

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 44905(a) | 49 App.:1358d(a). | Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §321; added Nov. 16, 1990, Pub. L. 101-604, §109(a), 104 Stat. 3078. |
| 44905(b) | 49 App.:1358d(b). | |
| 44905(c)(1) .. | 49 App.:1358d(c)(1), (d). | |
| 44905(c)(2) .. | 49 App.:1358d(e). | |
| 44905(d) | 49 App.:1358d(c)(2). | |
| 44905(e) | 49 App.:1358d(f). | |
| 44905(f) | 49 App.:1358d(h). | |
| 44905(g) | 49 App.:1358d(g). | |

In subsection (a), the words “employed by an air carrier, airport operator, or ticket agent” are substituted for “employed by such an entity” for clarity. The words “or a designee of the Secretary” are omitted as unnecessary.

In subsections (c)(1), before clause (A), and (d), the words “Not later than 180 days after November 16, 1990” are omitted as obsolete.

In subsection (c)(1)(B), the words “when considered appropriate” are omitted as unnecessary because of the restatement.

In subsection (e), the words “selective potential travelers” are substituted for “only selective potential travelers” to eliminate an unnecessary word.

In subsection (f), the words “departments, agencies, and instrumentalities of the Government” are substituted for “agencies” for clarity and consistency in the revised title and with other titles of the United States Code. The words “However, a restriction on access to that information may be imposed only if the restriction does not diminish” are substituted for “Any restriction adopted pursuant to this subsection shall not diminish” for clarity.

AMENDMENTS

2001—Subsec. (b). Pub. L. 107-71, §101(f)(7), (9), substituted “Under Secretary of Transportation for Security” for “Administrator of the Federal Aviation Administration”.

Subsecs. (c)(2)(E), (G), (d), (f). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44906. Foreign air carrier security programs

The Under Secretary of Transportation for Security shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Under Secretary. The Under Secretary shall not approve a security program of a foreign air carrier under section 129.25, or any successor regulation, unless the security program requires the foreign air carrier in its operations to and from airports in the United States to adhere to the identical security measures that the Under Secretary requires air carriers serving the same airports to adhere to. The foregoing requirement shall not be interpreted to limit the ability of

the Under Secretary to impose additional security measures on a foreign air carrier or an air carrier when the Under Secretary determines that a specific threat warrants such additional measures. The Under Secretary shall prescribe regulations to carry out this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1208; Pub. L. 104-132, title III, §322, Apr. 24, 1996, 110 Stat. 1254; Pub. L. 107-71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---|
| 44906(a)(1) .. | 49 App.:1357(k)(1)-(3). | Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §316(k)(1)-(3); added Nov. 16, 1990, Pub. L. 101-604, §105(a), 104 Stat. 3074. |
| | 49 App.:1357 (note). | Nov. 16, 1990, Pub. L. 101-604, §105(c), 104 Stat. 3075. |

The text of 49 App.:1357(k)(3) and the words “Not later than 180 days after the date of enactment of this Act” in section 105(c) of the Aviation Security Improvement Act of 1990 (Public Law 101-604, 104 Stat. 3075) are omitted as obsolete.

AMENDMENTS

2001—Pub. L. 107-71 substituted “Under Secretary” for “Administrator” wherever appearing and “of Transportation for Security” for “of the Federal Aviation Administration”.

1996—Pub. L. 104-132 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator may approve a security program of a foreign air carrier under section 129.25 only if the Administrator decides the security program provides passengers of the foreign air carrier a level of protection similar to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall require a foreign air carrier to use procedures equivalent to those required of air carriers serving the same airport if the Administrator decides that the procedures are necessary to provide a level of protection similar to that provided passengers of the air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section.”

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 44907. Security standards at foreign airports

(a) ASSESSMENT.—(1) At intervals the Secretary of Transportation considers necessary, the Secretary shall assess the effectiveness of the security measures maintained at—

(A) a foreign airport—

(i) served by an air carrier;

(ii) from which a foreign air carrier serves the United States; or

(iii) that poses a high risk of introducing danger to international air travel; and

(B) other foreign airports the Secretary considers appropriate.

(2) The Secretary of Transportation shall conduct an assessment under paragraph (1) of this subsection—

(A) in consultation with appropriate aeronautic authorities of the government of a foreign country concerned and each air carrier serving the foreign airport for which the Secretary is conducting the assessment;

(B) to establish the extent to which a foreign airport effectively maintains and carries out security measures; and

(C) by using a standard that will result in an analysis of the security measures at the airport based at least on the standards and appropriate recommended practices contained in Annex 17 to the Convention on International Civil Aviation in effect on the date of the assessment.

