

Calendar No. 530

116TH CONGRESS
2D SESSION**H. R. 5273****[Report No. 116-267]**

IN THE SENATE OF THE UNITED STATES

FEBRUARY 11, 2020

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

SEPTEMBER 9, 2020

Reported by Mr. JOHNSON, with an amendment and an amendment to the
title[Strike out all after the enacting clause and insert the part printed in *italic*]

AN ACT

To require the Secretary of Homeland Security to develop a plan to increase to 100 percent the rates of scanning of commercial and passenger vehicles entering the United States at land ports of entry along the border using large-scale non-intrusive inspection systems to enhance border security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Securing America’s
3 Ports Act”.

4 **SEC. 2. LARGE-SCALE NON-INTRUSIVE INSPECTION SCAN-**
5 **NING PLAN.**

6 (a) **IN GENERAL.**—Not later than 180 days after the
7 date of the enactment of this Act, the Secretary of Home-
8 land Security shall submit to the Committee on Homeland
9 Security of the House of Representatives and the Com-
10 mittee on Homeland Security and Governmental Affairs
11 of the Senate a plan to increase to 100 percent the rates
12 of expeditious scanning of commercial and passenger vehi-
13 cles entering the United States at land ports of entry
14 along the border using large-scale non-intrusive inspection
15 systems or similar technology to enhance border security.

16 (b) **BASELINE INFORMATION.**—At a minimum, the
17 plan required under subsection (a) shall include the fol-
18 lowing information regarding large-scale non-intrusive in-
19 spection systems or similar technology operated by U.S.
20 Customs and Border Protection at land ports of entry as
21 of the date of the enactment of this Act:

22 (1) An inventory of large-scale non-intrusive in-
23 spection systems or similar technology in use at each
24 land port of entry.

1 (2) For each system or technology identified in
2 the inventory required under paragraph (1), the fol-
3 lowing information:

4 (A) The scanning method of such system
5 or technology.

6 (B) The location of such system or tech-
7 nology at each land port of entry that specifies
8 whether in use in pre-primary, primary, or sec-
9 ondary inspection area, or some combination
10 thereof.

11 (C) The percentage of commercial and pas-
12 senger vehicles scanned by such system or tech-
13 nology.

14 (D) Seizure data directly attributed to
15 scanned commercial and passenger vehicles.

16 (e) ELEMENTS.—The plan required under subsection
17 (a) shall include the following information:

18 (1) Benchmarks for achieving incremental
19 progress towards 100 percent expeditious scanning
20 of commercial and passenger vehicles entering the
21 United States at land ports of entry along the bor-
22 der with corresponding projected incremental im-
23 provements in scanning rates by fiscal year and ra-
24 tionales for the specified timeframes for each land
25 port of entry.

1 (2) Estimated costs, together with an acquisition
2 plan, for achieving the 100 expeditious percent
3 scanning rate within the timeframes specified in
4 paragraph (1), including acquisition, operations, and
5 maintenance costs for large-scale non-intrusive inspection
6 systems or similar technology, as well as associated
7 costs for any necessary infrastructure enhancements or
8 configuration changes at each port of entry. To the extent
9 practicable, such acquisition plan shall promote opportunities
10 for entities that qualify as small business concerns (as such
11 term is described under section 3 of the Small Business Act
12 (15 U.S.C. 632)).

14 (3) Any projected impacts, as identified by the
15 Commissioner of U.S. Customs and Border Protection, on the
16 total number of commercial and passenger vehicles entering
17 at land ports of entry where such systems are in use, and
18 average wait times at peak and non-peak travel times, by
19 lane type if applicable, as scanning rates are increased.

