

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 1690  
OFFERED BY MR. ROGERS OF ALABAMA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Modernizing of Docu-  
3 mentation and Elimination of Redundant Identification  
4 and Security Credentials Act” or the “MODERN Security  
5 Credentials Act”.

**6 SEC. 2. DEFINITIONS.**

7       In this Act, the following definitions apply:

8           (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
9       **TEES.**—The term “appropriate congressional com-  
10       mittees” means the Committee on Homeland Secu-  
11       rity of the House of Representatives and any com-  
12       mittee of the House of Representatives or the Senate  
13       having legislative jurisdiction under the rules of the  
14       House of Representatives or Senate, respectively,  
15       over the matter concerned.

16           (2) **SECURITY THREAT ASSESSMENT.**—The  
17       term “security threat assessment” means an assess-  
18       ment conducted by a government agency that in-

1 includes a check against a terrorist watch list or ter-  
2 rorism database, and may also include a legal pres-  
3 ence check and a criminal history records check.

4 **SEC. 3. TASK FORCE.**

5 (a) ESTABLISHMENT OF TASK FORCE.—Not later  
6 than 30 days after the date of enactment of this Act, the  
7 Secretary of Homeland Security shall establish a task  
8 force, with an official designated by the Secretary to be  
9 the Chair of the task force.

10 (b) PURPOSE.—The purpose of the task force estab-  
11 lished shall be to—

12 (1) review the lists of crimes that disqualify in-  
13 dividuals from transportation-related employment  
14 under current regulations of the Transportation Se-  
15 curity Administration, to include at a minimum  
16 crimes listed under section 70105 of title 46, United  
17 States Code, and section 44936 of title 49, United  
18 States Code, and the applicable periods of disquali-  
19 fication for such crimes;

20 (2) assess whether such lists of crimes reviewed  
21 under paragraph (1) are accurate indicators of a ter-  
22 rorism security risk;

23 (3) assess which other transportation security  
24 credential programs for transportation-related em-  
25 ployment should be modernized to include a waiver

1 process as is available under section 70105 of title  
2 46, United States Code;

3 (4) assess if any cost savings, efficiencies, or  
4 elimination of redundancies, to be passed on to  
5 transportation security credential applicants in the  
6 form of lower fees, can be realized through harmoni-  
7 zation of the Federal security threat assessment  
8 process, creation of a common list of crimes, and in-  
9 clusion of a waiver process;

10 (5) assess any benefits to homeland security  
11 achieved through harmonization of the Federal secu-  
12 rity threat assessment process, creation of a common  
13 list of crimes, and inclusion of a waiver process;

14 (6) assess any potential increases in costs or  
15 time delays in transportation security credential pro-  
16 grams as a result of harmonization of the Federal  
17 security threat assessment process, creation of a  
18 common list of crimes, and inclusion of a waiver  
19 process; and

20 (7) assess other potential effects of creation of  
21 a common list of crimes for some or all transpor-  
22 tation security credential programs for transpor-  
23 tation-related employment, to include the extent to  
24 which a common list of disqualifying crimes would  
25 result in a greater number of persons being disquali-

1       fied from obtaining a credential required for trans-  
2       portation-related employment.

3       (c) MEMBERSHIP.—The task force shall be composed  
4 of representatives of appropriate transportation indus-  
5 tries, including labor unions representing employees of  
6 such industries, Federal agencies, motor vehicle carriers,  
7 air carriers, airport operators, port authorities, port oper-  
8 ators, vessel operators, railroad operators, and other rel-  
9 evant entities, as determined by the Secretary.

10       (d) REPORT.—Not later than 180 days after the date  
11 of enactment of this Act, the task force shall submit to  
12 the Secretary and the appropriate congressional commit-  
13 tees a report containing the results of the review, including  
14 recommendations for modernization of the Federal secu-  
15 rity threat assessment process for transportation security  
16 credential programs, a common list of disqualifying  
17 crimes, the rationale for the inclusion of each crime on  
18 the list, and which credential programs for transportation-  
19 related employment should include a waiver process as is  
20 available under section 70105 of title 46, United States  
21 Code.

