

(1) **MEDICAL EXAMINATIONS AND STANDARDS.**—Except as provided by paragraph (2), a person serving as a pilot for an air carrier engaged in covered operations shall not be subject to different medical standards, or different, greater, or more frequent medical examinations, on account of age unless the Secretary determines (based on data received or studies published after the date of enactment of this section) that different medical standards, or different, greater, or more frequent medical examinations, are needed to ensure an adequate level of safety in flight.

(2) **DURATION OF FIRST-CLASS MEDICAL CERTIFICATE.**—No person who has attained 60 years of age may serve as a pilot of an air carrier engaged in covered operations unless the person has a first-class medical certificate. Such a certificate shall expire on the last day of the 6-month period following the date of examination shown on the certificate.

(h) **SAFETY.**—

(1) **TRAINING.**—Each air carrier engaged in covered operations shall continue to use pilot training and qualification programs approved by the Federal Aviation Administration, with specific emphasis on initial and recurrent training and qualification of pilots who have attained 60 years of age, to ensure continued acceptable levels of pilot skill and judgment.

(2) **LINE EVALUATIONS.**—Not later than 6 months after the date of enactment of this section, and every 6 months thereafter, an air carrier engaged in covered operations shall evaluate the performance of each pilot of the air carrier who has attained 60 years of age through a line check of such pilot. Notwithstanding the preceding sentence, an air carrier shall not be required to conduct for a 6-month period a line check under this paragraph of a pilot serving as second-in-command if the pilot has undergone a regularly scheduled simulator evaluation during that period.

(3) **GAO REPORT.**—Not later than 24 months after the date of enactment of this section, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning the effect, if any, on aviation safety of the modification to pilot age standards made by subsection (a).

(Added Pub. L. 110-135, §2(a), Dec. 13, 2007, 121 Stat. 1450.)

#### REFERENCES IN TEXT

The date of enactment of this section and such date of enactment, referred to in subsecs. (d), (e), (g)(1) and (h)(2), (3), is the date of enactment of Pub. L. 110-135, which was approved Dec. 13, 2007.

### CHAPTER 449—SECURITY

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#### AMENDMENTS

2007—Pub. L. 110-53, title XVI, §1606(b), Aug. 3, 2007, 121 Stat. 483, added item 44926.

2004—Pub. L. 108-458, title IV, §4013(b), Dec. 17, 2004, 118 Stat. 3720, added item 44925.

Pub. L. 108-334, title V, §515(c), Oct. 18, 2004, 118 Stat. 1318, added item 44945.

2003—Pub. L. 108-176, title VI, §§605(b)(3), 611(b)(2), Dec. 12, 2003, 117 Stat. 2568, 2572, added items 44923 and 44924.

Pub. L. 108-7, div. I, title III, §351(c), Feb. 20, 2003, 117 Stat. 420, added item 44922.

2002—Pub. L. 107-296, title XIV, §1402(b)(1), Nov. 25, 2002, 116 Stat. 2305, added item 44921.

2001—Pub. L. 107-71, title I, §§101(f)(6), 105(b), 107(b), 108(b), 113(b), 125(b), 131(b), Nov. 19, 2001, 115 Stat. 603, 607, 611, 613, 622, 632, 635, added items 44917 to 44920, 44939, 44941, and 44944 and struck out items 44931 “Director of Intelligence and Security” and 44932 “Assistant Administrator for Civil Aviation Security”.

Pub. L. 107-71, title I, §118(b), Nov. 19, 2001, 115 Stat. 627, which directed addition of item 44940 to the analysis for chapter 449 without specifying the Code title to be amended, was executed by adding item 44940 to this analysis to reflect the probable intent of Congress.

1996—Pub. L. 104-264, title III, §312(b), Oct. 9, 1996, 110 Stat. 3254, added item 44916.

#### SUBCHAPTER I—REQUIREMENTS

##### § 44901. Screening passengers and property

(a) **IN GENERAL.**—The Under Secretary of Transportation for Security shall provide for

<sup>1</sup> Editorially supplied. Section added by Pub. L. 107-71 without corresponding amendment of chapter analysis.

the screening of all passengers and property, including United States mail, cargo, carry-on and checked baggage, and other articles, that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation. In the case of flights and flight segments originating in the United States, the screening shall take place before boarding and shall be carried out by a Federal Government employee (as defined in section 2105 of title 5, United States Code), except as otherwise provided in section 44919 or 44920 and except for identifying passengers and baggage for screening under the CAPPs and known shipper programs and conducting positive bag-match programs.