21 (4) Any projected impacts, as identified by the
22 Commissioner of U.S. Customs and Border Protection, on
23 land ports of entry border security operations as a result
24 of implementation actions, including any changes to the
25 number of U.S. Customs and

1 Border Protection officers or their duties and as-
2 signments.

3 (d) RESEARCH AND DEVELOPMENT.—In furtherance
4 of the plan required under subsection (a), the Secretary
5 of Homeland Security, acting through the Under Sec-
6 retary for Science and Technology, shall conduct research
7 and development, in coordination with the Commissioner
8 of U.S. Customs and Border Protection, to enhance large-
9 scale non-intrusive inspections systems or similar tech-
10 nology and refine the operational use or configuration of
11 such systems or technology in pre-primary, primary, and
12 secondary inspection areas of land ports of entry. Such
13 research and development shall include consideration of
14 emerging large-scale non-intrusive inspection systems or
15 similar technology and modeling the use of such systems
16 or technology that takes into account the variations in in-
17 frastructure, configurations, and sizes of land ports of
18 entry.

19 (e) ANNUAL REPORT.—Not later than 1 year after
20 the submission of the plan required under subsection (a)
21 and annually thereafter until such time as U.S. Customs
22 and Border Protection has achieved 100 percent expedi-
23 tious scanning of commercial and passenger vehicles enter-
24 ing the United States at land ports of entry along the bor-
25 der using large-scale non-intrusive inspection systems or

1 similar technology in accordance with such plan, the Sec-
2 retary of Homeland Security shall report to the Committee
3 on Homeland Security of the House of Representatives
4 and the Committee on Homeland Security and Govern-
5 mental Affairs of the Senate on progress implementing the
6 plan. Each such report at a minimum shall include the
7 following information:

8 (1) An inventory of large-scale non-intrusive in-
9 spection systems or similar technology operated by
10 U.S. Customs and Border Protection at each land
11 port of entry.

12 (2) For each system or technology identified in
13 the inventory required under paragraph (1), the fol-
14 lowing information:

15 (A) The scanning method of such system
16 or technology.

17 (B) The location of such system or tech-
18 nology at each land port of entry that specifies
19 whether in use in pre-primary, primary, or sec-
20 ondary inspection area, or some combination
21 thereof.

22 (C) The percentage of commercial and pas-
23 senger vehicles scanned by such system or tech-
24 nology.

1 (D) Seizure data directly attributed to
2 scanned commercial and passenger vehicles.

3 (3) The total number of commercial and pas-
4 senger vehicles entering at each land port of entry
5 where each system or technology is in use, and infor-
6 mation on average wait times at peak and non-peak
7 travel times, by lane type if applicable.

8 (4) Progress with respect to the benchmarks
9 specified in subsection (c)(1), and an explanation if
10 any of such benchmarks are not achieved as
11 planned.

12 (5) A comparison of actual costs (including in-
13 formation on any awards of associated contracts) to
14 estimated costs set forth in subsection (c)(2).

15 (6) Any realized impacts, as identified by the
16 Commissioner of U.S. Customs and Border Protec-
17 tion, on land ports of entry operations as a result of
18 implementation actions, including any changes to the
19 number of U.S. Customs and Border Protection offi-
20 cers or their duties and assignments.

21 (7) Any proposed changes to the plan and an
22 explanation for such changes, including changes
23 made in response to any Department of Homeland
24 Security research and development findings, includ-
25 ing findings resulting from the research and develop-

1 ment conducted pursuant to subsection (d), or
2 changes in terrorist or transnational criminal organi-
3 zations tactics, techniques, or procedures.

4 (8) Any challenges to implementing the plan or
5 meeting the benchmarks, and plans to mitigate any
6 such challenges.

7 (f) DEFINITIONS.—In this section:

8 (1) LARGE-SCALE NON-INTRUSIVE INSPECTION
9 SYSTEM.—The term “large-scale non-intrusive in-
10 spection system” means a technology, including x-
11 ray and gamma-ray imaging systems, capable of pro-
12 ducing an image of the contents of a commercial or
13 passenger vehicle in one pass of such vehicle.

14 (2) SCANNING.—The term “scanning” means
15 utilizing technology to produce an image of the

1 contents of a commercial or passenger vehicle with-
2 out engaging in a physical inspection of such vehicle.

