

SECURING PUBLIC AREAS OF TRANSPORTATION
 FACILITIES ACT OF 2018

JUNE 22, 2018.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

Mr. McCAUL, from the Committee on Homeland Security,
 submitted the following

R E P O R T

[To accompany H.R. 5766]

The Committee on Homeland Security, to whom was referred the bill (H.R. 5766) to improve the security of public areas of transportation facilities, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 5766 authorizes the Secretary of Homeland Security to establish a working group to promote collaboration between the De-

partment of Homeland Security (DHS) and public and private stakeholders to identify and develop non-binding recommendations to enhance security in public areas of transportation facilities. This legislation directs the working group to investigate and provide recommendations on prevention of terrorist attacks in public transportation facilities through strategic planning with law enforcement, coordinated incident response procedures, infrastructure protections through use of security technology, and productive information sharing between DHS and public and private stakeholders. Within one year of the establishment of the working group, and annually thereafter for five years, the Secretary will report to relevant Congressional Committees on the findings and recommendations of the working group. This report shall be widely disseminated by the Secretary with the aim to enhance best practices across DHS and industry stakeholders.

In addition, this bill requires the Administrator of the Transportation Security Administration to submit a report to Congress a review of regulations, policies and procedures regarding transportation of a firearm and ammunition. Any plans to modify any such regulations or procedures will also be included in the report by the Administrator. H.R. 5766 focuses on enhancing research and information sharing between public and private stakeholders and DHS to hinder criminal and terrorist activities at transportation facilities throughout the United States.

BACKGROUND AND NEED FOR LEGISLATION

Recent and persistent threats to public areas of transportation have proliferated to include targeting of public areas of transportation facilities. These crowded spaces, also known as soft targets, are often highly vulnerable to attack, due to their lower levels of security and high volume of passenger traffic. The 2016 terror attack in Brussels Zaventem airport reveal the vulnerabilities of non-sterile areas of public transportation facilities. In addition, the recent trend in use of vehicular terror attacks indicate a need to focus on protecting susceptible soft targets.

This legislation aims to increase dialogue and research on how to prevent terrorist attacks at public transportation facilities. The working group that is established by this bill will require collaboration across public and private stakeholders with the Department of Homeland Security to research new strategies that will enhance security at public transportation sites and protect soft target areas. The reports submitted will provide Congress new opportunities to provide oversight and proper implementation of these new findings established by the working group.

HEARINGS

The Committee held no hearings on H.R. 5766, however the Committee held the following oversight hearings which informed this legislation.

114th Congress

On September 17, 2015, the Subcommittee on Transportation Security and the Subcommittee on Counterterrorism and Intelligence held a joint hearing entitled “Safeguarding our Nation’s Surface Transportation Systems Against Evolving Terrorist Threats.” The Subcommittees received testimony from Mr. Eddie Mayenschein,

Assistant Administrator, Office of Security Policy and Industry Engagement, Transportation Security Administration, U.S. Department of Homeland Security; Ms. Jennifer Grover, Director, Transportation Security and Coast Guard Issues, Homeland Security and Justice Team, U.S. Government Accountability Office; Mr. Raymond Diaz, Director of Security, Metropolitan Transportation Authority (New York); and Ms. Polly Hanson, Chief of Police, National Railroad Passenger Corporation (Amtrak).

115th Congress

On November 28, 2017, the Subcommittee held a field hearing in Trenton, New Jersey, entitled "Securing Public Areas of Transportation Systems: Stakeholder Perspectives." The Subcommittee received testimony from Mr. Charles Cunningham, Director, Homeland Security and Emergency Management, Delaware River Port Authority (DRPA) Public Safety / PATCO; Mr. Thomas J. Nestel, III, Chief, Transit Police, Southeastern Pennsylvania Transportation Authority (SEPTA); Mr. Douglas Lemanowicz, Lieutenant, Special Operations Section, New Jersey State Police, State of New Jersey; and Mr. Christopher Trucillo, Chief, Transit Police, New Jersey Transit.

