the State has failed to pass
19 through funds or resources in accordance
20 with subsection (g)(1); and

21 “(iii) the local government complies
22 with subparagraphs (B) and (C).

23 “(B) SHOWING REQUIRED.—To receive a
24 payment under this paragraph, a local govern-
25 ment must demonstrate that—

1 “(i) it is identified explicitly as an ul-
2 timate recipient or intended beneficiary in
3 the approved grant application;

4 “(ii) it was intended by the grantee to
5 receive a severable portion of the overall
6 grant for a specific purpose that is identi-
7 fied in the grant application;

8 “(iii) it petitioned the grantee for the
9 funds or resources after expiration of the
10 period within which the funds or resources
11 were required to be passed through under
12 subsection (g)(1); and

13 “(iv) it did not receive the portion of
14 the overall grant that was earmarked or
15 designated for its use or benefit.

16 “(C) EFFECT OF PAYMENT.—Payment of
17 grant funds to a local government under this
18 paragraph—

19 “(i) shall not affect any payment to
20 another local government under this para-
21 graph; and

22 “(ii) shall not prejudice consideration
23 of a request for payment under this para-
24 graph that is submitted by another local
25 government.

1 “(D) DEADLINE FOR ACTION BY SEC-
2 RETARY.—The Secretary shall approve or dis-
3 approve each request for payment under this
4 paragraph by not later than 15 days after the
5 date the request is received by the Department.

6 “(i) REPORTS TO CONGRESS.—The Secretary shall
7 submit an annual report to the Congress by January 31
8 of each year covering the preceding fiscal year—

9 “(1) describing in detail the amount of Federal
10 funds provided as covered grants that were directed
11 to each State, region, and directly eligible tribe in
12 the preceding fiscal year;

13 “(2) containing information on the use of such
14 grant funds by grantees; and

15 “(3) describing—

16 “(A) the Nation’s progress in achieving,
17 maintaining, and enhancing the essential capa-
18 bilities established by the Secretary as a result
19 of the expenditure of covered grant funds dur-
20 ing the preceding fiscal year; and

21 “(B) an estimate of the amount of expend-
22 itures required to attain across the United
23 States the essential capabilities established by
24 the Secretary.

1 **“SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER**
2 **EQUIPMENT AND TRAINING.**

3 “(a) EQUIPMENT STANDARDS.—

4 “(1) IN GENERAL.—The Secretary, in consulta-
5 tion with the Under Secretaries for Emergency Pre-
6 paredness and Response and Science and Tech-
7 nology and the Director of the Office for Domestic
8 Preparedness, shall, not later than 6 months after
9 the date of enactment of this section, support the
10 development of, promulgate, and update as nec-
11 essary national voluntary consensus standards for
12 the performance, use, and validation of first re-
13 sponder equipment for purposes of section
14 1805(e)(7). Such standards—

15 “(A) shall be, to the maximum extent prac-
16 ticable, consistent with any existing voluntary
17 consensus standards;

18 “(B) shall take into account, as appro-
19 priate, new types of terrorism threats that may
20 not have been contemplated when such existing
21 standards were developed;

22 “(C) shall be focused on maximizing inter-
23 operability, interchangeability, durability, flexi-
24 bility, efficiency, efficacy, portability, sustain-
25 ability, and safety; and

1 “(D) shall cover all appropriate uses of the
2 equipment.

3 “(2) REQUIRED CATEGORIES.—In carrying out
4 paragraph (1), the Secretary shall specifically con-
5 sider the following categories of first responder
6 equipment:

7 “(A) Thermal imaging equipment.

8 “(B) Radiation detection and analysis
9 equipment.

10 “(C) Biological detection and analysis
11 equipment.

12 “(D) Chemical detection and analysis
13 equipment.

14 “(E) Decontamination and sterilization
15 equipment.

16 “(F) Personal protective equipment, in-
17 cluding garments, boots, gloves, and hoods and
18 other protective clothing.

19 “(G) Respiratory protection equipment.

20 “(H) Interoperable communications, in-
21 cluding wireless and wireline voice, video, and
22 data networks.

23 “(I) Explosive mitigation devices and ex-
24 plosive detection and analysis equipment.

25 “(J) Containment vessels.

1 “(K) Contaminant-resistant vehicles.

2 “(L) Such other equipment for which the
3 Secretary determines that national voluntary
4 consensus standards would be appropriate.

5 “(b) TRAINING STANDARDS.—

6 “(1) IN GENERAL.—The Secretary, in consulta-
7 tion with the Under Secretaries for Emergency Pre-
8 paredness and Response and Science and Tech-
9 nology and the Director of the Office for Domestic
10 Preparedness, shall support the development of, pro-
11 mulgate, and regularly update as necessary national
12 voluntary consensus standards for first responder
13 training carried out with amounts provided under
14 covered grant programs, that will enable State and
15 local government first responders to achieve optimal
16 levels of terrorism preparedness as quickly as prac-
17 ticable. Such standards shall give priority to pro-
18 viding training to—

19 “(A) enable first responders to prevent,
20 prepare for, respond to, mitigate against, and
21 recover from terrorist threats, including threats
22 from chemical, biological, nuclear, and radio-
23 logical weapons and explosive devices capable of
24 inflicting significant human casualties; and

1 “(B) familiarize first responders with the
2 proper use of equipment, including software,
3 developed pursuant to the standards established
4 under subsection (a).

5 “(2) REQUIRED CATEGORIES.—In carrying out
6 paragraph (1), the Secretary specifically shall in-
7 clude the following categories of first responder ac-
8 tivities:

9 “(A) Regional planning.

10 “(B) Joint exercises.

11 “(C) Intelligence collection, analysis, and
12 sharing.

13 “(D) Emergency notification of affected
14 populations.

15 “(E) Detection of biological, nuclear, radi-
16 ological, and chemical weapons of mass destruc-
17 tion.

18 “(F) Such other activities for which the
19 Secretary determines that national voluntary
20 consensus training standards would be appro-
21 priate.

22 “(3) CONSISTENCY.—In carrying out this sub-
23 section, the Secretary shall ensure that such training
24 standards are consistent with the principles of emer-
25 gency preparedness for all hazards.

1 “(c) CONSULTATION WITH STANDARDS ORGANIZA-
2 TIONS.—In establishing national voluntary consensus
3 standards for first responder equipment and training
4 under this section, the Secretary shall consult with rel-
5 evant public and private sector groups, including—

6 “(1) the National Institute of Standards and
7 Technology;

8 “(2) the National Fire Protection Association;

9 “(3) the National Association of County and
10 City Health Officials;

11 “(4) the Association of State and Territorial
12 Health Officials;

13 “(5) the American National Standards Insti-
14 tute;

15 “(6) the National Institute of Justice;

16 “(7) the Inter-Agency Board for Equipment
17 Standardization and Interoperability;

18 “(8) the National Public Health Performance
19 Standards Program;

20 “(9) the National Institute for Occupational
21 Safety and Health;

22 “(10) ASTM International;

23 “(11) the International Safety Equipment Asso-
24 ciation;

1 “(12) the Emergency Management Accredita-
2 tion Program; and

3 “(13) to the extent the Secretary considers ap-
4 propriate, other national voluntary consensus stand-
5 ards development organizations, other interested
6 Federal, State, and local agencies, and other inter-
7 ested persons.

8 “(d) COORDINATION WITH SECRETARY OF HHS.—
9 In establishing any national voluntary consensus stand-
10 ards under this section for first responder equipment or
11 training that involve or relate to health professionals, in-
12 cluding emergency medical professionals, the Secretary
13 shall coordinate activities under this section with the Sec-
14 retary of Health and Human Services.”.

15 (b) DEFINITION OF EMERGENCY RESPONSE PRO-
16 VIDERS.—Paragraph (6) of section 2 of the Homeland Se-
17 curity Act of 2002 (Public Law 107–296; 6 U.S.C.
18 101(6)) is amended by striking “includes” and all that
19 follows and inserting “includes Federal, State, and local
20 governmental and nongovernmental emergency public
21 safety, law enforcement, fire, emergency response, emer-
22 gency medical (including hospital emergency facilities),
23 and related personnel, organizations, agencies, and au-
24 thorities.”.

1 **SEC. 129. OVERSIGHT.**

2 The Secretary of Homeland Security shall establish
3 within the Office for Domestic Preparedness an Office of
4 the Comptroller to oversee the grants distribution process
5 and the financial management of the Office for Domestic
6 Preparedness.