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Securing America’s*
5 *Ports Act”.*

6 **SEC. 2. LARGE-SCALE NON-INTRUSIVE INSPECTION SCAN-**
7 **NING PLAN.**

8 (a) *DEFINITIONS.—In this section:*

9 (1) *LARGE-SCALE NON-INTRUSIVE INSPECTION*
10 *SYSTEM.—The term “large-scale, non-intrusive in-*
11 *spection system” means a technology, including x-ray,*
12 *gamma-ray, and passive imaging systems, capable of*
13 *producing an image of the contents of a commercial*
14 *or passenger vehicle or freight rail car in 1 pass of*
15 *such vehicle or car.*

16 (2) *SCANNING.—The term “scanning” means uti-*
17 *lizing nonintrusive imaging equipment, radiation de-*
18 *tection equipment, or both, to capture data, including*
19 *images of a commercial or passenger vehicle or freight*
20 *rail car.*

21 (b) *IN GENERAL.—Not later than 180 days after the*
22 *date of the enactment of this Act, the Secretary of Homeland*
23 *Security shall submit a plan to the Committee on Home-*
24 *land Security and Governmental Affairs of the Senate and*
25 *the Committee on Homeland Security of the House of Rep-*

1 *representatives for increasing to 100 percent the rate of high-*
2 *throughput scanning of commercial and passenger vehicles*
3 *and freight rail traffic entering the United States at land*
4 *ports of entry and rail-border crossings along the border*
5 *using large-scale non-intrusive inspection systems or simi-*
6 *lar technology to enhance border security.*

7 (c) *BASELINE INFORMATION.—The plan under sub-*
8 *section (b) shall include, at a minimum, the following infor-*
9 *mation regarding large-scale non-intrusive inspection sys-*
10 *tems or similar technology operated by U.S. Customs and*
11 *Border Protection at land ports of entry and rail-border*
12 *crossings as of the date of the enactment of this Act:*

13 (1) *An inventory of large-scale non-intrusive in-*
14 *spection systems or similar technology in use at each*
15 *land port of entry.*

16 (2) *For each system or technology identified in*
17 *the inventory under paragraph (1)—*

18 (A) *the scanning method of such system or*
19 *technology;*

20 (B) *the location of such system or tech-*
21 *nology at each land port of entry that specifies*
22 *whether in use in pre-primary, primary, or sec-*
23 *ondary inspection area, or some combination of*
24 *such areas;*

1 (C) the percentage of commercial and pas-
2 senger vehicles and freight rail traffic scanned by
3 such system or technology;

4 (D) seizure data directly attributed to
5 scanned commercial and passenger vehicles and
6 freight rail traffic; and

7 (E) the number of personnel required to op-
8 erate each system or technology.

9 (3) Information regarding the continued use of
10 other technology and tactics used for scanning, such
11 as canines and human intelligence in conjunction
12 with large scale, nonintrusive inspection systems.

13 (d) *ELEMENTS.*—The plan under subsection (b) shall
14 include the following information:

15 (1) *Benchmarks for achieving incremental*
16 *progress towards 100 percent high-throughput scan-*
17 *ning within the next 6 years of commercial and pas-*
18 *senger vehicles and freight rail traffic entering the*
19 *United States at land ports of entry and rail-border*
20 *crossings along the border with corresponding pro-*
21 *jected incremental improvements in scanning rates by*
22 *fiscal year and rationales for the specified timeframes*
23 *for each land port of entry.*

24 (2) *Estimated costs, together with an acquisition*
25 *plan, for achieving the 100 percent high-throughput*

1 scanning rate within the timeframes specified in
2 paragraph (1), including acquisition, operations, and
3 maintenance costs for large-scale, nonintrusive inspec-
4 tion systems or similar technology, and associated
5 costs for any necessary infrastructure enhancements
6 or configuration changes at each port of entry. Such
7 acquisition plan shall promote, to the extent prac-
8 ticable, opportunities for entities that qualify as small
9 business concerns (as defined under section 3(a) of the
10 *Small Business Act* (15 U.S.C. 632(a)).

