



IACP Capitol Report

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Senate Passes Port Security Bill

On September 14, the Senate unanimously passed a comprehensive port safety bill (HR 4954). The bill would authorize \$5.5 billion for port security over the next six years, including adding 1,000 customs and border officers. It would also establish a \$400 million port security grant program.

The bill would codify port security programs in the Homeland Security Department and establish protocols to resume trade in the event of a catastrophic incident. It establishes new benefits for trusted shippers, including fewer customs inspections, otherwise known as "green lane" benefits. It also authorizes the Container Security Initiative, which places U.S. customs inspectors at foreign ports and requires host nations to share shipping data before a vessel reaches U.S. shores.

The bill also requires the nation's 22 largest ports, which handle 98 percent of all cargo coming into the country, to scan all containers with radiation detection equipment by the end of 2007. In addition, the bill

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House Judiciary Committee Approves IACP-Opposed Firearms Bills

The House Judiciary Committee approved two bills that would make significant changes to the nation's gun control laws. HR 5005 would significantly reduce the ability of federal, state, and local law enforcement officials to identify and trace illegal gun trafficking and traffickers. HR 5092 will severely limit the ability of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to revoke the licenses of gun dealers who violate federal law.

The IACP believes these bills are reckless and irresponsible, and will impede criminal investigations and diminish the ability of law enforcement to protect their communities from the crime and violence associated with the illegal use of firearms.

On September 13, the committee approved HR 5005, which would bar the National Trace Center at ATF from releasing data used to trace guns back to previous owners, sellers, and dealers. As introduced, this ban included sharing information with state and local law enforcement agencies. Specifically, it would have only allowed state and local law enforcement agencies to access information that pertains to their geographic jurisdictions, and would have prohibited them from obtaining trace information about a gun sale in even neighboring jurisdictions.

However, following vigorous opposition by law enforcement groups, including the IACP, and the Department of Justice, that argued that the provision clearly had the potential to impede the investigation of criminal activities that cross jurisdictional lines, lawmakers adopted an amendment that would allow continued information sharing with state and local law

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enforcement as long as officials destroy records after 20 days.

The IACP is carefully reviewing the provisions contained in the substitute amendment to ensure that they meet the needs of law enforcement.

In addition, another provision in the bill would eliminate the requirement that multiple firearms sales report forms be filed with the local law enforcement agency where the transaction occurred. Currently, gun dealers must notify local law enforcement when they sell multiple handguns to the same buyer in a five-day period. Although gun dealers would still have to report multiple sales to ATF, the elimination of the local notice requirement will negatively affect the ability of the local law enforcement agency to ensure that they can enforce relevant state or local laws. Lawmakers rejected an amendment by Rep. Martin Meehan (D-MA) that would have deleted this provision.

During consideration of the bill, lawmakers adopted an amendment by Rep. Debbie Wasserman-Schultz (D-FL) that would prohibit the transfer of firearms to individuals convicted of a sex offense against a minor.

The IACP opposes the bill because it will hinder the ability of state and local law enforcement to conduct effective investigations. The IACP has consistently supported the use of tracing and trace data. In 1998, the IACP membership strongly supported the ATF National Tracing Center and highlighted its value to the ability of state and local law enforcement to combat gun violence.

On September 7, the committee approved HR 5092, which would change federal regulations regarding the suspension and revocation of gun seller licenses by allowing ATF to employ escalating penalties against gun dealers, short of revoking their licenses.

Under the bill, ATF would be allowed to impose civil penalties up to \$2,500 per violation, with a maximum of \$15,000 per inspection. It could also suspend a seller's license for a longer period of time for a more "serious" violation. Under current law, the ATF can only issue a warning or revoke a license for most violations.

For example, this would not include violations in which dealers fail to maintain records for hundreds or thousands of firearm sales. Currently, the ATF can revoke licenses for such an offense, but under the bill,

they would be deemed non-serious. In addition, the bill requires the ATF to postpone a fine, suspension, or revocation pending completion of an administrative hearing, no matter how serious the offense.

In addition, the ATF could impose these fines and suspensions only if it proved that a dealer deliberately intended to violate federal law, a very high standard. Any other violation in which it could not prove that the licensee specifically intended to break the law would be considered "non-serious."