22 **SEC. 4. LIMITATIONS ON RULEMAKING.**

23       (a) LIMITATION ON APPLICATION.—Any rule con-  
24 cerning the harmonization of the security threat assess-  
25 ment process for transportation workers issued by the Sec-

1 retary of Homeland Security shall not apply to a process  
2 or function carried out by an airport operator, including  
3 enrollment, credentialing, and access control, as of the  
4 date of enactment of this Act, except as provided for in  
5 subsection (b).

6 (b) ONGOING EFFORTS NOT AFFECTED.—Nothing  
7 in subsection (a) shall affect ongoing efforts by the De-  
8 partment of Homeland Security to create a competitive en-  
9 vironment for aviation channeling services.

10 (c) TRANSMITTAL OF REPORT REQUIRED.—The Sec-  
11 retary of Homeland Security shall not issue any rule con-  
12 cerning the harmonization of the security threat assess-  
13 ment process for transportation workers until the report  
14 required under section 3(d) is transmitted to the Secretary  
15 and the appropriate congressional committees.

16 **SEC. 5. SURFACE TRANSPORTATION CREDENTIALING.**

17 (a) IN GENERAL.—The Homeland Security Act of  
18 2002 (6 U.S.C. 101 et seq.) is amended by adding at the  
19 end the following:

20 **“TITLE XXI—SURFACE TRANS-**  
21 **PORTATION CREDENTIALING**

22 **“SEC. 2101. TRANSPORTATION OF SECURITY-SENSITIVE MA-**  
23 **TERIALS.**

24 “(a) SECURITY-SENSITIVE MATERIALS.—Not later  
25 than one year after the date of enactment of this section,

1 the Secretary shall issue final regulations, after notice and  
2 comment, to—

3 “(1) identify security-sensitive materials for the  
4 purposes of this title;

5 “(2) prohibit an individual from operating a  
6 motor vehicle in commerce while transporting a se-  
7 curity-sensitive material unless the individual holds a  
8 valid transportation security credential issued by the  
9 Secretary under section 70105 of title 46, United  
10 States Code; and

11 “(3) prohibit a person from—

12 “(A) offering a security-sensitive material  
13 for transportation by motor vehicle in com-  
14 merce; or

15 “(B) causing a security-sensitive material  
16 to be transported by motor vehicle in commerce,  
17 unless the motor vehicle operator holds a valid  
18 transportation security credential issued by the Sec-  
19 retary under 70105 of title 46, United States Code.

20 “(b) MEMORANDUM OF UNDERSTANDING.—The Sec-  
21 retary may enter into a memorandum of understanding  
22 with the Secretary of Transportation to ensure compliance  
23 with this section.

24 “(c) LIMITATION ON APPLICATION.—This section  
25 and the regulations and prohibitions under this section

1 shall not apply to the United States Postal Service and  
2 any other department, agency, or instrumentality of the  
3 Federal Government.

4 **“SEC. 2102. COMMERCIAL MOTOR VEHICLE OPERATORS**  
5 **REGISTERED TO OPERATE IN MEXICO OR**  
6 **CANADA.**

7 “The Secretary shall prohibit a commercial motor ve-  
8 hicle operator licensed to operate in Mexico or Canada  
9 from operating a commercial motor vehicle transporting  
10 a security-sensitive material in commerce in the United  
11 States until the operator has been subjected to, and not  
12 disqualified as a result of, a security threat assessment  
13 by a Federal agency that the Secretary determines is simi-  
14 lar to the security threat assessment required for commer-  
15 cial motor vehicle operators in the United States trans-  
16 porting security-sensitive materials in commerce.

17 **“SEC. 2103. REDUNDANT SECURITY THREAT ASSESSMENTS.**

18 “(a) IN GENERAL.—The Secretary shall prohibit a  
19 State or political subdivision thereof from requiring a sep-  
20 arate security threat assessment of an individual, who pos-  
21 sesses a valid transportation security credential issued  
22 under section 70105 of title 46, United States Code, seek-  
23 ing to transport, or involved in facilitating the transport  
24 of, a security-sensitive or hazardous material.

1           “(b) **WAIVERS.**—The Secretary may waive the appli-  
2 cation of subsection (a) with respect to a State or political  
3 subdivision thereof if the State or political subdivision  
4 demonstrates a compelling reason that a separate security  
5 threat assessment is necessary to ensure the secure trans-  
6 portation of a security-sensitive or hazardous material in  
7 the State or political subdivision.