(3) Each report to Congress required under section 44938(b) of this title shall contain a summary of the assessments conducted under this subsection.

(b) CONSULTATION.—In carrying out subsection (a) of this section, the Secretary of Transportation shall consult with the Secretary of State—

(1) on the terrorist threat that exists in each country; and

(2) to establish which foreign airports are not under the de facto control of the government of the foreign country in which they are located and pose a high risk of introducing danger to international air travel.

(c) NOTIFYING FOREIGN AUTHORITIES.—When the Secretary of Transportation, after conducting an assessment under subsection (a) of this section, decides that an airport does not maintain and carry out effective security measures, the Secretary of Transportation, after advising the Secretary of State, shall notify the appropriate authorities of the government of the foreign country of the decision and recommend the steps necessary to bring the security measures in use at the airport up to the standard used by the Secretary of Transportation in making the assessment.

(d) ACTIONS WHEN AIRPORTS NOT MAINTAINING AND CARRYING OUT EFFECTIVE SECURITY MEASURES.—(1) When the Secretary of Transportation decides under this section that an airport does not maintain and carry out effective security measures—

(A) the Secretary of Transportation shall—

(i) publish the identity of the airport in the Federal Register;

(ii) have the identity of the airport posted and displayed prominently at all United States airports at which scheduled air carrier operations are provided regularly; and

(iii) notify the news media of the identity of the airport;

(B) each air carrier and foreign air carrier providing transportation between the United States and the airport shall provide written notice of the decision, on or with the ticket,

to each passenger buying a ticket for transportation between the United States and the airport;

(C) notwithstanding section 40105(b) of this title, the Secretary of Transportation, after consulting with the appropriate aeronautic authorities of the foreign country concerned and each air carrier serving the airport and with the approval of the Secretary of State, may withhold, revoke, or prescribe conditions on the operating authority of an air carrier or foreign air carrier that uses that airport to provide foreign air transportation; and

(D) the President may prohibit an air carrier or foreign air carrier from providing transportation between the United States and any other foreign airport that is served by aircraft flying to or from the airport with respect to which a decision is made under this section.

(2)(A) Paragraph (1) of this subsection becomes effective—

(i) 90 days after the government of a foreign country is notified under subsection (c) of this section if the Secretary of Transportation finds that the government has not brought the security measures at the airport up to the standard the Secretary used in making an assessment under subsection (a) of this section; or

(ii) immediately on the decision of the Secretary of Transportation under subsection (c) of this section if the Secretary of Transportation decides, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from the airport.

(B) The Secretary of Transportation immediately shall notify the Secretary of State of a decision under subparagraph (A)(ii) of this paragraph so that the Secretary of State may issue a travel advisory required under section 44908(a) of this title.

(3) The Secretary of Transportation promptly shall submit to Congress a report (and classified annex if necessary) on action taken under paragraph (1) or (2) of this subsection, including information on attempts made to obtain the cooperation of the government of a foreign country in meeting the standard the Secretary used in assessing the airport under subsection (a) of this section.

(4) An action required under paragraph (1)(A) and (B) of this subsection is no longer required only if the Secretary of Transportation, in consultation with the Secretary of State, decides that effective security measures are maintained and carried out at the airport. The Secretary of Transportation shall notify Congress when the action is no longer required to be taken.

(e) SUSPENSIONS.—Notwithstanding sections 40105(b) and 40106(b) of this title, the Secretary of Transportation, with the approval of the Secretary of State and without notice or a hearing, shall suspend the right of an air carrier or foreign air carrier to provide foreign air transportation, and the right of a person to operate aircraft in foreign air commerce, to or from a foreign airport when the Secretary of Transportation decides that—

(1) a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from that airport; and

(2) the public interest requires an immediate suspension of transportation between the United States and that airport.

