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DELAWARE WATER GAP NATIONAL RECREATION AREA EXTENSION

OCTOBER 18, 2022.—Ordered to be printed

Filed, under authority of the order of the Senate of October 14, 2022

Mr. MANCHIN, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 3185]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 3185), to amend the Delaware Water Gap National Recreation Area Improvement Act to extend the exception to the closure of certain roads within the Recreation Area for local businesses, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 3185 is to amend Public Law 109-156, the Delaware Water Gap National Recreation Area Improvement Act, to allow certain commercial vehicles serving residents of municipalities adjacent to the Delaware Water Gap National Recreation Area to continue using roads within the National Recreation Area.

BACKGROUND AND NEED

The Delaware Water Gap National Recreation Area (National 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 National 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.

Two years later, a provision of Public Law 98–63 closed the NPS segment of Highway 209 to commercial traffic, except for commercial vehicles serving businesses or people located near 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 enacted Public Law 104–333, which extended permitting for commercial vehicle traffic within the National Recreation Area until September 30, 2005. This bill clarified that the use of commercial vehicles serving businesses located near the Recreation Area would continue to be allowed beyond 2005, as determined by the Secretary. In 2005, Congress enacted Public Law 109–156, the Delaware Water Gap Improvement Act, which extended permitting for commercial vehicle traffic in the National Recreation Area through September 30, 2015. This extension was passed to provide more time for the Commonwealth of Pennsylvania to complete upgrades to State Road 2001, including a land exchange.

In September 2015, the more than 30-year-old exemption for the Recreation Area expired, leaving commercial traffic with limited or no acceptable alternative routes and local businesses in a state of uncertainty. On December 21, 2017, Congress enacted Public Law 115–101, which reinstated the exemption through September 2021, set up a fee structure, and exempted certain vehicles from the fee. On September 30, 2021, this commercial vehicle exemption lapsed.

S. 3185 extends the exemption through September 30, 2026.

LEGISLATIVE HISTORY

Senators Toomey and Casey introduced S. 3185 on November 4, 2021. The Subcommittee on National Parks held a hearing on S. 3185 on May 11, 2022. Representative Cartwright introduced a companion bill, H.R. 6364, in the House of Representatives on January 10, 2021. The House Natural Resource Committee reported H.R. 6364 on September 28, 2022.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on July 21, 2022, by a voice vote of a quorum present, recommends that the Senate pass S. 3185.

SUMMARY

S. 3185 amends Public Law 109–156, the Delaware Water Gap National Recreation Improvement Act (119 Stat. 2948; 131 Stat. 2246) to reinstate the use of Highway 209, a federally-owned road

within the boundaries of the Delaware Water Gap National Recreation Area, for certain commercial vehicles that serve local businesses, until September 30, 2026.

COST AND BUDGETARY CONSIDERATIONS

The Committee has requested, but has not yet received, the Congressional Budget Office's estimate of the cost of S. 3185 as ordered reported. When the Congressional Budget Office completes its cost estimate, it will be posted on the Internet at www.cbo.gov.

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 S. 3185. 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 S. 3185, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 3185, 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 Department of the Interior at the May 11, 2022, hearing on S. 3185 follows:

STATEMENT OF MICHAEL A. CALDWELL, ACTING ASSOCIATE
DIRECTOR, PARK PLANNING, FACILITIES AND LANDS, NATIONAL
PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Chairman King, Ranking Member Daines, and members of the Subcommittee, thank you for the opportunity to present the Department of the Interior's views on S. 3185, a bill to amend the Delaware Water Gap National Recreation Area Improvement Act to extend the exception to the closure of certain roads within the recreation area for local businesses, and for other purposes.

The Department supports S. 3185.

S. 3185 would amend Section 4(b) of the Delaware Water Gap National Recreation Area Improvement Act (P.L. 109-156 as amended) to extend the use of certain roads within Delaware Water Gap National Recreation Area through September 30, 2026. The bill would extend the authority of the National Park Service (NPS) to allow commercial vehicles serving local businesses to use Federal Road 209 through a permit and fee program. The current authority expires on September 30, 2022.

The extension would authorize the park to continue issuing permits to commercial vehicle operators owned by businesses located in or adjacent to the recreation area or necessary to provide services to businesses or persons located in or adjacent to the recreation area, enabling them to travel through the park. Route 209 provides a safe, efficient, and cost-effective transportation route for these adjacent communities. This permitted access contributes to the economic vitality, public safety, and quality of life of the park's adjacent communities.

Permits are not required for local school buses, and fire, ambulance, and other safety or emergency vehicles.

Finally, the Department would like to work with the sponsor and Committee on a technical edit to the public law reference in the bill.

Chairman King, this concludes my statement. I would be pleased to answer any questions 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 bill S. 3185, as ordered 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):

Public Law 109–156 (as amended by Public Law 115–146)

AN ACT To authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area, to allow certain commercial vehicles to continue to use Route 209 within Delaware Water Gap National Recreation Area, and to extend the termination date of the National Park System Advisory Board to January 1, 2007.

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SECTION 1. SHORT TITLE.

This Act may be cited as the “Delaware Water Gap National Recreation Area Improvement Act.

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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, 2021, subsection (a)~~ *Until September 30, 2026, 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

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(B) one of more adjacent municipalities.

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