8           “(c) **LIMITATION ON STATUTORY CONSTRUCTION.**—  
9 Nothing in this section shall limit the authority of a State  
10 to ensure that an individual has the requisite knowledge  
11 and skills to safely transport hazardous materials in com-  
12 merce.

13 **“SEC. 2104. TRANSITION.**

14           “(a) **TREATMENT OF INDIVIDUALS RECEIVING PRIOR**  
15 **HAZARDOUS MATERIALS ENDORSEMENTS.**—An indi-  
16 vidual who has obtained a hazardous materials endorse-  
17 ment in accordance with section 1572 of title 49, Code  
18 of Federal Regulations, before the date of enactment of  
19 this title, is deemed to have met the background check  
20 requirements of a transportation security card under sec-  
21 tion 70105 of title 46, United States Code, subject to  
22 reissuance or expiration dates of the hazardous materials  
23 endorsement.

24           “(b) **REDUCTION IN FEES.**—The Secretary shall re-  
25 duce, to the greatest extent practicable, any fees associ-

1 ated with obtaining a transportation security card under  
2 section 70105 of title 46, United States Code, for any indi-  
3 vidual referred to in subsection (a).

4 **“SEC. 2105. SAVINGS CLAUSE.**

5 “Nothing in this title shall be construed as affecting  
6 the authority of the Secretary of Transportation to regu-  
7 late hazardous materials under chapter 51 of title 49,  
8 United States Code.

9 **“SEC. 2106. DEFINITIONS.**

10 “In this title, the following definitions apply:

11 “(1) COMMERCE.—The term ‘commerce’ means  
12 trade or transportation in the jurisdiction of the  
13 United States—

14 “(A) between a place in a State and a  
15 place outside of the State; or

16 “(B) that affects trade or transportation  
17 between a place in a State and a place outside  
18 of the State.

19 “(2) HAZARDOUS MATERIAL.—The term ‘haz-  
20 arduous material’ has the meaning given that term in  
21 section 5102 of title 49, United States Code.

22 “(3) PERSON.—The term ‘person’, in addition  
23 to its meaning under section 1 of title 1, United  
24 States Code, includes a State, local, or tribal govern-  
25 ment offering security-sensitive material for trans-

1 portation in commerce or transporting security-sen-  
2 sitive material to further a commercial enterprise.

3 “(4) SECURITY-SENSITIVE MATERIAL.—The  
4 term ‘security-sensitive material’ has the meaning  
5 given that term in section 1501 of the Implementing  
6 Recommendations of the 9/11 Commission Act of  
7 2007 (6 U.S.C. 1151).

8 “(5) SECURITY THREAT ASSESSMENT.—The  
9 term ‘security threat assessment’ means any assess-  
10 ment conducted by a government agency that in-  
11 cludes a check against a terrorist watch list or ter-  
12 rorism database, and may also include a legal pres-  
13 ence check and a criminal history records check.

14 “(6) TRANSPORTS; TRANSPORTATION.—The  
15 term ‘transports’ or ‘transportation’ means the  
16 movement of property and loading, unloading, or  
17 storage incidental to such movement.”.

18 (b) CLERICAL AMENDMENT.—The table of contents  
19 contained in section 1(b) of the Homeland Security Act  
20 of 2002 (116 Stat. 2135) is amended by adding at the  
21 end the following:

“TITLE XXI—SURFACE TRANSPORTATION CREDENTIALING

“Sec. 2101. Transportation of security-sensitive materials.

“Sec. 2102. Commercial motor vehicle operators registered to operate in Mexico  
or Canada.

“Sec. 2103. Redundant security threat assessments.

“Sec. 2104. Transition.

“Sec. 2105. Savings clause.

“Sec. 2106. Definitions.”.

1           (c) SECURITY CARDS FOR CERTAIN MOTOR VEHICLE  
2 OPERATORS.—Section 70105(b)(2) of title 46, United  
3 States Code, is amended by striking “and” after the semi-  
4 colon at the end of subparagraph (F), by striking the pe-  
5 riod at the end of subparagraph (G) and inserting “; and”,  
6 and by adding at the end the following new subparagraph:

7                   “(H) an individual who operates a motor  
8                   vehicle in commerce while transporting security-  
9                   sensitive material (as that term is defined in  
10                   section 1501 of the Implementing Rec-  
11                   ommendations of the 9/11 Commission Act of  
12                   2007 (6 U.S.C. 1151).”.

