

“(b) *Availability*.—Amounts deposited in the Asia-Pacific Economic Cooperation Business Travel Card Account established pursuant to section 418(e) of the Homeland Security Act of 2002, in addition to the purposes for which such amounts are available pursuant to such subsection, shall also be available for expenditure in connection with expenses incurred with respect to ABT Cards issued at any time before the date of the enactment of such section.

“(c) *Termination*.—After the completion of the transfer described in subsection (a), the Asia-Pacific Economic Cooperation Business Travel Card Account established pursuant to the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011 shall be closed.”

§ 220. Methamphetamine and methamphetamine precursor chemicals

(a) Compliance with performance plan requirements

As part of the annual performance plan required in the budget submission of the United States Customs and Border Protection under section 1115 of title 31, the Commissioner shall establish performance indicators relating to the seizure of methamphetamine and methamphetamine precursor chemicals in order to evaluate the performance goals of the United States Customs and Border Protection with respect to the interdiction of illegal drugs entering the United States.

(b) Study and report relating to methamphetamine and methamphetamine precursor chemicals

(1) Analysis

The Commissioner shall, on an ongoing basis, analyze the movement of methamphetamine and methamphetamine precursor chemicals into the United States. In conducting the analysis, the Commissioner shall—

(A) consider the entry of methamphetamine and methamphetamine precursor chemicals through ports of entry, between ports of entry, through international mails, and through international courier services;

(B) examine the export procedures of each foreign country where the shipments of methamphetamine and methamphetamine precursor chemicals originate and determine if changes in the country’s customs over time provisions would alleviate the export of methamphetamine and methamphetamine precursor chemicals; and

(C) identify emerging trends in smuggling techniques and strategies.

(2) Report

Not later than September 30, 2007, and each 2-year period thereafter, the Commissioner, in the consultation with the Attorney General, United States Immigration and Customs Enforcement, the United States Drug Enforcement Administration, and the United States Department of State, shall submit a report to the Committee on Finance of the Senate, the Committee on Foreign Relations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on International Relations of the House of Representatives, and the Committee on the

Judiciary of the House of Representatives, that includes—

(A) a comprehensive summary of the analysis described in paragraph (1); and

(B) a description of how the Untied¹ States Customs and Border Protection utilized the analysis described in paragraph (1) to target shipments presenting a high risk for smuggling or circumvention of the Combat Methamphetamine Epidemic Act of 2005 (Public Law 109–177).

(3) Availability of analysis

The Commissioner shall ensure that the analysis described in paragraph (1) is made available in a timely manner to the Secretary of State to facilitate the Secretary in fulfilling the Secretary’s reporting requirements in section 722 of the Combat Methamphetamine Epidemic Act of 2005.

(c) Definition

In this section, the term “methamphetamine precursor chemicals” means the chemicals ephedrine, pseudoephedrine, or phenylpropanolamine, including each of the salts, optical isomers, and salts of optical isomers of such chemicals.

(Pub. L. 109–347, title VII, §707, Oct. 13, 2006, 120 Stat. 1946.)

REFERENCES IN TEXT

The Combat Methamphetamine Epidemic Act of 2005, referred to in subsec. (b)(2)(B), is Pub. L. 109–177, title VII, Mar. 9, 2006, 120 Stat. 256. Section 722 of the Act amended sections 2291h, 2291j, and 2291j–1 of Title 22, Foreign Relations and Intercourse, and enacted provisions set out as a note under section 2291h of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21, Food and Drugs, and Tables.

CODIFICATION

Section was enacted as part of the Security and Accountability For Every Port Act of 2006, also known as the SAFE Port Act, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DEFINITIONS

For definition of “Commissioner” as used in this section, see section 901 of this title.

§ 221. Requirements with respect to administering polygraph examinations to law enforcement personnel of U.S. Customs and Border Protection

(a) In general

The Secretary of Homeland Security shall ensure that—

(1) by not later than 2 years after January 4, 2011, all applicants for law enforcement positions with U.S. Customs and Border Protection (except as provided in subsection (b)) receive polygraph examinations before being hired for such a position; and

¹ So in original.

(2) by not later than 180 days after January 4, 2011, U.S. Customs and Border Protection initiates all periodic background reinvestigations for all law enforcement personnel of U.S. Customs and Border Protection that should receive periodic background reinvestigations pursuant to relevant policies of U.S. Customs and Border Protection in effect on the day before January 4, 2011.