(f) **CONDITION OF CARRIER AUTHORITY.**—This section is a condition to authority the Secretary of Transportation grants under this part to an air carrier or foreign air carrier.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1209.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------------|---|
| 44907(a)(1) .. | 49 App.:1515(a)(1). | Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1115(a), (b), (d)–(h); added Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, §551(a), 99 Stat. 222. |
| 44907(a)(2) .. | 49 App.:1515(a)(2), (3). | |
| 44907(a)(3) .. | 49 App.:1515(c). | Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1115(c); added Aug. 5, 1974, Pub. L. 93–366, §106, 88 Stat. 414; restated Aug. 8, 1985, Pub. L. 99–83, §551(a), 99 Stat. 222; Nov. 16, 1990, Pub. L. 101–604, §102(c)(2), 104 Stat. 3069. |
| 44907(b) | 49 App.:1515(b). | |
| 44907(c) | 49 App.:1515(d). | |
| 44907(d)(1) .. | 49 App.:1515(e)(2). | |
| 44907(d)(2) .. | 49 App.:1515(e)(1). | |
| 44907(d)(3) .. | 49 App.:1515(e)(3). | |
| 44907(d)(4) .. | 49 App.:1515(f). | |
| 44907(e) | 49 App.:1515(g). | |
| 44907(f) | 49 App.:1515(h). | |

In subsections (a)(2)(A) and (d)(2)(A)(i) and (3), the words “government of a foreign country” are substituted for “foreign government” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(2)(B), the word “foreign” is added for clarity and consistency in this section.

In subsection (b)(2), the word “foreign” is added for consistency in the revised title and with other titles of the Code.

In subsection (c), the words “government of a foreign country” are substituted for “foreign government” for consistency in the revised title and with other titles of the Code.

In subsection (d)(1), before clause (A), the words “Subject to paragraph (1)” are omitted as surplus. In clause (C), the words “foreign country” are substituted for “foreign government” for clarity and consistency in the revised title and with other titles of the Code. The word “prescribe” is substituted for “impose” for consistency in the revised title and with other titles of the Code. The word “provide” is substituted for “engage in” for consistency in the revised title. In clause (D), the words “directly or indirectly” are omitted as surplus.

In subsection (d)(2)(A)(i), the words “identified” and “of such airport” are omitted as surplus.

In subsection (d)(2)(B), the words “issue a travel advisory required under section 44908(a) of this title” are substituted for “comply with the requirement of section 1515(a) [sic] of this Appendix that a travel advisory be issued” to eliminate unnecessary words.

In subsection (d)(4), the words “An action required . . . is no longer required” are substituted for “The sanctions required to be imposed with respect to an airport . . . may be lifted” to eliminate unnecessary words.

In subsection (e), before clause (1), the word “provide” is substituted for “engage in” for consistency in the revised title.

In subsection (f), the words “issued under authority vested in” are omitted as surplus.

§ 44908. Travel advisory and suspension of foreign assistance

(a) **TRAVEL ADVISORIES.**—On being notified by the Secretary of Transportation that the Secretary of Transportation has decided under section 44907(d)(2)(A)(ii) of this title that a condition exists that threatens the safety or security of passengers, aircraft, or crew traveling to or from a foreign airport that the Secretary of Transportation has decided under section 44907 of this title does not maintain and carry out effective security measures, the Secretary of State—

(1) immediately shall issue a travel advisory for that airport; and

(2) shall publicize the advisory widely.

(b) **SUSPENDING ASSISTANCE.**—The President shall suspend assistance provided under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.) to a country in which is located an airport with respect to which section 44907(d)(1) of this title becomes effective if the Secretary of State decides the country is a high terrorist threat country. The President may waive this subsection if the President decides, and reports to Congress, that the waiver is required because of national security interests or a humanitarian emergency.

(c) **ACTIONS NO LONGER REQUIRED.**—An action required under this section is no longer required only if the Secretary of Transportation has made a decision as provided under section 44907(d)(4) of this title. The Secretary shall notify Congress when the action is no longer required to be taken.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1211; Pub. L. 105–277, div. G, subdiv. B, title XXII, §2224(a), Oct. 21, 1998, 112 Stat. 2681–819.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|------------------------|--|
| 44908(a) | 49 App.:1515a(a). | Aug. 8, 1985, Pub. L. 99–83, §552, 99 Stat. 226. |
| 44908(b) | 49 App.:1515a(b). | |
| 44908(c) | 49 App.:1515a(c), (d). | |

In subsection (a)(3), the words “take the necessary steps to” are omitted as surplus.

In subsection (b), the words “all” and “the requirements of” are omitted as surplus.

Subsection (c) is substituted for 49 App.:1515a(c) and (d) to eliminate unnecessary words.

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsection (b), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (§2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsection (b), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.