13           (d) CIVIL PENALTIES.—Section 114(v) of title 49,  
14 United States Code, is amended—

15                   (1) in paragraph (1)(A), by inserting “under  
16                   title XXI of the Homeland Security Act of 2002 or”  
17                   after “Secretary of Homeland Security”; and

18                   (2) by striking “applicable provision of this  
19                   title” each place it appears and inserting “applicable  
20                   provision”.

21 **SEC. 6. TRANSPORTATION WORKER IDENTIFICATION CRE-**  
22 **DENTIAL ENROLLMENT CENTERS.**

23           Section 70105 of title 46, United States Code, is fur-  
24 ther amended by adding at the end thereof the following:

1       “(r) ENROLLMENT LOCATIONS.—The Secretary  
2 shall—

3           “(1) work with appropriate entities to ensure  
4 that enrollment locations for individuals applying for  
5 a transportation security card have flexible operating  
6 hours; and

7           “(2) permit an individual applying for or acti-  
8 vating such transportation security card to utilize an  
9 enrollment location of such individual’s choosing, in-  
10 cluding an enrollment location outside of the individ-  
11 ual’s State of residence.

12       “(s) NUMBER OF ENROLLMENT LOCATIONS.—The  
13 Secretary shall develop and implement a plan—

14           “(1) to offer individuals applying for a trans-  
15 portation security card the maximum number of en-  
16 rollment locations practicable across diverse geo-  
17 graphic regions; and

18           “(2) to conduct outreach to appropriate stake  
19 holders, including owners and operators of motor ve-  
20 hicles involved in the transportation of security-sen-  
21 sitive materials, owners and operators of facilities  
22 that require individuals to be issued a transportation  
23 security card, and labor organizations representing  
24 employees of such owners or operators, to keep the  
25 stakeholders informed of the timeframe and loca-

1 tions for the opening of additional enrollment loca-  
2 tions.”.

3 **SEC. 7. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.**

4 Section 5103a of title 49, United States Code, and  
5 the item relating to that section in the analysis for chapter  
6 51 of such title, are repealed.

7 **SEC. 8. DEADLINES AND EFFECTIVE DATES.**

8 (a) ISSUANCE OF TRANSPORTATION SECURITY  
9 CARDS.—Upon issuance of the final regulations as re-  
10 quired in section 5, but not later than one year after the  
11 date of the enactment of this Act, the Secretary of Home-  
12 land Security (as that term is defined in section 70101  
13 of title 46, United States Code) shall begin issuance of  
14 transportation security cards under section  
15 70105(b)(2)(H) of title 46, United States Code, as amend-  
16 ed by this Act, to individuals who seek to operate a motor  
17 vehicle in commerce while transporting security-sensitive  
18 materials.

19 (b) EFFECTIVE DATE OF PROHIBITIONS.—The pro-  
20 hibitions under section 2101 of the Homeland Security  
21 Act of 2002 (as added by section 5) shall take effect on  
22 the date that is 2 years after the date of enactment of  
23 this Act.

24 (c) EFFECTIVE DATE OF SECTION 7 AMENDMENTS.—  
25 The amendments made by section 7 Act shall take effect

1 on the date that is 2 years after the date of enactment  
2 of this Act.

3 **SEC. 9. STREAMLINING CREDENTIALS FOR SECURE AREA**  
4 **ACCESS AT AIRPORTS.**

5 (a) REPORT.—Not later than 180 days after the date  
6 of enactment of this Act, the Secretary of Homeland Secu-  
7 rity shall report to the appropriate congressional commit-  
8 tees on the feasibility of developing a single transmission  
9 process for airport operators to submit biometric and bio-  
10 graphic data for background checks to both the Transpor-  
11 tation Security Administration and U.S. Customs and  
12 Border Protection for transportation workers requiring  
13 unescorted access to Secure Identification Display Areas  
14 at an airport.

15 (b) SINGLE DATA TRANSMISSION PROCESS ESTAB-  
16 LISHMENT.—Based on the findings of the report under  
17 subsection (a), the Secretary may establish a process for  
18 airport operators to submit one data transmission of bio-  
19 metric and biographic information for the security threat  
20 assessment process for any agency within the Department,  
21 including the Transportation Security Administration and  
22 U.S. Customs and Border Protection.