7 **SEC. 130. GAO REPORT ON AN INVENTORY AND STATUS OF**
8 **HOMELAND SECURITY FIRST RESPONDER**
9 **TRAINING.**

10 (a) IN GENERAL.—The Comptroller General of the
11 United States shall report to the Congress in accordance
12 with this section—

13 (1) on the overall inventory and status of first
14 responder training programs of the Department of
15 Homeland Security and other departments and
16 agencies of the Federal Government; and

17 (2) the extent to which such programs are co-
18 ordinated.

19 (b) CONTENTS OF REPORTS.—The reports under this
20 section shall include—

21 (1) an assessment of the effectiveness of the
22 structure and organization of such training pro-
23 grams;

24 (2) recommendations to—

1 (A) improve the coordination, structure,
2 and organization of such training programs;
3 and

4 (B) increase the availability of training to
5 first responders who are not able to attend cen-
6 tralized training programs;

7 (3) the structure and organizational effective-
8 ness of such programs for first responders in rural
9 communities;

10 (4) identification of any duplication or redun-
11 dancy among such programs;

12 (5) a description of the use of State and local
13 training institutions, universities, centers, and the
14 National Domestic Preparedness Consortium in de-
15 signing and providing training;

16 (6) a cost-benefit analysis of the costs and time
17 required for first responders to participate in train-
18 ing courses at Federal institutions;

19 (7) an assessment of the approval process for
20 certifying non-Department of Homeland Security
21 training courses that are useful for anti-terrorism
22 purposes as eligible for grants awarded by the De-
23 partment;

1 (8) a description of the use of Department of
2 Homeland Security grant funds by States and local
3 governments to acquire training;

4 (9) an analysis of the feasibility of Federal,
5 State, and local personnel to receive the training
6 that is necessary to adopt the National Response
7 Plan and the National Incident Management Sys-
8 tem; and

9 (10) the role of each first responder training in-
10 stitution within the Department of Homeland Secu-
11 rity in the design and implementation of terrorism
12 preparedness and related training courses for first
13 responders.

14 (c) DEADLINES.—The Comptroller General shall—

15 (1) submit a report under subsection (a)(1) by
16 not later than 60 days after the date of the enact-
17 ment of this Act; and

18 (2) submit a report on the remainder of the
19 topics required by this section by not later than 120
20 days after the date of the enactment of this Act.

21 **SEC. 131. REMOVAL OF CIVIL LIABILITY BARRIERS THAT**
22 **DISCOURAGE THE DONATION OF FIRE EQUIP-**
23 **MENT TO VOLUNTEER FIRE COMPANIES.**

24 (a) LIABILITY PROTECTION.—A person who donates
25 fire control or fire rescue equipment to a volunteer fire

1 company shall not be liable for civil damages under any
2 State or Federal law for personal injuries, property dam-
3 age or loss, or death caused by the equipment after the
4 donation.

5 (b) EXCEPTIONS.—Subsection (a) does not apply to
6 a person if—

7 (1) the person’s act or omission causing the in-
8 jury, damage, loss, or death constitutes gross neg-
9 ligence or intentional misconduct; or

10 (2) the person is the manufacturer of the fire
11 control or fire rescue equipment.

12 (c) PREEMPTION.—This section preempts the laws of
13 any State to the extent that such laws are inconsistent
14 with this section, except that notwithstanding subsection
15 (b) this section shall not preempt any State law that pro-
16 vides additional protection from liability for a person who
17 donates fire control or fire rescue equipment to a volunteer
18 fire company.

19 (d) DEFINITIONS.—In this section:

20 (1) PERSON.—The term “person” includes any
21 governmental or other entity.

22 (2) FIRE CONTROL OR RESCUE EQUIPMENT.—
23 The term “fire control or fire rescue equipment” in-
24 cludes any fire vehicle, fire fighting tool, communica-

1 tions equipment, protective gear, fire hose, or
2 breathing apparatus.

3 (3) STATE.—The term “State” includes the
4 several States, the District of Columbia, the Com-
5 monwealth of Puerto Rico, the Commonwealth of the
6 Northern Mariana Islands, American Samoa, Guam,
7 the Virgin Islands, any other territory or possession
8 of the United States, and any political subdivision of
9 any such State, territory, or possession.

10 (4) VOLUNTEER FIRE COMPANY.—The term
11 “volunteer fire company” means an association of
12 individuals who provide fire protection and other
13 emergency services, where at least 30 percent of the
14 individuals receive little or no compensation com-
15 pared with an entry level full-time paid individual in
16 that association or in the nearest such association
17 with an entry level full-time paid individual.

18 (e) EFFECTIVE DATE.—This section applies only to
19 liability for injury, damage, loss, or death caused by equip-
20 ment that, for purposes of subsection (a), is donated on
21 or after the date that is 30 days after the date of the
22 enactment of this section.

23 **SEC. 132. REPORT BY ATTORNEY GENERAL.**

24 (a) REPORTS ON DATA-MINING ACTIVITIES.—

1 (1) REQUIREMENT FOR REPORT.—The Attor-
2 ney General shall collect the information described
3 in paragraph (2) from the head of each department
4 or agency of the Federal Government that is en-
5 gaged in any activity to use or develop data-mining
6 technology and shall report to Congress on all such
7 activities.

8 (2) CONTENT OF REPORT.—A report submitted
9 under paragraph (1) shall include, for each activity
10 to use or develop data-mining technology that is re-
11 quired to be covered by the report, the following in-
12 formation:

13 (A) A thorough description of the data-
14 mining technology and the data that will be
15 used.

16 (B) A thorough discussion of the plans for
17 the use of such technology and the target dates
18 for the deployment of the data-mining tech-
19 nology.

20 (C) An assessment of the likely efficacy of
21 the data-mining technology in providing accu-
22 rate and valuable information consistent with
23 the stated plans for the use of the technology.

1 (D) An assessment of the likely impact of
2 the implementation of the data-mining tech-
3 nology on privacy and civil liberties.

4 (E) A list and analysis of the laws and
5 regulations that govern the information to be
6 collected, reviewed, gathered, and analyzed with
7 the data-mining technology and a description of
8 any modifications of such laws that will be re-
9 quired to use the information in the manner
10 proposed under such program.

11 (F) A thorough discussion of the policies,
12 procedures, and guidelines that are to be devel-
13 oped and applied in the use of such technology
14 for data-mining in order to—

15 (i) protect the privacy and due process
16 rights of individuals; and

17 (ii) ensure that only accurate informa-
18 tion is collected and used.

19 (G) A thorough discussion of the proce-
20 dures allowing individuals whose personal infor-
21 mation will be used in the data-mining tech-
22 nology to be informed of the use of their per-
23 sonal information and what procedures are in
24 place to allow for individuals to opt out of the

1 technology. If no such procedures are in place,
2 a thorough explanation as to why not.

3 (H) Any necessary classified information in
4 an annex that shall be available to the Com-
5 mittee on the Judiciary of both the Senate and
6 the House of Representatives.

7 (3) TIME FOR REPORT.—The report required
8 under paragraph (1) shall be—

9 (A) submitted not later than 180 days
10 after the date of enactment of this Act; and

11 (B) updated once a year to include any
12 new data-mining technologies.

13 (b) DEFINITIONS.—In this section:

14 (1) DATA-MINING.—The term “data-mining”
15 means a query or search or other analysis of 1 or
16 more electronic databases, where—

17 (A) at least 1 of the databases was ob-
18 tained from or remains under the control of a
19 non-Federal entity, or the information was ac-
20 quired initially by another department or agen-
21 cy of the Federal Government for purposes
22 other than intelligence or law enforcement;

23 (B) the search does not use a specific indi-
24 vidual’s personal identifiers to acquire informa-
25 tion concerning that individual; and

1 (C) a department or agency of the Federal
2 Government is conducting the query or search
3 or other analysis to find a pattern indicating
4 terrorist or other criminal activity.

5 (2) DATABASE.—The term “database” does not
6 include telephone directories, information publicly
7 available via the Internet or available by any other
8 means to any member of the public without payment
9 of a fee, or databases of judicial and administrative
10 opinions.

11 **SEC. 133. SENSE OF CONGRESS.**

12 It is the sense of Congress that under section 981
13 of title 18, United States Code, victims of terrorists at-
14 tacks should have access to the assets forfeited.

15 **TITLE II—TERRORIST DEATH**
16 **PENALTY ENHANCEMENT**

17 **SEC. 201. SHORT TITLE.**

18 This title may be cited as the “Terrorist Death Pen-
19 alty Enhancement Act of 2005”.

20 **Subtitle A—Terrorist Penalties**
21 **Enhancement Act**

22 **SEC. 211. TERRORIST OFFENSE RESULTING IN DEATH.**

23 (a) NEW OFFENSE.—Chapter 113B of title 18,
24 United States Code, is amended by adding at the end the
25 following:

1 **“§ 2339E. Terrorist offenses resulting in death**

2 “(a) Whoever, in the course of committing a terrorist
3 offense, engages in conduct that results in the death of
4 a person, shall be punished by death or imprisoned for
5 any term of years or for life.