(b) SUPERVISION OF SCREENING.—All screening of passengers and property at airports in the United States where screening is required under this section shall be supervised by uniformed Federal personnel of the Transportation Security Administration who shall have the power to order the dismissal of any individual performing such screening.

(c) CHECKED BAGGAGE.—A system must be in operation to screen all checked baggage at all airports in the United States as soon as practicable but not later than the 60th day following the date of enactment of the Aviation and Transportation Security Act.

(d) EXPLOSIVE DETECTION SYSTEMS.—

(1) IN GENERAL.—The Under Secretary of Transportation for Security shall take all necessary action to ensure that—

(A) explosive detection systems are deployed as soon as possible to ensure that all United States airports described in section 44903(c) have sufficient explosive detection systems to screen all checked baggage no later than December 31, 2002, and that as soon as such systems are in place at an airport, all checked baggage at the airport is screened by those systems; and

(B) all systems deployed under subparagraph (A) are fully utilized; and

(C) if explosive detection equipment at an airport is unavailable, all checked baggage is screened by an alternative means.

(2) DEADLINE.—

(A) IN GENERAL.—If, in his discretion or at the request of an airport, the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosive detection systems required to be deployed under paragraph (1) at all airports where explosive detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosive detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport but in no event later than December 31, 2003; and

(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

(B) CRITERIA FOR DETERMINATION.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

(i) the nature and extent of the required modifications to the airport's terminal buildings, and the technical, engineering, design and construction issues;

(ii) the need to ensure that such installations and modifications are effective; and

(iii) the feasibility and cost-effectiveness of deploying explosive detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building.

(C) RESPONSE.—The Under Secretary shall respond to the request of an airport under subparagraph (A) within 14 days of receiving the request. A denial of request shall create no right of appeal or judicial review.

(D) AIRPORT EFFORT REQUIRED.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosive detection systems; and

(ii) make security projects a priority for the obligation or expenditure of funds made available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

(3) REPORTS.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.

(e) MANDATORY SCREENING WHERE EDS NOT YET AVAILABLE.—As soon as practicable but not later than the 60th day following the date of enactment of the Aviation and Transportation Security Act and until the requirements of subsection (b)(1)(A) are met, the Under Secretary shall require alternative means for screening any piece of checked baggage that is not screened by an explosive detection system. Such alternative means may include 1 or more of the following:

(1) A bag-match program that ensures that no checked baggage is placed aboard an aircraft unless the passenger who checked the baggage is aboard the aircraft.

(2) Manual search.

(3) Search by canine explosive detection units in combination with other means.

(4) Other means or technology approved by the Under Secretary.

(f) **CARGO DEADLINE.**—A system must be in operation to screen, inspect, or otherwise ensure the security of all cargo that is to be transported in all-cargo aircraft in air transportation and intrastate air transportation as soon as practicable after the date of enactment of the Aviation and Transportation Security Act.

(g) **AIR CARGO ON PASSENGER AIRCRAFT.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security shall establish a system to screen 100 percent of cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation to ensure the security of all such passenger aircraft carrying cargo.

(2) **MINIMUM STANDARDS.**—The system referred to in paragraph (1) shall require, at a minimum, that equipment, technology, procedures, personnel, or other methods approved by the Administrator of the Transportation Security Administration, are used to screen cargo carried on passenger aircraft described in paragraph (1) to provide a level of security commensurate with the level of security for the screening of passenger checked baggage as follows:

(A) 50 percent of such cargo is so screened not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(B) 100 percent of such cargo is so screened not later than 3 years after such date of enactment.

(3) **REGULATIONS.**—

(A) **INTERIM FINAL RULE.**—The Secretary of Homeland Security may issue an interim final rule as a temporary regulation to implement this subsection without regard to the provisions of chapter 5 of title 5.

(B) **FINAL RULE.**—

(i) **IN GENERAL.**—If the Secretary issues an interim final rule under subparagraph (A), the Secretary shall issue, not later than one year after the effective date of the interim final rule, a final rule as a permanent regulation to implement this subsection in accordance with the provisions of chapter 5 of title 5.

(ii) **FAILURE TO ACT.**—If the Secretary does not issue a final rule in accordance with clause (i) on or before the last day of the one-year period referred to in clause (i), the Secretary shall submit to the Committee on Homeland Security of the House of Representatives, Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a report explaining why the final rule was not timely issued and providing an estimate of the earliest date on which the final rule will be issued. The Secretary shall submit the first such report within 10 days after such last day and submit a report to the Committees containing updated information every 30 days thereafter until the final rule is issued.

