

113TH CONGRESS
2D SESSION

H. R. 3488

[Report No. 113-]

To establish the conditions under which the Secretary of Homeland Security may establish preclearance facilities, conduct preclearance operations, and provide customs services outside the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2013

Mr. MEEHAN (for himself, Mr. DEFAZIO, Mr. BISHOP of Georgia, Mrs. BLACKBURN, Mr. BRADY of Pennsylvania, Mrs. BROOKS of Indiana, Mr. BROUN of Georgia, Mr. CARSON of Indiana, Mr. CASSIDY, Mr. CHAFFETZ, Mr. COLE, Mr. CROWLEY, Mr. RODNEY DAVIS of Illinois, Mr. GERLACH, Mr. GIBSON, Mr. GENE GREEN of Texas, Mr. GRIMM, Mrs. HARTZLER, Mr. HIGGINS, Mr. JOHNSON of Ohio, Mr. JOHNSON of Georgia, Mr. JONES, Mr. JOYCE, Mr. KEATING, Mr. KING of New York, Mr. LANCE, Mr. LOBIONDO, Ms. MCCOLLUM, Mr. MCKINLEY, Ms. MENG, Mrs. MILLER of Michigan, Mr. NADLER, Mrs. NAPOLITANO, Mr. PALLONE, Mr. PASCRELL, Mr. PETERS of Michigan, Mr. RANGEL, Mr. RENACCI, Mr. ROGERS of Alabama, Mr. SCALISE, Ms. TITUS, Mr. WESTMORELAND, Ms. WILSON of Florida, Mr. FITZPATRICK, Mr. SOUTHERLAND, Mr. RAHALL, Mr. BUCSHON, Mr. LARSEN of Washington, Mr. GEORGE MILLER of California, Mr. HUIZENGA of Michigan, Mr. COURTNEY, Mr. SESSIONS, Mr. LEWIS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RUIZ, Mr. COLLINS of New York, Mr. STIVERS, Ms. BROWN of Florida, Ms. DELAURO, Mr. POE of Texas, Mr. RADEL, and Mr. GRAVES of Georgia) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

NOVEMBER --, 2013

Additional sponsors:

JUNE --, 2014

Reported from the Committee on Homeland Security with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on November 14, 2013]

A BILL

To establish the conditions under which the Secretary of Homeland Security may establish preclearance facilities, conduct preclearance operations, and provide customs services outside the United States, 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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Peclearance Authoriza-*
5 *tion Act of 2014”.*

6 **SEC. 2. DEFINITION.**

7 *In this Act, the term “appropriate congressional com-*
8 *mittees” means the Committee on Homeland Security and*
9 *the Committee on Ways and Means of the House of Rep-*
10 *resentatives and the Committee on Homeland Security and*
11 *Governmental Affairs and the Committee on Finance of the*
12 *Senate.*

13 **SEC. 3. ESTABLISHMENT OF PRECLEARANCE OPERATIONS.**

14 *Pursuant to section 1629 of title 19, United States*
15 *Code, and subject to section 5, the Secretary of Homeland*
16 *Security may establish U.S. Customs and Border Protec-*
17 *tion preclearance operations in a foreign country to—*

18 (1) *prevent terrorists, instruments of terrorism,*
19 *and other security threats from entering the United*
20 *States;*

21 (2) *prevent inadmissible persons from entering*
22 *the United States;*

23 (3) *ensure merchandise destined for the United*
24 *States complies with applicable laws;*

1 (4) *ensure the prompt processing of persons eligi-*
2 *ble to travel to the United States; and*

3 (5) *accomplish such other objectives as the Sec-*
4 *retary determines necessary to protect the United*
5 *States.*

6 **SEC. 4. NOTIFICATION AND CERTIFICATION TO CONGRESS.**

7 (a) *NOTIFICATION.*—*Not later than 180 days before en-*
8 *tering into an agreement with the government of a foreign*
9 *country to establish U.S. Customs and Border Protection*
10 *preclearance operations in such foreign country, the Sec-*
11 *retary of Homeland Security shall provide to the appro-*
12 *priate congressional committees the following:*

13 (1) *A copy of the proposed agreement to establish*
14 *such preclearance operations, including an identifica-*
15 *tion of the foreign country with which U.S. Customs*
16 *and Border Protection intends to enter into a*
17 *preclearance agreement, and the location at which*
18 *such preclearance operations will be conducted.*

19 (2) *An estimate of the date on which U.S. Cus-*
20 *toms and Border Protection intends to establish*
21 *preclearance operations under such agreement.*