6 “(b) As used in this section, the term ‘terrorist of-
7 fense’ means—

8 “(1) a Federal felony offense that is—

9 “(A) a Federal crime of terrorism as de-
10 fined in section 2332b(g) except to the extent
11 such crime is an offense under section 1363; or

12 “(B) an offense under this chapter, section
13 175, 175b, 229, or 831, or section 236 of the
14 Atomic Energy Act of 1954; or

15 “(2) a Federal offense that is an attempt or
16 conspiracy to commit an offense described in para-
17 graph (1).”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of chapter 113B of title 18, United
20 States Code, is amended by adding at the end the fol-
21 lowing new item:

“2339E. Terrorist offenses resulting in death.”.

22 **SEC. 212. DENIAL OF FEDERAL BENEFITS TO TERRORISTS.**

23 (a) IN GENERAL.—Chapter 113B of title 18, United
24 States Code, as amended by section 211 of this subtitle,
25 is further amended by adding at the end the following:

1 **“§ 2339F. Denial of Federal benefits to terrorists**

2 “(a) An individual or corporation who is convicted of
3 a terrorist offense (as defined in section 2339E) shall, as
4 provided by the court on motion of the Government, be
5 ineligible for any or all Federal benefits for any term of
6 years or for life.

7 “(b) As used in this section, the term ‘Federal ben-
8 efit’ has the meaning given that term in section 421(d)
9 of the Controlled Substances Act, and also includes any
10 assistance or benefit described in section 115(a) of the
11 Personal Responsibility and Work Opportunity Reconcili-
12 ation Act of 1996, with the same limitations and to the
13 same extent as provided in section 115 of that Act with
14 respect to denials of benefits and assistance to which that
15 section applies.”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 at the beginning of the chapter 113B of title 18, United
18 States Code, as amended by section 211 of this subtitle,
19 is further amended by adding at the end the following new
20 item:

“2339E. Denial of federal benefits to terrorists.”.

1 **SEC. 213. DEATH PENALTY PROCEDURES FOR CERTAIN AIR**
2 **PIRACY CASES OCCURRING BEFORE ENACT-**
3 **MENT OF THE FEDERAL DEATH PENALTY**
4 **ACT OF 1994.**

5 Section 60003 of the Violent Crime Control and Law
6 Enforcement Act of 1994, (Public Law 103–322), is
7 amended, as of the time of its enactment, by adding at
8 the end the following:

9 “(c) DEATH PENALTY PROCEDURES FOR CERTAIN
10 PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual
11 convicted of violating section 46502 of title 49, United
12 States Code, or its predecessor, may be sentenced to death
13 in accordance with the procedures established in chapter
14 228 of title 18, United States Code, if for any offense com-
15 mitted before the enactment of the Violent Crime Control
16 and Law Enforcement Act of 1994 (Public Law 103–322),
17 but after the enactment of the Antihijacking Act of 1974
18 (Public Law 93–366), it is determined by the finder of
19 fact, before consideration of the factors set forth in sec-
20 tions 3591(a)(2) and 3592(a) and (c) of title 18, United
21 States Code, that one or more of the factors set forth in
22 former section 46503(c)(2) of title 49, United States
23 Code, or its predecessor, has been proven by the Govern-
24 ment to exist, beyond a reasonable doubt, and that none
25 of the factors set forth in former section 46503(c)(1) of
26 title 49, United States Code, or its predecessor, has been

1 proven by the defendant to exist, by a preponderance of
 2 the information. The meaning of the term ‘especially heinous,
 3 cruel, or depraved’, as used in the factor set forth
 4 in former section 46503(c)(2)(B)(iv) of title 49, United
 5 States Code, or its predecessor, shall be narrowed by adding
 6 the limiting language ‘in that it involved torture or
 7 serious physical abuse to the victim’, and shall be construed
 8 as when that term is used in section 3592(c)(6)
 9 of title 18, United States Code.”.

10 **SEC. 214. ENSURING DEATH PENALTY FOR TERRORIST OFFENSES WHICH CREATE GRAVE RISK OF**
 11 **DEATH.**
 12

13 (a) ADDITION OF TERRORISM TO DEATH PENALTY
 14 OFFENSES NOT RESULTING IN DEATH.—Section
 15 3591(a)(1) of title 18, United States Code, is amended
 16 by inserting “, section 2339E,” after “section 794”.

17 (b) MODIFICATION OF AGGRAVATING FACTORS FOR
 18 TERRORISM OFFENSES.—Section 3592(b) of title 18,
 19 United States Code, is amended—

20 (1) in the heading, by inserting “, terrorism,”
 21 after “espionage”; and

22 (2) by inserting immediately after paragraph
 23 (3) the following:

24 “(4) SUBSTANTIAL PLANNING.—The defendant
 25 committed the offense after substantial planning.”.

1 **SEC. 215. POSTRELEASE SUPERVISION OF TERRORISTS.**

2 Section 3583(j) of title 18, United States Code, is
3 amended in subsection (j), by striking “, the commission”
4 and all that follows through “person,” .

5 **Subtitle B—Prevention of Terrorist**
6 **Access to Destructive Weapons Act**

7 **SEC. 221. DEATH PENALTY FOR CERTAIN TERROR RE-**
8 **LATED CRIMES.**

9 (a) PARTICIPATION IN NUCLEAR AND WEAPONS OF
10 MASS DESTRUCTION THREATS TO THE UNITED
11 STATES.—Section 832(c) of title 18, United States Code,
12 is amended by inserting “punished by death or” after
13 “shall be”.

14 (b) MISSILE SYSTEMS TO DESTROY AIRCRAFT.—Sec-
15 tion 2332g(c)(3) of title 18, United States Code, is
16 amended by inserting “punished by death or” after “shall
17 be”.

18 (c) ATOMIC WEAPONS.—Section 222b.of the Atomic
19 Energy Act of 1954 (42 U.S.C. 2272) is amended by in-
20 serting “death or” before “imprisonment for life”.

21 (d) RADIOLOGICAL DISPERSAL DEVICES.—Section
22 2332h(c)(3) of title 18, United States Code, is amended
23 by inserting “death or” before “imprisonment for life”.

24 (e) VARIOLA VIRUS.—Section 175c(c)(3) of title 18,
25 United States Code, is amended by inserting “death or”
26 before “imprisonment for life”.

1 **Subtitle C—Federal Death Penalty**
2 **Procedures**

3 **SEC. 231. MODIFICATION OF DEATH PENALTY PROVISIONS.**

4 (a) ELIMINATION OF PROCEDURES APPLICABLE
5 ONLY TO CERTAIN CONTROLLED SUBSTANCES ACT
6 CASES.—Section 408 of the Controlled Substances Act
7 (21 U.S.C. 848) is amended—

8 (1) in subsection (e)(2), by striking “(1)(b)”
9 and inserting (1)(B);

10 (2) by striking subsection (g) and all that fol-
11 lows through subsection (p);

12 (3) by striking subsection (r); and

13 (4) in subsection (q), by striking paragraphs
14 (1) through (3).

15 (b) MODIFICATION OF MITIGATING FACTORS.—Sec-
16 tion 3592(a)(4) of title 18, United States Code, is amend-
17 ed—

18 (1) by striking “Another” and inserting “The
19 Government could have, but has not, sought the
20 death penalty against another”; and

21 (2) by striking “, will not be punished by
22 death”.

23 (c) MODIFICATION OF AGGRAVATING FACTORS FOR
24 OFFENSES RESULTING IN DEATH.—Section 3592(c) of
25 title 18, United States Code, is amended—

1 (1) in paragraph (7), by inserting “or by cre-
2 ating the expectation of payment,” after “or promise
3 of payment,”;

4 (2) in paragraph (1), by inserting “section
5 2339E (terrorist offenses resulting in death),” after
6 “destruction,”;

7 (3) by inserting immediately after paragraph
8 (16) the following:

9 “(17) OBSTRUCTION OF JUSTICE.—The defend-
10 ant engaged in any conduct resulting in the death of
11 another person in order to obstruct investigation or
12 prosecution of any offense.”.

13 (d) ADDITIONAL GROUND FOR IMPANELING NEW
14 JURY.—Section 3593(b)(2) of title 18, United States
15 Code, is amended—

16 (1) by striking “or” at the end of subparagraph
17 (C);

18 (2) by inserting after subparagraph (D) the fol-
19 lowing:

20 “(E) a new penalty hearing is necessary
21 due to the inability of the jury to reach a unan-
22 imous penalty verdict as required by section
23 3593(e); or”.

