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SENATE

{ REPORT
114-339

THE DELAWARE WATER GAP NATIONAL RECREATION AREA IMPROVEMENT ACT AMENDMENTS

SEPTEMBER 6, 2016.—Ordered to be printed

Ms. MURKOWSKI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 3620]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 3620) to amend the Delaware Water Gap National Recreation Area Improvement Act to provide access to certain vehicles serving residents of municipalities adjacent to the Delaware Water Gap National Recreation Area, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of H.R. 3620 is to amend the Delaware Water Gap National Recreation Area Improvement Act to provide access to certain vehicles serving residents of municipalities adjacent to the Delaware Water Gap National Recreation Area.

BACKGROUND AND NEED

The Delaware Water Gap National Recreation Area (Recreation Area) in Pennsylvania and New Jersey preserves 70,000 acres on both sides of the Delaware River. Highway 209 spans 21 miles through the middle of the Recreation Area and served as a major truck route for many years. In 1981, the section of Highway 209 within the boundaries of the Recreation Area was transferred from the Commonwealth of Pennsylvania to the National Park Service (NPS).

Two years later, a provision of Public Law 98-63, the Fiscal Year 1983 Supplemental Appropriations Act, closed the NPS segment of Highway 209 to commercial traffic, except for commercial vehicular

operations serving business or persons located in or contiguous to the boundaries of the Recreation Area. Public Law 98–63 also authorized the NPS to collect and retain fees from commercial use of the road for management, operation, construction, and maintenance of Highway 209 within the boundaries of the Recreation Area. A 10-year transition period was established to accommodate impacts on the surrounding communities, especially the 13 trucking companies that were in existence in towns adjacent to the Recreation Area at that time. This portion of federal roadway was a heavily travelled commercial vehicle route between Interstates 80 and 84. The Federal Government ensured that I–287 in New Jersey and I–380 in Pennsylvania were built to provide an alternate route between I–80 and I–84, and the Commonwealth of Pennsylvania was tasked with the improvement of State Road 2001 to absorb the remaining traffic.

In 1996, Congress passed Public Law 104–333, which extended permitting for commercial vehicle traffic within the Recreation Area until September 30, 2005. In 2005, Congress passed Public Law 109–156, the Delaware Water Gap Improvement Act, which extended permitting for commercial vehicle traffic in the Recreation Area through September 30, 2015. Public Law 104–333 also clarified that the use of commercial vehicles serving businesses located within or in the vicinity of the Recreation Area would continue to be allowed beyond 2005, as determined by the Secretary. This extension was passed to provide more time for the Commonwealth of Pennsylvania to complete upgrades to State Road 2001, including a land exchange.

As the third extension permitting commercial vehicle use of Highway 209 neared expiration on September 30, 2015, local elected officials requested that Congress enact legislation to permit access for smaller class commercial vehicles for businesses physically located in towns adjacent to Highway 209 for a period of five years. H.R. 3620 provides for such an extension, sets up a fee structure, and exempts certain vehicles from the fee.

LEGISLATIVE HISTORY

H.R. 3620 was introduced on September 28, 2015, by Representative Marino. On February 3, 2016, the House Natural Resources Committee ordered H.R. 3620 reported by unanimous consent. The House of Representatives passed H.R. 3620 under suspension of the rules on February 24, 2016, by voice vote.

The Senate Committee on Energy and Natural Resources' Subcommittee on National Parks conducted a hearing on H.R. 3620 on June 15, 2016.

The Committee on Energy and Natural Resources met in open business session on July 13, 2016, and ordered H.R. 3620 favorably reported.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 13, 2016, by a majority voice vote of a quorum present, recommends that the Senate pass H.R. 3620.

SECTION-BY-SECTION ANALYSIS

Section 1. Vehicular access and fees

Section 1 amends Public Law 109–156 to include a new section 4 governing the use of certain roads within the Recreation Area.

The new section 4(a) includes exceptions to the prohibition on all commercial vehicles on Highway 209, a federally owned road within the boundaries of the Recreation Area.

The new section 4(b) outlines exceptions for local business use, including those commercial vehicles owned and operated by a business physically located in the Recreation Area or one or more of the adjacent municipalities as well as commercial vehicles necessary to provide services to businesses or persons located in the Recreation Area or one or more of the adjacent municipalities.

The new section 4(c) establishes a fee and permit program for use by commercial vehicles of Highway 209, including an annual fee not to exceed \$200. All fees received under the program shall be set aside in a special account and be available, without further appropriation, to the Secretary for the administration and enforcement of the program, including registering vehicles, issuing permits, and personnel costs.