(iii) **SUPERCEDING<sup>1</sup> OF INTERIM FINAL RULE.**—The final rule issued in accordance with this subparagraph shall supersede the interim final rule issued under subparagraph (A).

(4) **REPORT.**—Not later than 1 year after the date of establishment of the system under paragraph (1), the Secretary shall submit to the Committees referred to in paragraph (3)(B)(i) a report that describes the system.

(5) **SCREENING DEFINED.**—In this subsection the term “screening” means a physical examination or non-intrusive methods of assessing whether cargo poses a threat to transportation security. Methods of screening include x-ray systems, explosives detection systems, explosives trace detection, explosives detection canine teams certified by the Transportation Security Administration, or a physical search together with manifest verification. The Administrator may approve additional methods to ensure that the cargo does not pose a threat to transportation security and to assist in meeting the requirements of this subsection. Such additional cargo screening methods shall not include solely performing a review of information about the contents of cargo or verifying the identity of a shipper of the cargo that is not performed in conjunction with other security methods authorized under this subsection, including whether a known shipper is registered in the known shipper database. Such additional cargo screening methods may include a program to certify the security methods used by shippers pursuant to paragraphs (1) and (2) and alternative screening methods pursuant to exemptions referred to in subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007.

(h) **DEPLOYMENT OF ARMED PERSONNEL.**—

(1) **IN GENERAL.**—The Under Secretary shall order the deployment of law enforcement personnel authorized to carry firearms at each airport security screening location to ensure passenger safety and national security.

(2) **MINIMUM REQUIREMENTS.**—Except at airports required to enter into agreements under subsection (c), the Under Secretary shall order the deployment of at least 1 law enforcement officer at each airport security screening location. At the 100 largest airports in the United States, in terms of annual passenger enplanements for the most recent calendar year for which data are available, the Under Secretary shall order the deployment of additional law enforcement personnel at airport security screening locations if the Under Secretary determines that the additional deployment is necessary to ensure passenger safety and national security.

(i) **EXEMPTIONS AND ADVISING CONGRESS ON REGULATIONS.**—The Under Secretary—

(1) may exempt from this section air transportation operations, except scheduled passenger operations of an air carrier providing air transportation under a certificate issued under section 41102 of this title or a permit issued under section 41302 of this title; and

<sup>1</sup> So in original.

(2) shall advise Congress of a regulation to be prescribed under this section at least 30 days before the effective date of the regulation, unless the Under Secretary decides an emergency exists requiring the regulation to become effective in fewer than 30 days and notifies Congress of that decision.

(j) BLAST-RESISTANT CARGO CONTAINERS.—

(1) IN GENERAL.—Before January 1, 2008, the Administrator of the Transportation Security Administration shall—

(A) evaluate the results of the blast-resistant cargo container pilot program that was initiated before the date of enactment of this subsection; and

(B) prepare and distribute through the Aviation Security Advisory Committee to the appropriate Committees of Congress and air carriers a report on that evaluation which may contain nonclassified and classified sections.

(2) ACQUISITION, MAINTENANCE, AND REPLACEMENT.—Upon completion and consistent with the results of the evaluation that paragraph (1)(A) requires, the Administrator shall—

(A) develop and implement a program, as the Administrator determines appropriate, to acquire, maintain, and replace blast-resistant cargo containers;

(B) pay for the program; and

(C) make available blast-resistant cargo containers to air carriers pursuant to paragraph (3).

(3) DISTRIBUTION TO AIR CARRIERS.—The Administrator shall make available, beginning not later than July 1, 2008, blast-resistant cargo containers to air carriers for use on a risk managed basis as determined by the Administrator.

(k) GENERAL AVIATION AIRPORT SECURITY PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of enactment of this subsection, the Administrator of the Transportation Security Administration shall—

(A) develop a standardized threat and vulnerability assessment program for general aviation airports (as defined in section 47134(m)); and

(B) implement a program to perform such assessments on a risk-managed basis at general aviation airports.

(2) GRANT PROGRAM.—Not later than 6 months after the date of enactment of this subsection, the Administrator shall initiate and complete a study of the feasibility of a program, based on a risk-managed approach, to provide grants to operators of general aviation airports (as defined in section 47134(m)) for projects to upgrade security at such airports. If the Administrator determines that such a program is feasible, the Administrator shall establish such a program.