24 (e) JURIES OF LESS THAN 12 MEMBERS.—Sub-
25 section (b) of section 3593 of title 18, United States Code,

1 is amended by striking “unless” and all that follows
2 through the end of the subsection and inserting “unless
3 the court finds good cause, or the parties stipulate, with
4 the approval of the court, a lesser number.”.

5 (f) IMPANELING OF NEW JURY WHEN UNANIMOUS
6 RECOMMENDATION CANNOT BE REACHED.—Section
7 3594 of title 18, United States Code, is amended by in-
8 serting after the first sentence the following: “If the jury
9 is unable to reach any unanimous recommendation under
10 section 3593(e), the court, upon motion by the Govern-
11 ment, may impanel a jury under section 3593(b)(2)(E) for
12 a new sentencing hearing.”.

13 (g) PEREMPTORY CHALLENGES.—Rule 24(c) of the
14 Federal Rules of Criminal Procedure is amended—

15 (1) in paragraph (1), by striking “6” and in-
16 serting “9”; and

17 (2) in paragraph (4), by adding at the end the
18 following:

19 “(C) SEVEN, EIGHT OR NINE ALTER-
20 NATES.—Four additional peremptory challenges
21 are permitted when seven, eight, or nine alter-
22 nates are impaneled.”.

1 **TITLE III—REDUCING CRIME**
2 **AND TERRORISM AT AMER-**
3 **ICA’S SEAPORTS**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Reducing Crime and
6 Terrorism at America’s Seaports Act of 2005”.

7 **SEC. 302. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.**

8 (a) IN GENERAL.—Section 1036 of title 18, United
9 States Code, is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (2), by striking “or” at
12 the end;

13 (B) by redesignating paragraph (3) as
14 paragraph (4); and

15 (C) by inserting after paragraph (2) the
16 following:

17 “(3) any secure or restricted area of any sea-
18 port, designated as secure in an approved security
19 plan, as required under section 70103 of title 46,
20 United States Code, and the rules and regulations
21 promulgated under that section; or”;

22 (2) in subsection (b)(1), by striking “5 years”
23 and inserting “10 years”;

24 (3) in subsection (c)(1), by inserting “, captain
25 of the seaport,” after “airport authority”; and

1 (4) by striking the section heading and insert-
2 ing the following:

3 **“§ 1036. Entry by false pretenses to any real property,**
4 **vessel, or aircraft of the United States or**
5 **secure area of any airport or seaport”.**

6 (b) TECHNICAL AND CONFORMING AMENDMENT.—
7 The table of sections for chapter 47 of title 18 is amended
8 by striking the matter relating to section 1036 and insert-
9 ing the following:

“1036. Entry by false pretenses to any real property, vessel, or aircraft of the
United States or secure area of any airport or seaport.”.

10 (c) DEFINITION OF SEAPORT.—Chapter 1 of title 18,
11 United States Code, is amended by adding at the end the
12 following:

13 **“§ 26. Definition of seaport**

14 “As used in this title, the term ‘seaport’ means all
15 piers, wharves, docks, and similar structures, adjacent to
16 any waters subject to the jurisdiction of the United States,
17 to which a vessel may be secured, including areas of land,
18 water, or land and water under and in immediate prox-
19 imity to such structures, buildings on or contiguous to
20 such structures, and the equipment and materials on such
21 structures or in such buildings.”.

22 (d) TECHNICAL AND CONFORMING AMENDMENT.—
23 The table of sections for chapter 1 of title 18 is amended

1 by inserting after the matter relating to section 25 the
 2 following:

“26. Definition of seaport.”.

3 **SEC. 303. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE**
 4 **TO, OBSTRUCTION OF BOARDING, OR PRO-**
 5 **VIDING FALSE INFORMATION.**

6 (a) OFFENSE.—Chapter 109 of title 18, United
 7 States Code, is amended by adding at the end the fol-
 8 lowing:

9 **“§ 2237. Criminal sanctions for failure to heave to, ob-**
 10 **struction of boarding, or providing false**
 11 **information**

12 “(a)(1) It shall be unlawful for the master, operator,
 13 or person in charge of a vessel of the United States, or
 14 a vessel subject to the jurisdiction of the United States,
 15 to knowingly fail to obey an order by an authorized Fed-
 16 eral law enforcement officer to heave to that vessel.

17 “(2) It shall be unlawful for any person on board a
 18 vessel of the United States, or a vessel subject to the juris-
 19 diction of the United States, to—

20 “(A) forcibly resist, oppose, prevent, impede, in-
 21 timidate, or interfere with a boarding or other law
 22 enforcement action authorized by any Federal law or
 23 to resist a lawful arrest; or

24 “(B) intentionally provide materially false infor-
 25 mation to a Federal law enforcement officer during

1 a boarding of a vessel regarding the vessel's destina-
2 tion, origin, ownership, registration, nationality,
3 cargo, or crew.

4 “(b) Whoever violates this section shall be fined
5 under this title or imprisoned for not more than 5 years,
6 or both.

7 “(c) This section does not limit the authority of a
8 customs officer under section 581 of the Tariff Act of
9 1930 (19 U.S.C. 1581), or any other provision of law en-
10 forced or administered by the Secretary of the Treasury
11 or the Secretary of Homeland Security, or the authority
12 of any Federal law enforcement officer under any law of
13 the United States, to order a vessel to stop or heave to.

14 “(d) A foreign nation may consent or waive objection
15 to the enforcement of United States law by the United
16 States under this section by radio, telephone, or similar
17 oral or electronic means. Consent or waiver may be proven
18 by certification of the Secretary of State or the designee
19 of the Secretary of State.

20 “(e) In this section—

21 “(1) the term ‘Federal law enforcement officer’
22 has the meaning given the term in section 115(c);

23 “(2) the term ‘heave to’ means to cause a vessel
24 to slow, come to a stop, or adjust its course or speed

1 to account for the weather conditions and sea state
 2 to facilitate a law enforcement boarding;

3 “(3) the term ‘vessel subject to the jurisdiction
 4 of the United States’ has the meaning given the
 5 term in section 2 of the Maritime Drug Law En-
 6 forcement Act (46 U.S.C. App. 1903); and

7 “(4) the term ‘vessel of the United States’ has
 8 the meaning given the term in section 2 of the Mari-
 9 time Drug Law Enforcement Act (46 U.S.C. App.
 10 1903).”.

11 (b) CONFORMING AMENDMENT.—The table of sec-
 12 tions for chapter 109, title 18, United States Code, is
 13 amended by inserting after the item for section 2236 the
 14 following:

“2237. Criminal sanctions for failure to heave to, obstruction of boarding, or
 providing false information.”.

15 **SEC. 304. USE OF A DANGEROUS WEAPON OR EXPLOSIVE**
 16 **ON A PASSENGER VESSEL.**

17 Section 1993 of title 18, United States Code, is
 18 amended—

19 (1) in subsection (a)—

20 (A) in paragraph (1), by inserting “, pas-
 21 senger vessel,” after “transportation vehicle”;

22 (B) in paragraphs (2)—

23 (i) by inserting “, passenger vessel,”
 24 after “transportation vehicle”; and

1 (ii) by inserting “or owner of the pas-
2 senger vessel” after “transportation pro-
3 vider” each place that term appears;

4 (C) in paragraph (3)—

5 (i) by inserting “, passenger vessel,”
6 after “transportation vehicle” each place
7 that term appears; and

8 (ii) by inserting “or owner of the pas-
9 senger vessel” after “transportation pro-
10 vider” each place that term appears;

11 (D) in paragraph (5)—

12 (i) by inserting “, passenger vessel,”
13 after “transportation vehicle”; and

14 (ii) by inserting “or owner of the pas-
15 senger vessel” after “transportation pro-
16 vider”; and

17 (E) in paragraph (6), by inserting “or
18 owner of a passenger vessel” after “transpor-
19 tation provider” each place that term appears;

20 (2) in subsection (b)(1), by inserting “, pas-
21 senger vessel,” after “transportation vehicle”; and

22 (3) in subsection (c)—

23 (A) by redesignating paragraph (6)
24 through (8) as paragraphs (7) through (9); and

1 (B) by inserting after paragraph (5) the
2 following:

3 “(6) the term ‘passenger vessel’ has the mean-
4 ing given that term in section 2101(22) of title 46,
5 United States Code, and includes a small passenger
6 vessel, as that term is defined under section
7 2101(35) of that title.”.