(b) Waiver

The Commissioner of U.S. Customs and Border Protection may waive the polygraph examination requirement under subsection (a)(1) for any applicant who—

- (1) is deemed suitable for employment;
- (2) holds a current, active Top Secret/Sensitive Compartmented Information Clearance;
- (3) has a current Single Scope Background Investigation;
- (4) was not granted any waivers to obtain his or her clearance; and
- (5) is a veteran (as defined in section 2108 of title 5).

(Pub. L. 111-376, § 3, Jan. 4, 2011, 124 Stat. 4104; Pub. L. 114-279, § 5, Dec. 16, 2016, 130 Stat. 1422.)

CODIFICATION

Section was enacted as part of the Anti-Border Corruption Act of 2010, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

AMENDMENTS

2016—Pub. L. 114-279 designated existing provisions as subsec. (a), inserted heading, in par. (1) inserted “(except as provided in subsection (b))” after “Border Protection”, and added subsec. (b).

WAIVER OF CERTAIN POLYGRAPH EXAMINATION REQUIREMENTS

Pub. L. 114-328, div. A, title X, § 1049, Dec. 23, 2016, 130 Stat. 2396, provided that: “The Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, may waive the polygraph examination requirement under section 3 of the Anti-Border Corruption Act of 2010 (Public Law 111-376) [6 U.S.C. 221] for any applicant who—

- “(1) the Commissioner determines is suitable for employment;
- “(2) holds a current, active Top Secret clearance and is able to access sensitive compartmented information;
- “(3) has a current single scope background investigation;
- “(4) was not granted any waivers to obtain the clearance; and
- “(5) is a veteran (as such term is defined in section 2108 or 2109a [probably should be ‘2108a’] of title 5, United States Code).”

FINDINGS

Pub. L. 111-376, § 2, Jan. 4, 2011, 124 Stat. 4104, provided that: “Congress makes the following findings:

“(1) According to the Office of the Inspector General of the Department of Homeland Security, since 2003, 129 U.S. Customs and Border Protection officials have been arrested on corruption charges and, during 2009, 576 investigations were opened on allegations of improper conduct by U.S. Customs and Border Protection officials.

“(2) To foster integrity in the workplace, established policy of U.S. Customs and Border Protection calls for—

- “(A) all job applicants for law enforcement positions at U.S. Customs and Border Protection to re-

ceive a polygraph examination and a background investigation before being offered employment; and
“(B) relevant employees to receive a periodic background reinvestigation every 5 years.

“(3) According to the Office of Internal Affairs of U.S. Customs and Border Protection—

“(A) in 2009, less than 15 percent of applicants for jobs with U.S. Customs and Border Protection received polygraph examinations;

“(B) as of March 2010, U.S. Customs and Border Protection had a backlog of approximately 10,000 periodic background reinvestigations of existing employees; and

“(C) without additional resources, by the end of fiscal year 2010, the backlog of periodic background reinvestigations will increase to approximately 19,000.”

§ 222. Advanced Training Center Revolving Fund

For fiscal year 2012 and thereafter, U.S. Customs and Border Protection’s Advanced Training Center is authorized to charge fees for any service and/or thing of value it provides to Federal Government or non-government entities or individuals, so long as the fees charged do not exceed the full costs associated with the service or thing of value provided: *Provided*, That notwithstanding section 3302(b) of title 31, fees collected by the Advanced Training Center are to be deposited into a separate account entitled “Advanced Training Center Revolving Fund”, and be available, without further appropriations, for necessary expenses of the Advanced Training Center program, and are to remain available until expended.

(Pub. L. 112-74, div. D, title V, § 557, Dec. 23, 2011, 125 Stat. 979.)

CODIFICATION

Section was enacted as part of the Department of Homeland Security Appropriations Act, 2012, and also as part of the Consolidated Appropriations Act, 2012, and not as part of the Homeland Security Act of 2002 which comprises this chapter.

§ 223. Border security metrics

(a) Definitions

In this section:

(1) Appropriate congressional committees

The term “appropriate congressional committees” means—

- (A) the Committee on Homeland Security and Governmental Affairs of the Senate; and
- (B) the Committee on Homeland Security of the House of Representatives.

(2) Consequence Delivery System

The term “Consequence Delivery System” means the series of consequences applied by U.S. Border Patrol in collaboration with other Federal agencies to persons unlawfully entering the United States, in order to prevent unlawful border crossing recidivism.

(3) Got away

The term “got away” means an unlawful border crosser who—

- (A) is directly or indirectly observed making an unlawful entry into the United States;
- (B) is not apprehended; and
- (C) is not a turn back.