On January 30, 2018, the Subcommittee on Transportation and Protective Security and the Subcommittee on Emergency Communications, Preparedness, and Response held a joint hearing entitled "Securing Our Surface Transportation Systems: Examining the Department of Homeland Security's Role in Surface Transportation Technologies." The Subcommittees received testimony from Ms. Sonya Proctor, Director, Surface Division, Office of Security Policy and Industry Engagement, Transportation Security Administration, U.S. Department of Homeland Security; Mr. Robert Pryor, Director, Intermodal Division, Office of Requirements and Capabilities Analysis, Transportation Security Administration, U.S. Department of Homeland Security; Mr. Donald E. Roberts, Program Manager, Explosive Threat Detection, Explosives Division, Homeland Security Advanced Research Projects Agency, Science and Technology Directorate, U.S. Department of Homeland Security; and Mr. Brian Michael Jenkins, Director, National Transportation Security Center of Excellence, Mineta Transportation Institute.

COMMITTEE CONSIDERATION

The Committee met on June 6, 2018, to consider H.R. 5766, and ordered the measure to be reported to the House with a favorable recommendation, without amendment, by unanimous consent.

COMMITTEE VOTES

Clause 3(b) of Rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 5766.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee has held oversight hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX
EXPENDITURES

In compliance with clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 5766, the Securing Public Areas of Transportation Facilities Act of 2018, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, H.R. 5766 contains the following general performance goals and objectives, including outcome related goals and objectives authorized.

This legislation directs the Secretary of Homeland Security to establish a working group to determine effective strategies to enhance security at public transportation facilities, and requires that a report of those findings to be submitted annually to the appropriate Congressional Committees.

DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of Rule XIII, the Committee finds that H.R. 4911 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED
TARIFF BENEFITS

In compliance with Rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the Rule XXI.

FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

PREEMPTION CLARIFICATION

In compliance with section 423 of the Congressional Budget Act of 1974, requiring the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or

joint resolution is intended to preempt State, local, or Tribal law, the Committee finds that H.R. 5766 does not preempt any State, local, or Tribal law.

DISCLOSURE OF DIRECTED RULE MAKINGS

The Committee estimates that H.R. 5766 would require no directed rule makings.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title.

This section provides that this bill may be cited as the “Securing Public Areas of Transportation Facilities Act of 2018”.

Sec. 2. Definitions.

This section defines the terms used in this bill including “public and private sector stakeholders” and “surface transportation asset”.

Sec. 3. Public Area Security Working Group.

This section instructs the Secretary of Homeland Security to establish a working group to promote collaborative engagement between the Department of Homeland Security and public and private sector stakeholders to develop non-binding recommendations for enhancing security in public areas of transportation facilities (including facilities that are surface transportation assets). These recommendations include the following topics: information sharing and interoperable communication capabilities among the Department of Homeland Security and public and private stakeholders with respect to terrorist or other threats; coordinated incident response procedures; the prevention of terrorist attacks and other incidents through strategic planning, security training, exercise and drills, and law enforcement patrols, working vetting, and suspicious activity reporting; and infrastructure protection through effective construction design barriers and installation of advanced surveillance and other security technologies.

The Secretary of the Department of Homeland Security shall report on the working group’s organization, participation, activities, findings, and non-binding recommendations for the immediately preceding 12-month period. This report will be submitted not later than one year after the establishment of the working group, and annually thereafter for five years. The Secretary shall report these findings to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, Transportation of the Senate. Further, the Secretary may publish a pub-

lic version of such report that describes the working group's activities, and such related matters as would be informative to the public, consistent with section 552(b) of title 5, United States Code.

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established under subsection (a) or any subsidiary thereof.

Sec. 4. Technical Assistance.

This section requires the Secretary of Homeland Security to inform owners and operators of surface transportation assets about the availability of technical assistance, including vulnerability assessment tools and cybersecurity guidelines, to help protect and enhance the resilience of public areas of such assets; and subject to the availability of appropriations, provide such technical assistance to requesting owners and operators of surface transportation assets.

Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall publish on the Department of Homeland Security's website and widely disseminate, as appropriate, best practices for protecting and enhancing the resilience of public areas of transportation facilities (including facilities that are surface transportation assets), along with associated frameworks or templates for implementation. These best practices shall be updated periodically.

Sec. 5. Review.

This sections requires the Administrator of the Transportation Security Administration to submit a report including a review of regulations, directives, policies, and procedures issued by the Administrator regarding the transportation of a firearm and ammunition, and, as appropriate, information on plans to modify any such regulation, directive, policy, or procedure based on such review. This report will be submitted to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

In preparing the report, the TSA Administrator shall consult with the Aviation Security Advisory Committee (established pursuant to section 44946 of title 49, United States Code) and appropriate public and private sector stakeholders.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported, H.R. 5766 makes no changes to existing law.