(3) APPLICATION TO GENERAL AVIATION AIRCRAFT.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall develop a risk-based system under which—

(A) general aviation aircraft, as identified by the Administrator, in coordination with

the Administrator of the Federal Aviation Administration, are required to submit passenger information and advance notification requirements for United States Customs and Border Protection before entering United States airspace; and

(B) such information is checked against appropriate databases.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator of the Transportation Security Administration such sums as may be necessary to carry out paragraphs (2) and (3).

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1204; Pub. L. 107–71, title I, §§101(f)(7), 110(b), Nov. 19, 2001, 115 Stat. 603, 614; Pub. L. 107–296, title IV, §425, Nov. 25, 2002, 116 Stat. 2185; Pub. L. 110–53, title XVI, §§1602(a), 1609, 1617, Aug. 3, 2007, 121 Stat. 477, 484, 488.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44901(a) .....	49 App.:1356(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §315(a) (1st, 2d sentences, 3d sentence 19th-last words); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415; Aug. 8, 1985, Pub. L. 99–83, §551(b)(1), 99 Stat. 225.
44901(b) .....	49 App.:1356(a) (2d sentence).	
44901(c)(1) ..	49 App.:1356(c).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §315(c); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415; Nov. 16, 1990, Pub. L. 101–604, §102(a), 104 Stat. 3068.
44901(c)(2) ..	49 App.:1356(a) (3d sentence 19th-last words).	

In subsection (a), the words “or continue in effect reasonable”, “intended”, and “the aircraft for such transportation” are omitted as surplus.

In subsection (b), the words “Notwithstanding subsection (a) of this section” are added for clarity. The words “One year after August 5, 1974, or after the effective date of such regulations, whichever is later” are omitted as executed. The words “alter or”, “a continuation of”, “the extent deemed necessary to”, and “acts of” are omitted as surplus.

In subsection (c)(1), the words “in whole or in part” and “those” are omitted as surplus. The word “providing” is substituted for “engaging in” for consistency in the revised title. The words “interstate, overseas, or foreign” are omitted because of the definition of “air transportation” in section 40102(a) of the revised title. The words “of public convenience and necessity”, “by the Civil Aeronautics Board”, “foreign air carrier”, and “by the Board” are omitted as surplus.

In subsection (c)(2), the words “or amendments thereto” and “or amendments” are omitted as surplus.

REFERENCES IN TEXT

The date of enactment of the Aviation and Transportation Security Act, referred to in subsecs. (c), (e), and (f), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

The date of enactment of this Act, referred to in subsec. (d)(3), probably means the date of enactment of Pub. L. 107–296, which enacted subsec. (d)(2), (3) of this section and was approved Nov. 25, 2002.

The date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, such date of enactment, and the date of enactment of this subsection, referred to in subsecs. (g)(1), (2), (j)(1)(A), and (k)(1)–(3), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

Subsection (b) of section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (g)(5), is section 1602(b) of Pub. L. 110-53, title XVI, Aug. 3, 2007, 121 Stat. 479, which is not classified to the Code.

#### AMENDMENTS

2007—Subsecs. (g) to (i). Pub. L. 110-53, §1602(a), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

Subsec. (j). Pub. L. 110-53, §1609, added subsec. (j).

Subsec. (k). Pub. L. 110-53, §1617, added subsec. (k).

2002—Subsec. (d)(2), (3). Pub. L. 107-296 added pars. (2) and (3).

2001—Subsec. (a). Pub. L. 107-71, §110(b)(2), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows: “The Administrator of the Federal Aviation Administration shall prescribe regulations requiring screening of all passengers and property that will be carried in a cabin of an aircraft in air transportation or intrastate air transportation. The screening must take place before boarding and be carried out by a weapon-detecting facility or procedure used or operated by an employee or agent of an air carrier, intrastate air carrier, or foreign air carrier.”

Subsec. (b). Pub. L. 107-71, §110(b)(2), added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “Notwithstanding subsection (a) of this section, the Administrator may amend a regulation prescribed under subsection (a) to require screening only to ensure security against criminal violence and aircraft piracy in air transportation and intrastate air transportation.”

Subsec. (c). Pub. L. 107-71, §110(b)(2), added subsec. (c). Former subsec. (c) redesignated (h).

Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in introductory provisions and par. (2).

Subsecs. (d) to (g). Pub. L. 107-71, §110(b)(2), added subsecs. (d) to (g).

Subsec. (h). Pub. L. 107-71, §110(b)(1), redesignated subsec. (c) as (h).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

#### SAVINGS PROVISION

Pub. L. 107-71, title I, §141, Nov. 19, 2001, 115 Stat. 643, provided that:

“(a) TRANSFER OF ASSETS AND PERSONNEL.—Except as otherwise provided in this Act [see Tables for classification], those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Transportation Security Administration by this Act shall be transferred to the Transportation Security Administration for use in connection with the functions transferred. Unexpended balances of appropriations, allocations, and other funds made available to the Federal Aviation Administration to carry out such functions shall also be transferred to the Transportation Security Administration for use in connection with the functions transferred.