Before voting for passage, committee members adopted an amendment that would distinguish between serious and minor violations by gun dealers and direct administrative law judges to review licensing decisions by the ATF.

Committee members defeated four amendments offered by Rep. Anthony Weiner (D-NY). The first would have removed a section of the bill that would give gun dealers who have had their license revoked 60 days to liquidate their inventories. The second would have deleted provisions that would prohibit ATF enforcement actions against gun dealers if they were acquitted of similar charges in a criminal court proceeding. The third amendment would have increased the fines for less serious offenses by gun dealers. His fourth amendment would have created graduated penalties for gun dealers' violations of firearm license regulations.

The committee also rejected an amendment by Rep. Sheila Jackson-Lee (D-TX) that would have removed a section requiring the ATF to prove dealers had a willful intent to violate regulations.

The IACP opposes the bill because it would severely limit the ability of ATF to revoke the licenses of gun dealers who violate federal law, and would largely replace ATF's revocation powers with minimal fines and temporary license suspensions.

The bills now move to the House floor for consideration. While it is likely that they will pass the House, there is probably not enough time left in the session for the Senate to consider the bills.

requires DHS to conduct test programs at three foreign ports for scanning all cargo.

Senators vigorously debated competing amendments on cargo screening. More than 11 million cargo containers arrive at the nation's ports each year. Federal officials open and inspect only about five percent of those containers. This fact has stirred fears that terrorists will attempt to smuggle a small nuclear weapon or a "dirty bomb" into a U.S. port. A dirty bomb would use a conventional explosive to spread radioactive materials over an area the size of several city blocks.

The Senate voted to table an amendment by Sen. Charles Schumer (D-NY) that would have required DHS to scan all cargo entering the U.S. within four years. Opponents of the amendment argued that it would be prohibitively expensive to implement.

However, Senators did adopt an amendment that requires DHS to scan all cargo abroad "as soon as" the secretary determines doing so is feasible and will not disrupt trade. Also adopted was an amendment that would mandate inspection of all "high-risk" cargo targeted by the Customs and Border Protection bureau.

Senators also adopted an amendment that would create a National Alert System, which would act as a wireless counterpart to the Emergency Broadcast System in the event of an emergency.

Also passed was an amendment that would require companies that offer phone service via the Internet to provide emergency 911 service. For more information, please refer to the article on this page.

The Senate also voted to add more than \$4.7 billion in rail and mass transit programs to the bill. This includes \$1.1 billion for rail security improvements, and authorizes a wide range of vulnerability and risk assessment, and a pilot program of random passenger and baggage screening. It also includes \$3.4 billion for mass transit security improvements.

The House version, passed in May, does not include these provisions, setting up a potentially challenging conference. It is uncertain whether lawmakers will be able to complete negotiations on the bill in the two weeks that are likely left before a pre-election recess.

Senate Approves VOIP Provisions

On September 14, the Senate approved an amendment to port security legislation (HR 4954) that will require companies that offer phone service via the Internet to provide emergency 911 service, including enhanced 911 service, which automatically provides the location of any customer who calls for emergency assistance. Internet phone service, known as Voice over Internet Protocol (VoIP), uses computers and broadband connections to convert sounds into data and transmit them via the Internet. Unlike traditional phones, which have a fixed address that a 911 operator can quickly call up, Internet phone service can be mobile.

The measure builds on an existing Federal Communications Commission (FCC) order requiring all Internet phone companies that allow customers to call to or from the regular telephone network to offer emergency service.

The provision would require the traditional phone companies to grant access to the 911 infrastructure to companies that offer VoIP calling. It would also provide liability protection to Internet phone companies, users, and emergency call centers that handle emergency VoIP calls. It will also give state and local governments the authority to impose 911 fees on VoIP services to fund the emergency calling system. It also requires the federal office that manages 911 issues to report to Congress on recommendations for modernizing the 911 network and migrating to an Internet-based system.

The amendment's language did not include several controversial provisions that were part of an earlier 911 bill (S 1063) approved by the Senate Commerce, Science, and Transportation Committee in 2005. This includes a provision that would have required the FCC to review and revise or rewrite its 911 rules to ensure that they are technically and operationally feasible — language that some feared would force the FCC to redo its existing order. Also deleted was a provision that would have provided a waiver exempting VoIP providers from 911 requirements if the FCC determined that the rules were technologically or operationally infeasible.

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