11 (3) Any projected impacts, as identified by the
12 Commissioner of U.S. Customs and Border Protec-
13 tion, on the total number of commercial and pas-
14 senger vehicles and freight rail traffic entering at
15 land ports of entry and rail-border crossings where
16 such systems are in use, and average wait times at
17 peak and non-peak travel times, by lane type if ap-
18 plicable, as scanning rates are increased.

19 (4) Any projected impacts, as identified by the
20 Commissioner of U.S. Customs and Border Protec-
21 tion, on land ports of entry and rail-border crossings
22 border security operations as a result of implementa-
23 tion actions, including any changes to the number of
24 U.S. Customs and Border Protection officers or their
25 duties and assignments.

1 (e) *ANNUAL REPORT.*—Not later than 1 year after the
2 *submission of the plan under subsection (b), and biennially*
3 *thereafter for the following 6 years, the Secretary of Home-*
4 *land Security shall submit a report to the Committee on*
5 *Homeland Security and Governmental Affairs of the Senate*
6 *and the Committee on Homeland Security of the House of*
7 *Representatives that describes the progress implementing*
8 *the plan and includes—*

9 (1) *an inventory of large-scale, nonintrusive in-*
10 *spection systems or similar technology operated by*
11 *U.S. Customs and Border Protection at each land*
12 *port of entry;*

13 (2) *for each system or technology identified in*
14 *the inventory required under paragraph (1)—*

15 (A) *the scanning method of such system or*
16 *technology;*

17 (B) *the location of such system or tech-*
18 *nology at each land port of entry that specifies*
19 *whether in use in pre-primary, primary, or sec-*
20 *ondary inspection area, or some combination of*
21 *such areas;*

22 (C) *the percentage of commercial and pas-*
23 *senger vehicles and freight rail traffic scanned by*
24 *such system or technology; and*

1 (D) seizure data directly attributed to
2 scanned commercial and passenger vehicles and
3 freight rail traffic;

4 (3) the total number of commercial and pas-
5 senger vehicles and freight rail traffic entering at each
6 land port of entry at which each system or technology
7 is in use, and information on average wait times at
8 peak and non-peak travel times, by lane type if ap-
9 plicable;

10 (4) a description of the progress towards reach-
11 ing the benchmarks referred to in subsection (d)(1),
12 and an explanation if any of such benchmarks are
13 not achieved as planned;

14 (5) a comparison of actual costs (including in-
15 formation on any awards of associated contracts) to
16 estimated costs set forth in subsection (d)(2);

17 (6) any realized impacts, as identified by the
18 Commissioner of U.S. Customs and Border Protec-
19 tion, on land ports of entry and rail-border crossings
20 operations as a result of implementation actions, in-
21 cluding any changes to the number of U.S. Customs
22 and Border Protection officers or their duties and as-
23 signments;

24 (7) any proposed changes to the plan and an ex-
25 planation for such changes, including changes made

1 *in response to any Department of Homeland Security*
2 *research and development findings or changes in ter-*
3 *rorist or transnational criminal organizations tactics,*
4 *techniques, or procedures; and*
5 *(8) any challenges to implementing the plan or*
6 *meeting the benchmarks, and plans to mitigate any*
7 *such challenges.*

Amend the title so as to read: “An Act to require the Secretary of Homeland Security to develop a plan to increase to 100 percent the rates of scanning of commercial and passenger vehicles and freight rail entering the United States at land ports of entry along the border using large-scale, nonintrusive inspection systems to enhance border security, and for other purposes.”.

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To require the Secretary of Homeland Security to develop a plan to increase to 100 percent the rates of scanning of commercial and passenger vehicles entering the United States at land ports of entry along the border using large-scale non-intrusive inspection systems to enhance border security; and for other purposes.

SEPTEMBER 9, 2020

Reported with an amendment and an amendment to the
title