The new section 4(d) provides exceptions for certain commercial vehicles to use Highway 209 without being subject to a fee or permit, including local school buses, fire, ambulance, and other safety and emergency vehicles, as well as commercial vehicles using Federal Road 209 from Milford to the Delaware River Bridge leading to U.S. Route 206 in New Jersey, and mile 0 of Federal Road 209 to Pennsylvania State Route 2001.

Section 2. Definitions

Section 2 defines the term “adjacent municipalities.”

Section 3. Conforming amendments

Section 3 repeals section 702 of division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333).

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 9, 2016.

Hon. LISA MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3620, a bill to amend the Delaware Water Gap National Recreation Area Improvement Act to provide access to certain vehicles serving residents of municipalities adjacent to the Delaware Water Gap National Recreation Area, and for other purposes.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 3620—A bill to amend the Delaware Water Gap National Recreation Area Improvement Act to provide access to certain vehicles serving residents of municipalities adjacent to the Delaware Water Gap National Recreation Area, and for other purposes

H.R. 3620 would permit certain commercial vehicles to pass through the Delaware Water Gap National Recreation Area and allow the Department of Interior (DOI) to collect an annual fee up to \$200 from the users of those vehicles until September 30, 2020.

The National Park Service (NPS) would be authorized to spend the fees collected to offset the cost of operating the program.

Because the legislation would allow NPS to collect fees from commercial vehicles, H.R. 3620 would increase offsetting receipts from permit fees and associated direct spending; therefore, pay-as-you-go procedures apply. However, based on information from NPS, CBO estimates that the net effect on direct spending would be insignificant. Enacting the legislation would not affect revenues.

CBO estimates that enacting H.R. 3620 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 3620 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On February 19, 2016, CBO transmitted a cost estimate for H.R. 3620, as ordered reported by the House Committee on Natural Resources on February 3, 2016. The two versions of the legislation are the same, as are CBO's estimates of their budgetary effects.

The CBO staff contact for this estimate is Jon Sperl. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 3620. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 3620, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 3620, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the National Park Service at the June 15, 2016, Subcommittee on National Parks hearing on H.R. 3620 follows:

STATEMENT OF DR. STEPHANIE TOOTHMAN, ASSOCIATE DIRECTOR, CULTURAL RESOURCES, PARTNERSHIPS, AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the subcommittee, thank you for the opportunity to present the Department of the Interior's views on H.R. 3620, to amend the Delaware Water Gap National Recreation Area Improvement Act to provide access to certain vehicles serving residents of municipalities adjacent to the Delaware Water Gap National Recreation Area, and for other purposes.

The Department supports enactment of H.R. 3620.

H.R. 3620 would amend the Delaware Water Gap National Recreation Area Improvement Act (P.L. 109-156) with respect to the prohibition against commercial vehicle use of Highway 209, a federally owned road within the boundaries of the Delaware Water Gap National Recreation Area in Pennsylvania. The bill would reinstate the authority, with some revisions, of the National Park Service (NPS) to allow commercial vehicles serving local businesses to use Highway 209 through a permit and fee program. The previous authority expired on September 30, 2015.

The bill would permit the use of Highway 209 until September 30, 2020, by commercial vehicles with four or fewer axles that: (1) are owned and operated by a business located in the recreation area or by one or more adjacent municipalities named in the bill, or (2) are necessary to provide services to businesses or persons located in the recreation area or in one or more of those municipalities. As part of the permit program authorized by this bill, the NPS would be allowed to charge an annual fee of up to \$200 per vehicle. All fees received would be set aside in a special account and made available for the administration and enforcement of the program, including registering vehicles, issuing permits and vehicle identification stickers, and personnel costs. The bill would exempt local school buses; fire, ambulance, and other safety and emergency vehicles; and commercial vehicles along specified segments of the highway from the permit and fee requirement.

In 1983, the Commonwealth of Pennsylvania transferred 22 miles of State Road 209 (now referred to as Federal Road 209) to the United States to enhance the relatively new Delaware Water Gap National Recreation Area. It was transferred with the understanding that commercial traffic on the road would cease. At the time, it was reported that more than 1,000 tractor trailers per day were using the road as a pass-through route between I-80 and I-84. There were 13 trucking companies surrounding the

recreation area when the road was transferred, and those companies were allowed under law a ten-year transition period to adjust to the new regulation of the road. The NPS was authorized to collect and retain fees from the commercial use of the road but only from so few entities that it cost the NPS between \$50,000 and \$150,000 every year to regulate traffic. Further, when the road was transferred there were many private properties along the 22-mile route. Now the United States owns all of the properties except for one store located on the south end within the section of road from mile 0 to Bushkill Falls Road (SR 2001) that allows commercial traffic.

