

# MARITIME BORDER SECURITY REVIEW ACT

SEPTEMBER 4, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,  
submitted the following

## R E P O R T

[To accompany H.R. 5869]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security, to whom was referred the bill (H.R. 5869) to require the Secretary of Homeland Security to conduct a maritime border threat analysis, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:  
Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Maritime Border Security Review Act”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—

(A) the Committee on Homeland Security of the House of Representatives;

(B) the Committee on Transportation and Infrastructure of the House of Representatives;

(C) the Committee on Homeland Security and Government Affairs of the Senate; and

(D) the Committee on Commerce, Science, and Transportation of the Senate.

(2) **MARITIME BORDER.**—The term “maritime border” means—

(A) the transit zone; and

(B) the borders and territorial waters of Puerto Rico and the United States Virgin Islands.

(3) **TRANSIT ZONE.**—The term “transit zone” has the meaning given such term in section 1092(a)(8) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C. 223(a)(8)).

**SEC. 3. MARITIME BORDER THREAT ANALYSIS.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the appropriate congressional committees a maritime border threat analysis that includes an identification and description of the following:

(1) Current and potential terrorism and criminal threats posed by individuals and groups seeking to—

(A) enter the United States through the maritime border; or

(B) exploit border vulnerabilities on the maritime border.

(2) Improvements needed at United States sea ports to—

(A) prevent terrorists and instruments of terror from entering the United States; and

(B) reduce criminal activity, as measured by the total flow of illegal goods and illicit drugs, related to the maritime border.

(3) Improvements needed with respect to the maritime border to—

(A) prevent terrorists and instruments of terror from entering the United States; and

(B) reduce criminal activity related to the maritime border.

(4) Vulnerabilities in law, policy, cooperation between State, territorial, and local law enforcement, or international agreements that hinder effective and efficient border security, counterterrorism, anti-human trafficking efforts, and the flow of legitimate trade with respect to the maritime border.

(5) Metrics and performance parameters used by the Department of Homeland Security to evaluate maritime security effectiveness, as appropriate.

(b) **ANALYSIS REQUIREMENTS.**—In preparing the threat analysis required under subsection (a), the Secretary of Homeland Security shall consider and examine the following:

(1) Technology needs and challenges.

(2) Personnel needs and challenges.

(3) The role of State, territorial, and local law enforcement in general border security activities.

(4) The need for cooperation among Federal, State, territorial, local, and appropriate international law enforcement entities relating to border security.

(5) The geographic challenges of the maritime border.

(6) The impact and consequences of Hurricanes Harvey, Irma, Maria, and Nate on general border security activities with respect to the maritime border.

(c) **CLASSIFIED THREAT ANALYSIS.**—To the extent possible, the Secretary of Homeland Security shall submit the threat analysis required under subsection (a) in unclassified form. The Secretary may submit a portion of the threat analysis in classified form if the Secretary determines that such form is appropriate for such portion.

**PURPOSE AND SUMMARY**

The purpose of H.R. 5869 is to require the Secretary of Homeland Security to conduct a threat analysis of the United States maritime border.

## BACKGROUND AND NEED FOR LEGISLATION

The Committee believes it is important for the Department of Homeland Security to conduct a threat analysis of the United States maritime border. As the United States confronts the threats posed by terrorist, criminal, and drug trafficking organizations seeking to exploit our borders, the Committee believes it is imperative to not forget about the unique challenges on our maritime border.

The Maritime Border Security Review Act defines “maritime border” as the borders and territorial waters of Puerto Rico and the United States Virgin Islands, as well as the Transit Zone, a seven million square-mile area that includes the sea corridors of the western Atlantic Ocean, the Caribbean Sea, the Gulf of Mexico, and the eastern Pacific Ocean. The United States Coast Guard has primary jurisdiction over patrolling the maritime border, conducting counter-drug and migrant interdiction operations, as well as search and rescue missions.

The region has long been exploited as both a destination and a transshipment point for illicit drugs heading “customs free” to the continental United States, endangering the lives of Americans in the two territories and the mainland.

The destruction caused by hurricanes Harvey, Irma, Maria, and Nate during the 2017 hurricane season has only exasperated the problem, diminishing local law enforcement operational capabilities and resources available to combat these threats. This combined with increased interdiction efforts at the Southwest Border has led to a shift in some smuggling traffic to the United States maritime border.

## HEARINGS

The Committee did not hold any hearing specifically on H.R. 5869, but the full committee and Subcommittee on Border and Maritime Security held hearings relevant to the bill.