22 (3) *The anticipated funding sources for*
23 *preclearance operations under such agreement, and*
24 *other funding sources considered.*

1 (4) *An assessment of the impact such*
2 *preclearance operations will have on legitimate trade*
3 *and travel, including potential impacts on passengers*
4 *traveling to the United States.*

5 (5) *A homeland security threat assessment for*
6 *the country in which such preclearance operations are*
7 *to be established.*

8 (6) *An assessment of the impacts such*
9 *preclearance operations will have on U.S. Customs*
10 *and Border Protection domestic port of entry staffing.*

11 (7) *Information on potential economic, competi-*
12 *tive, and job impacts on United States air carriers*
13 *associated with establishing such preclearance oper-*
14 *ations.*

15 (8) *Information on the anticipated homeland se-*
16 *curity benefits associated with establishing such*
17 *preclearance operations.*

18 (9) *Information on potential security*
19 *vulnerabilities associated with commencing such*
20 *preclearance operations, and mitigation plans to ad-*
21 *dress such potential security vulnerabilities.*

22 (10) *A U.S. Customs and Border Protection*
23 *staffing model for such preclearance operations, and*
24 *plans for how such positions would be filled.*

1 (11) *Information on the anticipated costs over*
2 *the next five fiscal years associated with commencing*
3 *such preclearance operations.*

4 (12) *A copy of the agreement referred to in sub-*
5 *section (a) of section 5.*

6 (13) *Other factors that the Secretary of Home-*
7 *land Security determines to be necessary for Congress*
8 *to comprehensively assess the appropriateness of com-*
9 *mencing such preclearance operations.*

10 (b) *CERTIFICATIONS RELATING TO PRECLEARANCE*
11 *OPERATIONS ESTABLISHED AT AIRPORTS.—In the case of*
12 *an airport, in addition to the notification requirements*
13 *under subsection (a), not later than 90 days before entering*
14 *into an agreement with the government of a foreign country*
15 *to establish U.S. Customs and Border Protection*
16 *preclearance operations at an airport in such foreign coun-*
17 *try, the Secretary of Homeland Security shall provide to*
18 *the appropriate congressional committees the following:*

19 (1) *A certification that preclearance operations*
20 *under such preclearance agreement would provide*
21 *homeland security benefits to the United States.*

22 (2) *A certification that preclearance operations*
23 *within such foreign country will be established under*
24 *such agreement only if—*

1 (A) at least one United States passenger
2 carrier operates at such airport; and

3 (B) the access of all United States passenger
4 carriers to such preclearance operations is the
5 same as the access of any non-United States pas-
6 senger carrier.

7 (3) A certification that the Secretary of Home-
8 land Security has considered alternative options to
9 preclearance operations and has determined that such
10 options are not the most effective means of achieving
11 the objectives specified in section 3.

12 (4) A certification that the establishment of
13 preclearance operations in such foreign country will
14 not significantly increase customs processing times at
15 United States airports.

16 (5) An explanation of other objectives that will
17 be served by the establishment of preclearance oper-
18 ations in such foreign country.

19 (6) A certification that representatives from U.S.
20 Customs and Border Protection consulted publically
21 with interested parties, including providers of com-
22 mercial air service in the United States, employees of
23 such providers, security experts, and such other par-
24 ties as the Secretary determines to be appropriate, be-

1 *fore entering into such an agreement with such for-*
2 *eign government.*

3 (7) *A report detailing the basis for the certifi-*
4 *cations referred to in paragraphs (1) through (6).*

5 (c) *MODIFICATION OF EXISTING AGREEMENTS.—Not*
6 *later than 30 days before substantially modifying a*
7 *preclearance agreement with the government of a foreign*
8 *country in effect as of the date of the enactment of this Act,*
9 *the Secretary of Homeland Security shall provide to the ap-*
10 *propriate congressional committees a copy of the proposed*
11 *agreement, as modified, and the justification for such modi-*
12 *fication.*

13 (d) *REMEDATION PLAN.—*

14 (1) *IN GENERAL.—The Commissioner of U.S.*
15 *Customs and Border Protection shall monthly meas-*
16 *ure the average customs processing time to enter the*
17 *25 United States airports that support the highest*
18 *volume of international travel (as determined by*
19 *available Federal passenger data) and provide to the*
20 *appropriate congressional committees such measure-*
21 *ments.*

22 (2) *ASSESSMENT.—Based on the measurements*
23 *described in paragraph (1), the Commissioner of U.S.*
24 *Customs and Border Protection shall quarterly assess*
25 *whether the average customs processing time referred*