Completion of the construction of Interstate 287 in New Jersey provided an alternate route to I-80 and I-84 allowing commercial traffic to effectively bypass Highway 209. Construction of a state road that will parallel Highway 209 is expected to be completed in the near future and will further reduce local commercial traffic through the park. In the meantime, the enactment of H.R. 3620 would serve the needs of local communities while offering a way for NPS to manage permitting and fee collection for commercial traffic on the park road. We hope that this approach will cover the cost of NPS fee administration and traffic enforcement, but that will depend on the number of commercial vehicles that choose to use Highway 209. A year after this program is implemented, we should have an estimate for the following years.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions that you or other members of the subcommittee may have.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the original bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

OMNIBUS PARKS AND PUBLIC LANDS ACT OF 1996

PUBLIC LAW 104-333

* * * * *

DIVISION I

* * * * *

TITLE VII—FEES

* * * * *

[SEC. 702. DELAWARE WATER GAP.

[(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recre-

ation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b).

[(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

[(c) CONFORMING PROVISIONS.—

[(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading “ADMINISTRATIVE PROVISIONS” in chapter VII of title I of Public Law 98–63 (97 Stat. 329) are repealed, effective September 30, 2005.

[(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed \$25 per trip.]

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DELAWARE WATER GAP NATIONAL RECREATION AREA IMPROVEMENT ACT

PUBLIC LAW 109–156

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SEC. 2. DEFINITIONS.

In this Act:

(1) *ADJACENT MUNICIPALITIES.*—The term “adjacent municipalities” means Delaware Township, Dingman Township, Lehman Township, Matamoras Borough, Middle Smithfield Township, Milford Borough, Milford Township, Smithfield Township and Westfall Township, in Pennsylvania.

[(1)] (2) *CORPORATION.*—The term “Corporation” means the Columbia Gas Transmission Corporation.

[(2)] (3) *PIPELINE.*—The term “pipeline” means that portion of the pipeline of the Corporation numbered 1278 that is—

(A) located in the Recreation Area; and

(B) situated on 2 tracts designated by the Corporation as ROW No. 16405 and No. 16413.

[(3)] (4) *RECREATION AREA.*—The term “Recreation Area” means the Delaware Water Gap National Recreation Area in the Commonwealth of Pennsylvania.

[(4)] (5) *SECRETARY.*—The term “Secretary” means the Secretary of the Interior.

[(5)] (6) *SUPERINTENDENT.*—The term “Superintendent” means the Superintendent of the Recreation Area.

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[SEC. 4. USE OF CERTAIN ROADS WITHIN DELAWARE WATER GAP.

[Section 702 of Division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333; 110 Stat. 4185) is amended—

[(1) in subsection (a), by striking “at noon on September 30, 2005” and inserting “on the earlier of the date on which a fea-

sible alternative is available or noon of September 30, 2015”; and

[(2) in subsection (c)—

[(A) in paragraph (1), by striking “September 30, 2005” and inserting “on the earlier of the date on which a feasible alternative is available or September 30, 2015”; and

[(B) in paragraph (2)—

[(i) by striking “noon on September 30, 2005” and inserting “the earlier of the date on which a feasible alternative is available or noon of September 30, 2015”; and

[(ii) by striking “not exceed \$25 per trip” and inserting the following: “be established at a rate that would cover the cost of collection of the commercial use fee, but not to exceed \$40 per trip”.]

SEC. 4. USE OF CERTAIN ROADS WITHIN THE RECREATION AREA.

(a) *IN GENERAL.*—Except as otherwise provided in this section, Highway 209, a federally owned road within the boundaries of the Recreation Area, shall be closed to all commercial vehicles.

(b) *EXCEPTION FOR LOCAL BUSINESS USE.*—Until September 30, 2020, subsection (a) shall not apply with respect to the use of commercial vehicles that have four or fewer axles and are—

(1) owned and operated by a business physically located in—

(A) the Recreation Area; or

(B) one or more adjacent municipalities; or

(2) necessary to provide services to businesses or persons located in—

(A) the Recreation Area; or

(B) one of more adjacent municipalities.

(c) *FEE.*—The Secretary shall establish a fee and permit program for the use by commercial vehicles of Highway 209 under subsection

(b). The program shall include an annual fee not to exceed \$200 per vehicle. All fees received under the program shall be set aside in a special account and be available, without further appropriation, to the Secretary for the administration and enforcement of the program, including registering vehicles, issuing permits and vehicle identification stickers, and personnel costs.

(d) *EXCEPTIONS.*—The following vehicles may use Highway 209 and shall not be subject to a fee or permit requirement under subsection (c):

(1) Local school buses.

(2) Fire, ambulance, and other safety and emergency vehicles.

(3) Commercial vehicles using Federal Road Route 209, from—

(A) Milford to the Delaware River Bridge leading to U.S. Route 206 in New Jersey; and

(B) mile 0 of Federal Road Route 209 to Pennsylvania State Route 2001.

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