On July 7, 2016, the Subcommittee on Border and Maritime Security held a hearing entitled “An Examination of the Maritime Nuclear Smuggling Threat and Other Port Security and Smuggling Risks in the U.S.” The Subcommittee received testimony from Rear Admiral Linda L. Fagan, Deputy Commandant for Operations, Policy, and Capabilities, U.S. Coast Guard; Dr. Wayne Brasure, Acting Director, Domestic Nuclear Detection Office; Mr. Todd C. Owen, Executive Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection; Ms. Anne Harrington, Deputy Administrator, Defense Nuclear Nonproliferation, National Nuclear Security Administration; Ms. Jennifer Grover, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office; Dr. Gregory H. Canavan, Senior Fellow, Los Alamos National Laboratories; Mr. David A. Espie, Director of Security, Maryland Port Administration, Port of Baltimore; Mr. James H.I. Weakley, President, Lake Carriers’ Association.

On February 16, 2017, the Subcommittee on Border and Maritime Security held a hearing entitled “A Dangerous and Sophisticated Adversary: The Threat To The Homeland Posed By Cartel Operations.” The Committee received testimony from Vice Admiral Charles Ray, Deputy Commandant for Operations, U.S. Coast

Guard; Chief Paul Beeson, Commander, Joint Task Force—West, Arizona; Mr. Matt Allen, Assistant Director for HSI Investigative Programs, Homeland Security Investigations; Mr. Luis E. Arreaga, Principal Deputy Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs.

On October 30, 2017, the full committee held a hearing entitled “Examining Physical Security and Cybersecurity at Our Nation’s Ports.” The Committee received testimony from Rear Admiral Todd A. Sokalzuk, Commander, Eleventh Coast Guard District, U.S. Coast Guard; Mr. Carlos C. Martel, Director of Field Operations, Los Angeles Field Office, U.S. Customs and Border Protection; Mr. Eugene D. Seroka, Executive Director, The Port of Los Angeles; Mr. Mario Cordero, Executive Director, The Port of Long Beach; Mr. Ray Familathe, International Vice-President, International Longshore and Warehouse Union.

#### COMMITTEE CONSIDERATION

The Committee met on July 24, 2018, to consider H.R. 5869, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by unanimous consent. The Committee took the following actions:

The following amendments were offered:

An amendment offered by Ms. JACKSON LEE (#1); was AGREED TO, by unanimous consent.

Page 4, beginning line 4, insert the following: (5) Metrics and performance parameters used by the Department of Homeland Security to evaluate maritime security effectiveness, as appropriate.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 5869.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5869, the Maritime Border Security Review Act, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 20, 2018.*

Hon. MICHAEL MCCAUL,  
*Chairman, Committee on Homeland Security,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5869, the Maritime Border Security Review Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL,  
*Director.*

Enclosure.

*H.R. 5869—Maritime Border Security Review Act*

H.R. 5869 would require the Department of Homeland Security, within 180 days of enactment, to prepare an analysis of security issues (including potential terrorist threats) at the maritime borders of the United States. The analysis would include a description of improvements needed at U.S. sea ports to reduce border-related criminal activity. Based on the costs of similar analyses, CBO estimates that implementing the bill would cost less than \$500,000; such spending would be subject to the availability of appropriations.

Enacting H.R. 5869 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 5869 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 5869 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 5869 contains the following general performance goal and objective, including outcome related goals and objectives authorized.

The general performance goal and objective of H.R. 5869 is to ensure the Secretary of Homeland Security conducts a comprehensive threat assessment of the United States maritime border, which would inform future homeland security resourcing needs.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 5869 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED  
TARIFF BENEFITS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 5869 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 5869 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title*

This section provides that this bill may be cited as the “Maritime Border Security Review Act”.

*Sec. 2. Definitions*

This section defines the terms used in this measure including “appropriate congressional committees”; “maritime border”; and “transit zone”.

*Sec. 3. Maritime border threat analysis*

This section requires the Secretary of Homeland Security to conduct a threat analysis of the United States maritime border. The analysis shall examine terrorist and criminal threats posed by individuals and groups seeking to enter the U.S. through the maritime border. The threat analysis must also assess improvements needed at U.S. sea ports to reduce criminal activity and the threat of terrorism, as well as vulnerabilities in law, policy, cooperation between State, territorial, and local law enforcement, or international

agreements that prevent effective maritime border security. The Committee does not intend for this review to impact the applicability of the Jones Act.

While conducting this analysis, the Secretary of Homeland Security is directed to consider personnel and technology needs and challenges, as well as the role of and need for cooperation between Federal, State, territorial, local, and appropriate international law enforcement entities to enforce maritime border security. The Secretary shall also review the impact of the geographic challenges of the maritime border and impact of Hurricanes Harvey, Irma, Maria and Nate on general border security activities related to the maritime border.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 5869 makes no changes to existing law.

