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2 Councilmember Kathy Patterson

Councilmember Phil Mendelson

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7 Councilmember Sharon Ambrose

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10 A BILL

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14 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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18 To prohibit, on an emergency basis, large shipments of certain extremely hazardous
19 materials near the United States Capitol in order to reduce the risk of attacks by
20 terrorists; to allow for the issuance of permits authorizing such shipments in
21 special cases; and to require the Mayor to issue regulations to implement the
22 provisions of this act.
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25 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

26 That this act may be cited as the "Terrorism Prevention in Hazardous Materials
27 Transportation Emergency Act of 2005."

28 Sec. 2. Findings.

29 The Council of the District of Columbia finds that:

30 (1) A terrorist attack on a large-quantity hazardous material shipment near the
31 United States Capitol ("Capitol") would be expected to cause tens of thousands of deaths
32 and a catastrophic economic impact of \$5 billion or more.

33 (2) The threat of terrorism facing District of Columbia residents and workers in
34 the vicinity of the Capitol requires an urgent response that recognizes and addresses the

1 unique status of this area in American politics and history, and the risk of terrorism that
2 results from this status.

3 (3) The federal government has not acted to prevent the terrorist threat resulting
4 from the transportation of dangerous quantities of ultra-hazardous materials near the
5 Capitol.

6 (4) Shippers of ultra-hazardous materials do not need to route large quantities of
7 ultra-hazardous chemicals near the Capitol in order to ship these chemicals to their
8 destinations, and alternative routes would substantially decrease the aggregate risk posed
9 by terrorist attacks.

10 (5) Requiring permits for ultra-hazardous shipments from a Capitol Exclusion
11 Zone that encompasses all points within 2.2 miles of the Capitol would impose no
12 significant burden on interstate commerce.

13 Sec. 3. Definitions.

14 For the purposes of this act, the term:

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

18 (2) "Capitol Exclusion Zone" means all points within 2.2 miles of the U.S.
19 Capitol Building, provided that the Capitol Exclusion Zone shall not extend beyond the
20 geographic boundaries of the District of Columbia.

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

1 (4) "Practical alternative route" means a route (1) which lies entirely outside the
2 Capitol Exclusion Zone and (2) whose use would not make shipment of the materials in
3 question cost-prohibitive.

4 Sec. 4. Except in cases of emergency, it shall be illegal in the District of
5 Columbia, without a permit, to:

6 (a) transport any of the following:

7 (1) Explosives of Class 1, Division 1.1, or Class 1, Division 1.2, as
8 designated in 49 CFR Section 173.2, in a quantity greater than 500 kg.;

9 (2) Flammable gasses of Class 2, Division 2.1, as designated in 49 CFR
10 Section 173.2, in a quantity greater than 10,000 liters;

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

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

17 (b) operate a vehicle or move a rail car which:

18 (1) is capable of containing explosives of Class 1, Division 1.1, or Class 1,
19 Division 1.2, as designated in 49 CFR Section 173.2, in a quantity greater than 500 kg,
20 and has exterior placarding or other markings indicating that it contains such materials;

1 (2) is capable of containing flammable gasses of Class 2, Division 2.1, as
2 designated in 49 CFR Section 173.2, in a quantity greater than 10,000 liters, and has
3 exterior placarding or other markings indicating that it contains such materials;

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

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

12 Sec. 5. Permits.

13 (a) The District of Columbia Department of Transportation may issue permits
14 authorizing the transportation of materials listed in section 3 upon a demonstration that
15 there is no practical alternative route. A permit may require adoption of safety measures,
16 including but not limited to time-of-day restrictions.

17 (b) The District of Columbia Department of Transportation may collect fees for
18 the permits in accordance with the rules issued under section 6.

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

21 Sec. 6. Penalties.

1 (a) Any person who violates section 3 or rules issued under section 6 shall be
2 subject to a civil penalty not to exceed:

3 (1) \$10,000 for a first offense; or

4 (2) \$25,000 for any subsequent offense.

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

7 Sec. 7. Rules.

8 (a) The Mayor, pursuant to title 1 of the District of Columbia Administrative
9 Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et*
10 *seq.*), and in consultation with the District of Columbia Department of Transportation, the
11 Emergency Management Agency, the Fire and Emergency Medical Services Department,
12 and the Metropolitan Police Department, shall issue rules to implement the provisions of
13 this act, including a schedule of permit fees to support analysis, communications to
14 shippers and carriers, and the enforcement program.

15 Sec. 8. Fiscal impact statement.

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

19 Sec. 9. Effective date.

20 This act shall take effect following approval by the Mayor (or, in the event of veto
21 by the Mayor, action by the Council to override the veto), and shall remain in effect for
22 no longer than 90 days, as provided for emergency acts of the Council of the District of

- 1 Columbia in section 412(a) of the District of Columbia Home Rule Act, approved
- 2 December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).