8 **SEC. 305. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST**
9 **MARITIME NAVIGATION, PLACEMENT OF DE-**
10 **STRUCTIVE DEVICES.**

11 (a) PLACEMENT OF DESTRUCTIVE DEVICES.—Chap-
12 ter 111 of title 18, United States Code, as amended by
13 subsection (a), is further amended by adding at the end
14 the following:

15 **“§ 2282A. Devices or dangerous substances in waters**
16 **of the United States likely to destroy or**
17 **damage Ships or to interfere with mari-**
18 **time commerce**

19 “(a) A person who knowingly places, or causes to be
20 placed, in navigable waters of the United States, by any
21 means, a device or dangerous substance which is likely to
22 destroy or cause damage to a vessel or its cargo, cause
23 interference with the safe navigation of vessels, or inter-
24 ference with maritime commerce (such as by damaging or
25 destroying marine terminals, facilities, or any other ma-

1 rine structure or entity used in maritime commerce) with
2 the intent of causing such destruction or damage, inter-
3 ference with the safe navigation of vessels, or interference
4 with maritime commerce shall be fined under this title or
5 imprisoned for any term of years, or for life; or both.

6 “(b) A person who causes the death of any person
7 by engaging in conduct prohibited under subsection (a)
8 may be punished by death.

9 “(c) Nothing in this section shall be construed to
10 apply to otherwise lawfully authorized and conducted ac-
11 tivities of the United States Government.

12 “(d) In this section:

13 “(1) The term ‘dangerous substance’ means
14 any solid, liquid, or gaseous material that has the
15 capacity to cause damage to a vessel or its cargo, or
16 cause interference with the safe navigation of a ves-
17 sel.

18 “(2) The term ‘device’ means any object that,
19 because of its physical, mechanical, structural, or
20 chemical properties, has the capacity to cause dam-
21 age to a vessel or its cargo, or cause interference
22 with the safe navigation of a vessel.”.

23 (2) CONFORMING AMENDMENT.—The table of
24 sections for chapter 111 of title 18, United States
25 Code, as amended by subsection (b), is further

1 amended by adding after the item related to section
2 2282 the following:

“2282A. Devices or dangerous substances in waters of the United States likely
to destroy or damage ships or to interfere with maritime commerce.”.

3 (b) VIOLENCE AGAINST MARITIME NAVIGATION.—

4 (1) IN GENERAL.—Chapter 111 of title 18,
5 United States Code as amended by subsections (a)
6 and (c), is further amended by adding at the end the
7 following:

8 **“§ 2282B. Violence against aids to maritime naviga-**
9 **tion**

10 “Whoever intentionally destroys, seriously damages,
11 alters, moves, or tampers with any aid to maritime naviga-
12 tion maintained by the Saint Lawrence Seaway Develop-
13 ment Corporation under the authority of section 4 of the
14 Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard
15 pursuant to section 81 of title 14, United States Code,
16 or lawfully maintained under authority granted by the
17 Coast Guard pursuant to section 83 of title 14, United
18 States Code, if such act endangers or is likely to endanger
19 the safe navigation of a ship, shall be fined under this
20 title or imprisoned for not more than 20 years.”.

21 (2) CONFORMING AMENDMENT.—The table of
22 sections for chapter 111 of title 18, United States
23 Code, as amended by subsections (b) and (d) is fur-

1 ther amended by adding after the item related to
 2 section 2282A the following:

“2282B. Violence against aids to maritime navigation.”.

3 **SEC. 306. TRANSPORTATION OF DANGEROUS MATERIALS**
 4 **AND TERRORISTS.**

5 (a) TRANSPORTATION OF DANGEROUS MATERIALS
 6 AND TERRORISTS.—Chapter 111 of title 18, as amended
 7 by section 305, is further amended by adding at the end
 8 the following:

9 **“§ 2283. Transportation of explosive, biological, chem-**
 10 **ical, or radioactive or nuclear materials**

11 “(a) IN GENERAL.—Whoever knowingly transports
 12 aboard any vessel within the United States and on waters
 13 subject to the jurisdiction of the United States or any ves-
 14 sel outside the United States and on the high seas or hav-
 15 ing United States nationality an explosive or incendiary
 16 device, biological agent, chemical weapon, or radioactive
 17 or nuclear material, knowing or having reason to believe
 18 that any such item is intended to be used to commit an
 19 offense listed under section 2332b(g)(5)(B), shall be fined
 20 under this title or imprisoned for any term of years or
 21 for life, or both.

22 “(b) DEATH PENALTY.—If the death of any indi-
 23 vidual results from an offense under subsection (a) the
 24 offender may be punished by death.

25 “(c) DEFINITIONS.—In this section:

1 “(1) BIOLOGICAL AGENT.—The term ‘biological
2 agent’ means any biological agent, toxin, or vector
3 (as those terms are defined in section 178).

4 “(2) BY-PRODUCT MATERIAL.—The term ‘by-
5 product material’ has the meaning given that term
6 in section 11(e) of the Atomic Energy Act of 1954
7 (42 U.S.C. 2014(e)).

8 “(3) CHEMICAL WEAPON.—The term ‘chemical
9 weapon’ has the meaning given that term in section
10 229F(1).

11 “(4) EXPLOSIVE OR INCENDIARY DEVICE.—The
12 term ‘explosive or incendiary device’ has the mean-
13 ing given the term in section 232(5) and includes ex-
14 plosive materials, as that term is defined in section
15 841(c) and explosive as defined in section 844(j).

16 “(5) NUCLEAR MATERIAL.—The term ‘nuclear
17 material’ has the meaning given that term in section
18 831(f)(1).

19 “(6) RADIOACTIVE MATERIAL.—The term ‘ra-
20 dioactive material’ means—

21 “(A) source material and special nuclear
22 material, but does not include natural or de-
23 pleted uranium;

24 “(B) nuclear by-product material;

1 “(C) material made radioactive by bom-
2 bardment in an accelerator; or

3 “(D) all refined isotopes of radium.

4 “(8) SOURCE MATERIAL.—The term ‘source
5 material’ has the meaning given that term in section
6 11(z) of the Atomic Energy Act of 1954 (42 U.S.C.
7 2014(z)).

8 “(9) SPECIAL NUCLEAR MATERIAL.—The term
9 ‘special nuclear material’ has the meaning given that
10 term in section 11(aa) of the Atomic Energy Act of
11 1954 (42 U.S.C. 2014(aa)).

12 **“§ 2284. Transportation of terrorists**

13 “(a) IN GENERAL.—Whoever knowingly transports
14 any terrorist aboard any vessel within the United States
15 and on waters subject to the jurisdiction of the United
16 States or any vessel outside the United States and on the
17 high seas or having United States nationality, knowing or
18 having reason to believe that the transported person is a
19 terrorist, shall be fined under this title or imprisoned for
20 any term of years or for life, or both.

21 “(b) DEFINED TERM.—In this section, the term ‘ter-
22 rorist’ means any person who intends to commit, or is
23 avoiding apprehension after having committed, an offense
24 listed under section 2332b(g)(5)(B).”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
 2 tions for chapter 111 of title 18, United States Code, as
 3 amended by section 305, is further amended by adding
 4 at the end the following:

“2283. Transportation of explosive, chemical, biological, or radioactive or nu-
 clear materials.

“2284. Transportation of terrorists.”.

5 **SEC. 307. DESTRUCTION OF, OR INTERFERENCE WITH, VES-**
 6 **SELS OR MARITIME FACILITIES.**

7 (a) IN GENERAL.—Title 18, United States Code, is
 8 amended by inserting after chapter 111 the following:

9 **“CHAPTER 111A—DESTRUCTION OF, OR**
 10 **INTERFERENCE WITH, VESSELS OR**
 11 **MARITIME FACILITIES**

“Sec.

“2290. Jurisdiction and scope.

“2291. Destruction of vessel or maritime facility.

“2292. Imparting or conveying false information.

12 **“§ 2290. Jurisdiction and scope**

13 “(a) JURISDICTION.—There is jurisdiction, including
 14 extraterritorial jurisdiction, over an offense under this
 15 chapter if the prohibited activity takes place—

16 “(1) within the United States and within waters
 17 subject to the jurisdiction of the United States; or

18 “(2) outside United States and—

19 “(A) an offender or a victim is a national
 20 of the United States (as that term is defined

1 under section 101(a)(22) of the Immigration
2 and Nationality Act (8 U.S.C. 1101(a)(22)); or

3 “(B) the activity involves a vessel of the
4 United States (as that term is defined under
5 section 2 of the Maritime Drug Law Enforce-
6 ment Act (46 U.S.C. App. 1903).

7 “(b) SCOPE.—Nothing in this chapter shall apply to
8 otherwise lawful activities carried out by or at the direc-
9 tion of the United States Government.

10 **“§ 2291. Destruction of vessel or maritime facility**

11 “(a) OFFENSE.—Whoever intentionally—

12 “(1) sets fire to, damages, destroys, disables, or
13 wrecks any vessel;

14 “(2) places or causes to be placed a destructive
15 device, as defined in section 921(a)(4), destructive
16 substance, as defined in section 31(a)(3), or an ex-
17 plosive, as defined in section 844(j) in, upon, or
18 near, or otherwise makes or causes to be made un-
19 workable or unusable or hazardous to work or use,
20 any vessel, or any part or other materials used or in-
21 tended to be used in connection with the operation
22 of a vessel;

23 “(3) sets fire to, damages, destroys, or disables
24 or places a destructive device or substance in, upon,
25 or near, any maritime facility, including any aid to

1 navigation, lock, canal, or vessel traffic service facil-
2 ity or equipment;

3 “(4) interferes by force or violence with the op-
4 eration of any maritime facility, including any aid to
5 navigation, lock, canal, or vessel traffic service facil-
6 ity or equipment, if such action is likely to endanger
7 the safety of any vessel in navigation;

8 “(5) sets fire to, damages, destroys, or disables
9 or places a destructive device or substance in, upon,
10 or near, any appliance, structure, property, machine,
11 or apparatus, or any facility or other material used,
12 or intended to be used, in connection with the oper-
13 ation, maintenance, loading, unloading, or storage of
14 any vessel or any passenger or cargo carried or in-
15 tended to be carried on any vessel;

16 “(6) performs an act of violence against or in-
17 capacitates any individual on any vessel, if such act
18 of violence or incapacitation is likely to endanger the
19 safety of the vessel or those on board;

20 “(7) performs an act of violence against a per-
21 son that causes or is likely to cause serious bodily
22 injury, as defined in section 1365(h)(3), in, upon, or
23 near, any appliance, structure, property, machine, or
24 apparatus, or any facility or other material used, or
25 intended to be used, in connection with the oper-

1 ation, maintenance, loading, unloading, or storage of
2 any vessel or any passenger or cargo carried or in-
3 tended to be carried on any vessel;

4 “(8) communicates information, knowing the
5 information to be false and under circumstances in
6 which such information may reasonably be believed,
7 thereby endangering the safety of any vessel in navi-
8 gation; or

9 “(9) attempts or conspires to do anything pro-
10 hibited under paragraphs (1) through (8),
11 shall be fined under this title or imprisoned not more than
12 30 years, or both.

13 “(b) LIMITATION.—Subsection (a) shall not apply to
14 any person that is engaging in otherwise lawful activity,
15 such as normal repair and salvage activities, and the
16 transportation of hazardous materials regulated and al-
17 lowed to be transported under chapter 51 of title 49.

18 “(c) PENALTY.—Whoever is fined or imprisoned
19 under subsection (a) as a result of an act involving a vessel
20 that, at the time of the violation, carried high-level radio-
21 active waste (as that term is defined in section 2(12) of
22 the Nuclear Waste Policy Act of 1982 (42 U.S.C.
23 10101(12)) or spent nuclear fuel (as that term is defined
24 in section 2(23) of the Nuclear Waste Policy Act of 1982

1 (42 U.S.C. 10101(23)), shall be fined under this title, im-
2 prisoned for a term up to life, or both.

3 “(d) DEATH PENALTY.—If the death of any indi-
4 vidual results from an offense under subsection (a) the
5 offender shall be punished by death or imprisonment for
6 any term or years or for life.

7 “(e) THREATS.—Whoever knowingly imparts or con-
8 veys any threat to do an act which would violate this chap-
9 ter, with an apparent determination and will to carry the
10 threat into execution, shall be fined under this title or im-
11 prisoned not more than 5 years, or both, and is liable for
12 all costs incurred as a result of such threat.

13 **“§ 2292. Imparting or conveying false information**

14 “(a) IN GENERAL.—Whoever imparts or conveys or
15 causes to be imparted or conveyed false information,
16 knowing the information to be false, concerning an at-
17 tempt or alleged attempt being made or to be made, to
18 do any act that would be a crime prohibited by this chap-
19 ter or by chapter 111 of this title, shall be subject to a
20 civil penalty of not more than \$5,000, which shall be re-
21 coverable in a civil action brought in the name of the
22 United States.

23 “(b) MALICIOUS CONDUCT.—Whoever knowingly, or
24 with reckless disregard for the safety of human life, im-
25 parts or conveys or causes to be imparted or conveyed

1 false information, knowing the information to be false,
 2 concerning an attempt or alleged attempt to do any act
 3 which would be a crime prohibited by this chapter or by
 4 chapter 111 of this title, shall be fined under this title
 5 or imprisoned not more than 5 years.”.

6 (c) CONFORMING AMENDMENT.—The table of chap-
 7 ters at the beginning of title 18, United States Code, is
 8 amended by inserting after the item for chapter 111 the
 9 following:

**“111A. Destruction of, or interference with, vessels or
 maritime facilities 2290”.**

10 **SEC. 308. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS**
 11 **OR VESSELS.**

12 (a) THEFT OF INTERSTATE OR FOREIGN SHIP-
 13 MENTS.—Section 659 of title 18, United States Code, is
 14 amended—

15 (1) in the first undesignated paragraph—

16 (A) by inserting “trailer,” after
 17 “motortruck,”;

18 (B) by inserting “air cargo container,”
 19 after “aircraft,”; and

20 (C) by inserting “, or from any intermodal
 21 container, trailer, container freight station,
 22 warehouse, or freight consolidation facility,”
 23 after “air navigation facility”;

1 (2) in the fifth undesignated paragraph, by
2 striking “in each case” and all that follows through
3 “or both” the second place it appears and inserting
4 “be fined under this title or imprisoned not more
5 than 15 years, or both, but if the amount or value
6 of such money, baggage, goods, or chattels is less
7 than \$1,000, shall be fined under this title or im-
8 prisoned for not more than 5 years, or both”; and

9 (3) by inserting after the first sentence in the
10 eighth undesignated paragraph the following: “For
11 purposes of this section, goods and chattel shall be
12 construed to be moving as an interstate or foreign
13 shipment at all points between the point of origin
14 and the final destination (as evidenced by the waybill
15 or other shipping document of the shipment), re-
16 gardless of any temporary stop while awaiting trans-
17 shipment or otherwise.”.

18 (b) **STOLEN VESSELS.**—

19 (1) **IN GENERAL.**—Section 2311 of title 18,
20 United States Code, is amended by adding at the
21 end the following:

22 “‘Vessel’ means any watercraft or other contrivance used
23 or designed for transportation or navigation on, under, or
24 immediately above, water.”.

1 (2) TRANSPORTATION AND SALE OF STOLEN
2 VESSELS.—

3 (A) TRANSPORTATION.—Section 2312 of
4 title 18, United States Code, is amended—

5 (i) by striking “motor vehicle or air-
6 craft” and inserting “motor vehicle, vessel,
7 or aircraft”; and

8 (ii) by striking “10 years” and insert-
9 ing “15 years”.

10 (B) SALE.—Section 2313(a) of title 18,
11 United States Code, is amended—

12 (i) by striking “motor vehicle or air-
13 craft” and inserting “motor vehicle, vessel,
14 or aircraft”; and

15 (ii) by striking “10 years” and insert-
16 ing “15 years”.

17 (c) REVIEW OF SENTENCING GUIDELINES.—Pursu-
18 ant to section 994 of title 28, United States Code, the
19 United States Sentencing Commission shall review the
20 Federal Sentencing Guidelines to determine whether sen-
21 tencing enhancement is appropriate for any offense under
22 section 659 or 2311 of title 18, United States Code, as
23 amended by this title.

24 (d) ANNUAL REPORT OF LAW ENFORCEMENT AC-
25 TIVITIES.—The Attorney General shall annually submit to

1 Congress a report, which shall include an evaluation of
 2 law enforcement activities relating to the investigation and
 3 prosecution of offenses under section 659 of title 18,
 4 United States Code, as amended by this title.

5 (e) REPORTING OF CARGO THEFT.—The Attorney
 6 General shall take the steps necessary to ensure that re-
 7 ports of cargo theft collected by Federal, State, and local
 8 officials are reflected as a separate category in the Uni-
 9 form Crime Reporting System, or any successor system,
 10 by no later than December 31, 2006.

11 **SEC. 309. INCREASED PENALTIES FOR NONCOMPLIANCE**
 12 **WITH MANIFEST REQUIREMENTS.**

13 (a) REPORTING, ENTRY, CLEARANCE REQUIRE-
 14 MENTS.—Section 436(b) of the Tariff Act of 1930 (19
 15 U.S.C. 1436(b)) is amended by—

16 (1) striking “or aircraft pilot” and inserting
 17 “aircraft pilot, operator, owner of such vessel, vehi-
 18 cle or aircraft, or any other responsible party (in-
 19 cluding non-vessel operating common carriers)”;

20 (2) striking “\$5,000” and inserting “\$10,000”;
 21 and

22 (3) striking “\$10,000” and inserting
 23 “\$25,000”.

24 (b) CRIMINAL PENALTY.—Section 436(c) of the Tar-
 25 iff Act of 1930 (19 U.S.C. 1436(c)) is amended—

1 (1) by striking “or aircraft pilot” and inserting
2 “aircraft pilot, operator, owner of such vessel, vehi-
3 cle, or aircraft, or any other responsible party (in-
4 cluding non-vessel operating common carriers)”; and
5 (2) by striking “\$2,000” and inserting
6 “\$10,000”.

7 (c) FALSITY OR LACK OF MANIFEST.—Section
8 584(a)(1) of the Tariff Act of 1930 (19 U.S.C.
9 1584(a)(1)) is amended by striking “\$1,000” in each
10 place it occurs and inserting “\$10,000”.

11 **SEC. 310. STOWAWAYS ON VESSELS OR AIRCRAFT.**

12 Section 2199 of title 18, United States Code, is
13 amended by striking “Shall be fined under this title or
14 imprisoned not more than one year, or both.” and insert-
15 ing the following:

16 “(1) shall be fined under this title, imprisoned
17 not more than 5 years, or both;

18 “(2) if the person commits an act proscribed by
19 this section, with the intent to commit serious bodily
20 injury, and serious bodily injury occurs (as defined
21 under section 1365, including any conduct that, if
22 the conduct occurred in the special maritime and
23 territorial jurisdiction of the United States, would
24 violate section 2241 or 2242) to any person other
25 than a participant as a result of a violation of this

1 section, shall be fined under this title or imprisoned
2 not more than 20 years, or both; and

3 “(3) if death results from an offense under this
4 section, shall be subject to the death penalty or to
5 imprisonment for any term or years or for life.”.

6 **SEC. 311. BRIBERY AFFECTING PORT SECURITY.**

7 (a) IN GENERAL.—Chapter 11 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§ 226. Bribery affecting port security**

11 “(a) IN GENERAL.—Whoever knowingly—

12 “(1) directly or indirectly, corruptly gives, of-
13 fers, or promises anything of value to any public or
14 private person, with intent to commit international
15 terrorism or domestic terrorism (as those terms are
16 defined under section 2331), to—

17 “(A) influence any action or any person to
18 commit or aid in committing, or collude in, or
19 allow, any fraud, or make opportunity for the
20 commission of any fraud affecting any secure or
21 restricted area or seaport; or

22 “(B) induce any official or person to do or
23 omit to do any act in violation of the lawful
24 duty of such official or person that affects any
25 secure or restricted area or seaport; or

1 “(2) directly or indirectly, corruptly demands,
2 seeks, receives, accepts, or agrees to receive or ac-
3 cept anything of value personally or for any other
4 person or entity in return for—

5 “(A) being influenced in the performance
6 of any official act affecting any secure or re-
7 stricted area or seaport; and

8 “(B) knowing that such influence will be
9 used to commit, or plan to commit, inter-
10 national or domestic terrorism,

11 shall be fined under this title or imprisoned not more than
12 20 years, or both.

13 “(b) DEFINITION.—In this section, the term ‘secure
14 or restricted area’ means an area of a vessel or facility
15 designated as secure in an approved security plan, as re-
16 quired under section 70103 of title 46, United States
17 Code, and the rules and regulations promulgated under
18 that section.”.

19 (b) CONFORMING AMENDMENT.—The table of sec-
20 tions for chapter 11 of title 18, United States Code, is
21 amended by adding at the end the following:

“226. Bribery affecting port security.”.

1 **SEC. 312. PENALTIES FOR SMUGGLING GOODS INTO THE**
2 **UNITED STATES.**

3 The third undesignated paragraph of section 545 of
4 title 18, United States Code, is amended by striking “5
5 years” and inserting “20 years”.

6 **SEC. 313. SMUGGLING GOODS FROM THE UNITED STATES.**

7 (a) IN GENERAL.—Chapter 27 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

10 **“§ 554. Smuggling goods from the United States**

11 “(a) IN GENERAL.—Whoever fraudulently or know-
12 ingly exports or sends from the United States, or attempts
13 to export or send from the United States, any merchan-
14 dise, article, or object contrary to any law or regulation
15 of the United States, or receives, conceals, buys, sells, or
16 in any manner facilitates the transportation, concealment,
17 or sale of such merchandise, article or object, prior to ex-
18 portation, knowing the same to be intended for expor-
19 tation contrary to any law or regulation of the United
20 States, shall be fined under this title, imprisoned not more
21 than 10 years, or both.

22 “(b) DEFINITION.—In this section, the term ‘United
23 States’ has the meaning given that term in section 545.”.

1 (b) CONFORMING AMENDMENT.—The chapter anal-
2 ysis for chapter 27 of title 18, United States Code, is
3 amended by adding at the end the following:

“554. Smuggling goods from the United States.”.

4 (c) SPECIFIED UNLAWFUL ACTIVITY.—Section
5 1956(c)(7)(D) of title 18, United States Code, is amended
6 by inserting “section 554 (relating to smuggling goods
7 from the United States),” before “section 641 (relating
8 to public money, property, or records),”.

9 (d) TARIFF ACT OF 1990.—Section 596 of the Tariff
10 Act of 1930 (19 U.S.C. 1595a) is amended by adding at
11 the end the following:

12 “(d) Merchandise exported or sent from the United
13 States or attempted to be exported or sent from the
14 United States contrary to law, or the proceeds or value
15 thereof, and property used to facilitate the receipt,
16 purchase, transportation, concealment, or sale of such
17 merchandise prior to exportation shall be forfeited to the
18 United States.”.

19 (e) REMOVING GOODS FROM CUSTOMS CUSTODY.—
20 Section 549 of title 18, United States Code, is amended
21 in the 5th paragraph by striking “two years” and insert-
22 ing “10 years”.

1 **TITLE IV—COMBATING**
2 **TERRORISM FINANCING**

3 **SEC. 401. SHORT TITLE.**

4 This title may be cited as the “Combating Terrorism
5 Financing Act of 2005”.

6 **SEC. 402. INCREASED PENALTIES FOR TERRORISM FINANC-**
7 **ING.**

8 Section 206 of the International Emergency Eco-
9 nomic Powers Act (50 U.S.C. 1705) is amended—

10 (1) in subsection (a), by deleting “\$10,000”
11 and inserting “\$50,000”.

12 (2) in subsection (b), by deleting “ten years”
13 and inserting “twenty years”.

14 **SEC. 403. TERRORISM-RELATED SPECIFIED ACTIVITIES**
15 **FOR MONEY LAUNDERING.**

16 (a) AMENDMENTS TO RICO.—Section 1961(1) of
17 title 18, United States Code, is amended—

18 (1) in subparagraph (B), by inserting “section
19 1960 (relating to illegal money transmitters),” be-
20 fore “sections 2251”; and

21 (2) in subparagraph (F), by inserting “section
22 274A (relating to unlawful employment of aliens),”
23 before “section 277”.

1 (b) AMENDMENTS TO SECTION 1956(c)(7).—Section
2 1956(c)(7)(D) of title 18, United States Code, is amended
3 by—

4 (1) inserting “, or section 2339C (relating to fi-
5 nancing of terrorism)” before “of this title”; and

6 (2) striking “or any felony violation of the For-
7 eign Corrupt Practices Act” and inserting “any fel-
8 ony violation of the Foreign Corrupt Practices Act,
9 or any violation of section 208 of the Social Security
10 Act (relating to obtaining funds through misuse of
11 a social security number)”.

