

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To prohibit, on a temporary basis, the transport of large shipments of certain extremely hazardous materials within 2.2 miles of the United States Capitol unless the transporter has obtained an authorizing permit, to provide for an exception to the permit requirement in cases of emergency, to authorize the District of Columbia Department of Transportation to issue an authorizing permit upon a demonstration that there is no practical alternative route, and to require the Mayor to issue regulations to implement the provisions of this act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005".

Sec. 2. Findings.

The Council of the District of Columbia finds that:

- (1) A terrorist attack on a large-quantity hazardous material shipment near the United States Capitol ("Capitol") would be expected to cause tens of thousands of deaths and a catastrophic economic impact of \$5 billion or more.
- (2) The threat of terrorism facing District of Columbia residents and workers in the vicinity of the Capitol requires an urgent response that recognizes and addresses the unique status of this area in American politics and history, and the risk of terrorism that results from this status.
- (3) The federal government has not acted to prevent the terrorist threat resulting from the transportation of dangerous quantities of ultra-hazardous materials near the Capitol.
- (4) Shippers of ultra-hazardous materials do not need to route large quantities of ultra-hazardous chemicals near the Capitol in order to ship these chemicals to their destinations, and alternative routes would substantially decrease the aggregate risk posed by terrorist attacks.
- (5) Requiring permits for ultra-hazardous shipments from a Capitol Exclusion Zone that encompasses all points within 2.2 miles of the Capitol would impose no significant burden on interstate commerce.

Sec. 3. Definitions.

For the purposes of this act, the term:

(1) "Capitol Exclusion Zone" means all points within 2.2 miles of the United States Capitol building; provided, that the Capitol Exclusion Zone shall not extend beyond the geographic boundaries of the District of Columbia.

(2) "Emergency" means an unanticipated, temporary situation that threatens the immediate safety of individuals or property, as determined by the District Department of Transportation.

(3) "Person" means an individual or a commercial entity.

(4) "Practical alternative route" means a route:

(A) Which lies entirely outside the Capitol Exclusion Zone; and

(B) Whose use would not make shipment of the materials in question cost-prohibitive.

Sec. 4. Prohibition on shipments of hazardous materials.

Except in cases of emergency, it shall be illegal in the Capitol Exclusion Zone, without a permit, to:

(1) Transport any of the following:

(A) Explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms;

(B) Flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters;

(C) Poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116; and

(D) Poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133; or

(2) Operate a vehicle or move a rail car which:

(A) Is capable of containing explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 kilograms and has exterior placarding or other markings indicating that it contains such materials;

(B) Is capable of containing flammable gasses of Class 2, Division 2.1, as designated in 49 C.F.R. § 173.2, in a quantity greater than 10,000 liters, and has exterior placarding or other markings indicating that it contains such materials;

(C) Is capable of containing poisonous gasses of Class 2, Division 2.3, as designated in 49 C.F.R. § 173.2, in a quantity greater than 500 liters, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.116, and has exterior placarding or other markings indicating that it contains such materials; or

(D) Is capable of containing poisonous materials, other than gasses, of Class 6, Division 6.1, in a quantity greater than 1,000 kilograms, and belonging to Hazard Zones A or B, as defined in 49 C.F.R. § 173.133, and has exterior placarding or other markings indicating that it contains such materials.

Sec. 5. Permits.

(a) The District Department of Transportation may issue permits authorizing the transportation of materials listed in section 4 upon a demonstration that there is no practical alternative route. A permit may require adoption of safety measures, including time-of-day restrictions.

(b) The District Department of Transportation may collect fees for the permits in accordance with the rules issued under section 7.

(c) Permit fees collected pursuant to this section shall not exceed the cost of implementing and enforcing this act.

Sec. 6. Penalties.

(a) Any person who violates section 4 or rules issued under section 7 shall be subject to a civil penalty not to exceed:

- (1) \$10,000 for a first offense; or
- (2) \$25,000 for any subsequent offense.

(b) The fines assessed and collected under subsection (a) of this section shall be deposited into the General Fund of the District of Columbia.

Sec. 7. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), and in consultation with the District Department of Transportation, the Emergency Management Agency, the Fire and Emergency Medical Services Department, and the Metropolitan Police Department, shall issue rules to implement the provisions of this act, including a schedule of permit fees to support analysis, communications to shippers and carriers, and the enforcement program.

Sec. 8. Fiscal impact statement.

The Council adopts the attached fiscal impact statement as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

ENROLLED ORIGINAL

Sec. 9. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia