

110TH CONGRESS  
2D SESSION

# H. R. 5531

To amend the Homeland Security Act of 2002 to clarify criteria for certification relating to advanced spectroscopic portal monitors, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2008

Mr. KING of New York (for himself and Mr. McCAUL of Texas) introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

To amend the Homeland Security Act of 2002 to clarify criteria for certification relating to advanced spectroscopic portal monitors, 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 “Next Generation Radi-  
5 ation Screening Act of 2008”.

1 **SEC. 2. MEMORANDUM OF UNDERSTANDING REGARDING**  
2 **ADVANCED SPECTROSCOPIC PORTAL MON-**  
3 **ITORS.**

4 Title XIX of the Homeland Security Act of 2002 is  
5 amended by adding at the end the following new sections:

6 **“SEC. 1908. ADVANCED SPECTROSCOPIC PORTAL MON-**  
7 **ITORS.**

8 “(a) AGREEMENT ON FUNCTIONALITY OF ADVANCED  
9 SPECTROSCOPIC PORTAL MONITORS.—The Director of  
10 the Domestic Nuclear Detection Office and the Commis-  
11 sioner of Customs and Border Protection shall enter into  
12 an agreement regarding the minimum required  
13 functionality for the deployment of advanced spectroscopic  
14 portal monitors (ASP) by United States Customs and  
15 Border Protection (CBP).

16 “(b) COMPONENTS OF AGREEMENT.—The agreement  
17 referred to in section (a) shall consider the following:

18 “(1) The consequences of radiological or nu-  
19 clear terrorism would be catastrophic.

20 “(2) A system such as the ASP is intended to  
21 improve the process of screening passengers and  
22 cargo to prevent the illicit transport of radiological  
23 and nuclear material.

24 “(3) A system such as the ASP can always be  
25 improved, even after it is deployed.

1           “(4) There is no upper limit to the functionality  
2 that can be incorporated into an engineering project  
3 of this magnitude.

4           “(5) Delaying deployment of the ASP to in-  
5 crease functionality beyond what is minimally re-  
6 quired for deployment may limit the ability of the  
7 United States to screen passengers and cargo for ra-  
8 diological and nuclear material.

9           “(6) There are operational differences between  
10 primary and secondary screening procedures. Con-  
11 sideration should be given to the implication these  
12 differences have on the minimum functionality for  
13 systems deployed for use in primary and secondary  
14 screening procedures.

15           “(c) REPORT TO CONGRESS.—Not later than 60 days  
16 after the date of the enactment of this section, the Sec-  
17 retary shall provide Congress with the signed memo-  
18 randum of understanding between the Office and CBP.

19 **“SEC. 1909. CRITERIA FOR CERTIFICATION.**

20           “(a) FINDINGS.—Congress finds the following:

21           “(1) In developing criteria for ASP perform-  
22 ance, special consideration should be given to the  
23 unique challenges associated with detecting the pres-  
24 ence of illicit radiological or nuclear material that  
25 may be masked by the presence of radiation from

1 naturally occurring radioactive material or legitimate  
2 radioactive sources associated with medical or indus-  
3 trial use of radiation.

4 “(2) Title IV of division E of the Consolidated  
5 Appropriations Act, 2008 (Public Law 110–161) re-  
6 quires the Secretary to submit to Congress a report  
7 certifying that ‘a significant increase in operational  
8 effectiveness will be achieved’, with the ASP before  
9 ‘funds appropriated under this heading shall be obli-  
10 gated for full-scale procurement of Advanced  
11 Spectroscopic Portal Monitors’, and requires that  
12 ‘the Secretary shall submit separate and distinct cer-  
13 tifications prior to the procurement of Advanced  
14 Spectroscopic Portal Monitors for primary and sec-  
15 ondary deployment that address the unique require-  
16 ments for operational effectiveness of each type of  
17 deployment.’.

18 “(b) SPECIFICATION OF SIGNIFICANT INCREASE IN  
19 OPERATIONAL EFFECTIVENESS.—

20 “(1) IN GENERAL.—The Secretary shall, in ac-  
21 cordance with the requirements of title IV of division  
22 E of the Consolidated Appropriations Act, 2008, and  
23 in consultation with the National Academies, develop  
24 quantitative metrics that demonstrate any increased  
25 effectiveness (or lack thereof) of deploying the ASP

1 in Primary and Secondary Screening sites, as deter-  
2 mined by CBP.

3 “(2) METRICS.—The metrics referred to in  
4 paragraph (1) shall consider the following:

5 “(A) Threats materials.

6 “(B) Masking scenarios.

7 “(C) Cost benefit analysis.

8 “(D) Any other measure the Director and  
9 the Commissioner determine appropriate.

10 “(c) CONSIDERATION OF EXTERNAL REVIEWS IN  
11 THE DECISION TO CERTIFY.—In determining whether or  
12 not to certify that the ASP shows a significant increase  
13 in operational effectiveness, the Secretary may consider  
14 the following:

15 “(1) Relevant reports on the ASP from the  
16 Government Accountability Office published before  
17 the date of enactment of this section.

18 “(2) An assessment of the ASP by the Inde-  
19 pendent Review Team led by the Homeland Security  
20 Institute.

21 “(3) An assessment of the ASP in consultation  
22 with the National Academies.

23 “(4) Any other information the Secretary deter-  
24 mines relevant.”.

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