12 (c) CONFORMING AMENDMENTS TO SECTIONS
13 1956(e) AND 1957(e).—

14 (1) Section 1956(e) of title 18, United States
15 Code, is amended to read as follows:

16 “(e) Violations of this section may be investigated by
17 such components of the Department of Justice as the At-
18 torney General may direct, and by such components of the
19 Department of the Treasury as the Secretary of the Treas-
20 ury may direct, as appropriate, and, with respect to of-
21 fenses over which the Department of Homeland Security
22 has jurisdiction, by such components of the Department
23 of Homeland Security as the Secretary of Homeland Secu-
24 rity may direct, and, with respect to offenses over which
25 the United States Postal Service has jurisdiction, by the

1 Postal Service. Such authority of the Secretary of the
2 Treasury, the Secretary of Homeland Security, and the
3 Postal Service shall be exercised in accordance with an
4 agreement which shall be entered into by the Secretary
5 of the Treasury, the Secretary of Homeland Security, the
6 Postal Service, and the Attorney General. Violations of
7 this section involving offenses described in paragraph
8 (c)(7)(E) may be investigated by such components of the
9 Department of Justice as the Attorney General may di-
10 rect, and the National Enforcement Investigations Center
11 of the Environmental Protection Agency.”.

12 (2) Section 1957(e) of title 18, United States
13 Code, is amended to read as follows:

14 “(e) Violations of this section may be investigated by
15 such components of the Department of Justice as the At-
16 torney General may direct, and by such components of the
17 Department of the Treasury as the Secretary of the Treas-
18 ury may direct, as appropriate, and, with respect to of-
19 fenses over which the Department of Homeland Security
20 has jurisdiction, by such components of the Department
21 of Homeland Security as the Secretary of Homeland Secu-
22 rity may direct, and, with respect to offenses over which
23 the United States Postal Service has jurisdiction, by the
24 Postal Service. Such authority of the Secretary of the
25 Treasury, the Secretary of Homeland Security, and the

1 Postal Service shall be exercised in accordance with an
 2 agreement which shall be entered into by the Secretary
 3 of the Treasury, the Secretary of Homeland Security, the
 4 Postal Service, and the Attorney General.”.

5 **SEC. 404. ASSETS OF PERSONS COMMITTING TERRORIST**
 6 **ACTS AGAINST FOREIGN COUNTRIES OR**
 7 **INTERNATIONAL ORGANIZATIONS.**

8 Section 981(a)(1)(G) of title 18, United States Code,
 9 is amended—

10 (1) by striking “or” at the end of clause (ii);

11 (2) by striking the period at the end of clause

12 (iii) and inserting “; or”; and

13 (3) by inserting the following after clause (iii):

14 “(iv) of any individual, entity, or or-
 15 ganization engaged in planning or perpe-
 16 trating any act of international terrorism
 17 (as defined in section 2331) against any
 18 international organization (as defined in
 19 section 209 of the State Department Basic
 20 Authorities Act of 1956 (22 U.S.C.
 21 4309(b)) or against any foreign Govern-
 22 ment. Where the property sought for for-
 23 feiture is located beyond the territorial
 24 boundaries of the United States, an act in
 25 furtherance of such planning or perpetra-

1 tion must have occurred within the juris-
2 diction of the United States.”.

3 **SEC. 405. MONEY LAUNDERING THROUGH HAWALAS.**

4 Section 1956 of title 18, United States Code, is
5 amended by adding at the end the following:

6 “(j)(1) For the purposes of subsections (a)(1) and
7 (a)(2), a transaction, transportation, transmission, or
8 transfer of funds shall be considered to be one involving
9 the proceeds of specified unlawful activity, if the trans-
10 action, transportation, transmission, or transfer is part of
11 a set of parallel or dependent transactions, any one of
12 which involves the proceeds of specified unlawful activity.

13 “(2) As used in this section, a ‘dependent trans-
14 action’ is one that completes or complements another
15 transaction or one that would not have occurred but for
16 another transaction.”.

17 **SEC. 406. TECHNICAL AND CONFORMING AMENDMENTS RE-**
18 **LATING TO THE USA PATRIOT ACT.**

19 (a) TECHNICAL CORRECTIONS.—

20 (1) Section 322 of Public Law 107–56 is
21 amended by striking “title 18” and inserting “title
22 28”.

23 (2) Section 5332(a)(1) of title 31, United
24 States Code, is amended by striking “article of lug-
25 gage” and inserting “article of luggage or mail”.

1 (3) Section 1956(b)(3) and (4) of title 18,
2 United States Code, are amended by striking “de-
3 scribed in paragraph (2)” each time it appears; and

4 (4) Section 981(k) of title 18, United States
5 Code, is amended by striking “foreign bank” each
6 time it appears and inserting “foreign bank or fi-
7 nancial institution”.

8 (b) CODIFICATION OF SECTION 316 OF THE USA
9 PATRIOT ACT.—

10 (1) Chapter 46 of title 18, United States Code,
11 is amended—

12 (A) by inserting at the end the following:

13 **“§ 987. Anti-terrorist forfeiture protection**

14 “(a) RIGHT TO CONTEST.—An owner of property
15 that is confiscated under this chapter or any other provi-
16 sion of law relating to the confiscation of assets of sus-
17 pected international terrorists, may contest that confisca-
18 tion by filing a claim in the manner set forth in the Fed-
19 eral Rules of Civil Procedure (Supplemental Rules for Cer-
20 tain Admiralty and Maritime Claims), and asserting as an
21 affirmative defense that—

22 “(1) the property is not subject to confiscation
23 under such provision of law; or

24 “(2) the innocent owner provisions of section
25 983(d) apply to the case.

1 “(b) EVIDENCE.—In considering a claim filed under
 2 this section, a court may admit evidence that is otherwise
 3 inadmissible under the Federal Rules of Evidence, if the
 4 court determines that the evidence is reliable, and that
 5 compliance with the Federal Rules of Evidence may jeop-
 6 ardize the national security interests of the United States.

7 “(c) CLARIFICATIONS.—

8 “(1) PROTECTION OF RIGHTS.—The exclusion
 9 of certain provisions of Federal law from the defini-
 10 tion of the term ‘civil forfeiture statute’ in section
 11 983(i) shall not be construed to deny an owner of
 12 property the right to contest the confiscation of as-
 13 sets of suspected international terrorists under—

14 “(A) subsection (a) of this section;

15 “(B) the Constitution; or

16 “(C) subchapter II of chapter 5 of title 5,
 17 United States Code (commonly known as the
 18 ‘Administrative Procedure Act’).

19 “(2) SAVINGS CLAUSE.—Nothing in this section
 20 shall limit or otherwise affect any other remedies
 21 that may be available to an owner of property under
 22 section 983 or any other provision of law.”; and

23 (B) in the chapter analysis, by inserting at
 24 the end the following:

“987. Anti-terrorist forfeiture protection.”.

1 (2) Subsections (a), (b), and (c) of section 316
2 of Public Law 107–56 are repealed.

3 (c) CONFORMING AMENDMENTS CONCERNING CON-
4 SPIRACIES.—

5 (1) Section 33(a) of title 18, United States
6 Code is amended by inserting “or conspires” before
7 “to do any of the aforesaid acts”.

8 (2) Section 1366(a) of title 18, United States
9 Code, is amended—

10 (A) by striking “attempts” each time it ap-
11 pears and inserting “attempts or conspires”;
12 and

13 (B) by inserting “, or if the object of the
14 conspiracy had been achieved,” after “the at-
15 tempted offense had been completed”.

16 **SEC. 407. TECHNICAL CORRECTIONS TO FINANCING OF**
17 **TERRORISM STATUTE.**

18 Section 2332b(g)(5)(B) of title 18, United States
19 Code, is amended by inserting “)” after “2339C (relating
20 to financing of terrorism”.

21 **SEC. 408. CROSS REFERENCE CORRECTION.**

22 Section 5318(n)(4)(A) of title 31, United States
23 Code, is amended by striking “National Intelligence Re-
24 form Act of 2004” and inserting “Intelligence Reform and
25 Terrorism Prevention Act of 2004”.

1 **SEC. 409. AMENDMENT TO AMENDATORY LANGUAGE.**

2 Section 6604 of the Intelligence Reform and Ter-
3 rorism Prevention Act of 2004 is amended (effective on
4 the date of the enactment of that Act)—

5 (1) by striking “Section 2339c(c)(2)” and in-
6 serting “Section 2339C(c)(2)”; and

7 (2) by striking “Section 2339c(e)” and insert-
8 ing “Section 2339C(e)”.

9 **SEC. 410. DESIGNATION OF ADDITIONAL MONEY LAUN-**
10 **DERING PREDICATE.**

11 Section 1956(c)(7)(D) of title 18, United States
12 Code, is amended—

13 (1) by inserting “, or section 2339D (relating
14 to receiving military-type training from a foreign
15 terrorist organization)” after “section 2339A or
16 2339B (relating to providing material support to
17 terrorists)”; and

18 (2) by striking “or” before “section 2339A or
19 2339B”.

Passed the House of Representatives July 21, 2005.

Attest:

JEFF TRANDAHL,

Clerk.