1 *to in such paragraph significantly exceeds the average*
2 *customs processing time to enter the United States*
3 *through a preclearance operation.*

4 (3) *SUBMISSION.—Based on the assessment con-*
5 *ducted under paragraph (2), if the Commissioner of*
6 *U.S. Customs and Border Protection determines that*
7 *the average customs processing time referred to in*
8 *paragraph (1) significantly exceeds the average cus-*
9 *toms processing time to enter the United States*
10 *through a preclearance operation described in para-*
11 *graph (2), the Commissioner shall, not later than 60*
12 *days after making such determination, provide to the*
13 *appropriate congressional committees a remediation*
14 *plan for reducing such average customs processing*
15 *time referred to in paragraph (1).*

16 (4) *IMPLEMENTATION.—Not later than 30 days*
17 *after submitting the remediation plan referred to in*
18 *paragraph (3), the Commissioner of United States*
19 *Customs and Border Protection shall implement those*
20 *portions of such plan that can be carried out using*
21 *existing resources, excluding the transfer of personnel.*

22 (5) *SUSPENSION.—If the Commissioner of U.S.*
23 *Customs and Border Protection does not submit the*
24 *remediation plan referred to in paragraph (3) within*
25 *60 days in accordance with such paragraph, the Com-*

1 *missioner may not, until such time as such remedi-*
2 *ation plan is submitted, conduct any negotiations re-*
3 *lating to preclearance operations at an airport in*
4 *any country or commence any such preclearance op-*
5 *erations.*

6 *(6) STAKEHOLDER RECOMMENDATIONS.—The re-*
7 *mediation plan described in paragraph (3) shall con-*
8 *sider recommendations solicited from relevant stake-*
9 *holders.*

10 *(e) CLASSIFIED REPORT.—The assessment required*
11 *pursuant to subsection (a)(5) and the report required pur-*
12 *suant to subsection (b)(7) may be submitted in classified*
13 *form if the Secretary of Homeland Security determines that*
14 *such is appropriate.*

15 **SEC. 5. AVIATION SECURITY SCREENING AT**
16 **PRECLEARANCE AIRPORTS.**

17 *(a) AVIATION SECURITY STANDARDS AGREEMENT.—*
18 *Prior to the commencement of preclearance operations at*
19 *an airport in a foreign country under this Act, the Admin-*
20 *istrator of the Transportation Security Administration*
21 *shall enter into an agreement with the government of such*
22 *foreign country that delineates and requires the adoption*
23 *of aviation security screening standards that are deter-*
24 *mined by the Administrator to be comparable to those of*
25 *the United States.*

1 **(b) AVIATION SECURITY RESCREENING.**—*If the Ad-*
2 *ministrators of the Transportation Security Administration*
3 *determines that the government of a foreign country has not*
4 *maintained security standards and protocols comparable to*
5 *those of the United States at airports at which preclearance*
6 *operations have been established in accordance with an*
7 *agreement entered into pursuant to subsection (a), the Ad-*
8 *ministrators shall require the rescreening in the United*
9 *States by the Transportation Security Administration of*
10 *passengers and their property before such passengers may*
11 *deplane into sterile areas of airports in the United States.*

12 **(c) SELECTEES.**—*Any passenger who is determined to*
13 *be a selectee based on a check against a terrorist watch list*
14 *and arrives on a flight originating from a foreign airport*
15 *at which preclearance operations have been established in*
16 *accordance with an agreement entered into pursuant to sub-*
17 *section (a), shall be required to undergo security rescreening*
18 *by the Transportation Security Administration before being*
19 *permitted to board a domestic flight in the United States.*

20 **SEC. 6. LOST AND STOLEN PASSPORTS.**

21 *The Secretary of Homeland Security may not enter*
22 *into or renew an agreement with the government of a for-*
23 *ign country to establish or maintain U.S. Customs and*
24 *Border Protection preclearance operations at an airport in*
25 *such foreign country unless such government certifies—*

1 (1) *that it routinely submits information about*
2 *lost and stolen passports of its citizens and nationals*
3 *to INTERPOL's Stolen and Lost Travel Document*
4 *database; or*

5 (2) *makes available to the United States Govern-*
6 *ment such information through another comparable*
7 *means of reporting.*

8 **SEC. 7. EFFECTIVE DATE.**

9 *Except for subsection (c) of section 4, this Act shall*
10 *apply only to the establishment of preclearance operations*
11 *in a foreign country in which no preclearance operations*
12 *have been established as of the date of the enactment of this*
13 *Act.*