“(b) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

“(1) that have been issued, made, granted, or allowed to become effective by the Federal Aviation Administration, any officer or employee thereof, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

“(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Under Secretary of Transportation for Security, any other authorized official, a court of competent jurisdiction, or operation of law.

“(c) PROCEEDINGS.—

“(1) IN GENERAL.—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Federal Aviation Administration at the time this Act takes effect [Nov. 19, 2001], insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

“(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

“(3) ORDERLY TRANSFER.—The Secretary of Transportation is authorized to provide for the orderly transfer of pending proceedings from the Federal Aviation Administration.

“(d) SUITS.—

“(1) IN GENERAL.—This Act shall not affect suits commenced before the date of the enactment of this Act [Nov. 19, 2001], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

“(2) SUITS BY OR AGAINST FAA.—Any suit by or against the Federal Aviation Administration begun before the date of the enactment of this Act shall be continued, insofar as it involves a function retained and transferred under this Act, with the Transportation Security Administration (to the extent the suit involves functions transferred to the Transportation Security Administration under this Act) substituted for the Federal Aviation Administration.

“(3) REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case to the Transportation Security Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

“(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Federal Aviation Administration shall abate by reason of the enactment of this Act. No cause of action by or against the Federal Aviation Administration, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

“(f) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Transportation Security Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act.

“(g) ACT DEFINED.—In this section, the term ‘Act’ includes the amendments made by this Act.”

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administra-

tion 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.

#### TRANSITION PROVISIONS

Pub. L. 107-71, title I, §101(g), Nov. 19, 2001, 115 Stat. 603, provided that:

“(1) SCHEDULE FOR ASSUMPTION OF CIVIL AVIATION SECURITY FUNCTIONS.—Not later than 3 months after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security shall assume civil aviation security functions and responsibilities under chapter 449 of title 49, United States Code, as amended by this Act, in accordance with a schedule to be developed by the Secretary of Transportation, in consultation with air carriers, foreign air carriers, and the Administrator of the Federal Aviation Administration. The Under Secretary shall publish an appropriate notice of the transfer of such security functions and responsibilities before assuming the functions and responsibilities.

“(2) ASSUMPTION OF CONTRACTS.—As of the date specified in paragraph (1), the Under Secretary may assume the rights and responsibilities of an air carrier or foreign air carrier contract for provision of passenger screening services at airports in the United States described in section 44903(c), subject to payment of adequate compensation to parties to the contract, if any.

“(3) ASSIGNMENT OF CONTRACTS.—

“(A) IN GENERAL.—Upon request of the Under Secretary, an air carrier or foreign air carrier carrying out a screening or security function under chapter 449 of title 49, United States Code, may enter into an agreement with the Under Secretary to transfer any contract the carrier has entered into with respect to carrying out the function, before the Under Secretary assumes responsibility for the function.

“(B) SCHEDULE.—The Under Secretary may enter into an agreement under subparagraph (A) as soon as possible, but not later than 90 days after the date of enactment of this Act [Nov. 19, 2001]. The Under Secretary may enter into such an agreement for one 180-day period and may extend such agreement for one 90-day period if the Under Secretary determines it necessary.

“(4) TRANSFER OF OWNERSHIP.—In recognition of the assumption of the financial costs of security screening of passengers and property at airports, and as soon as practical after the date of enactment of this Act [Nov. 19, 2001], air carriers may enter into agreements with the Under Secretary to transfer the ownership, at no cost to the United States Government, of any personal property, equipment, supplies, or other material associated with such screening, regardless of the source of funds used to acquire the property, that the Secretary determines to be useful for the performance of security screening of passengers and property at airports.

“(5) PERFORMANCE OF UNDER SECRETARY'S FUNCTIONS DURING INTERIM PERIOD.—Until the Under Secretary takes office, the functions of the Under Secretary that relate to aviation security may be carried out by the Secretary or the Secretary's designee.”

#### PROTECTION OF PASSENGER PLANES FROM EXPLOSIVES

Pub. L. 110-53, title XVI, §1610, Aug. 3, 2007, 121 Stat. 484, provided that:

“(a) TECHNOLOGY RESEARCH AND PILOT PROJECTS.—

“(1) RESEARCH AND DEVELOPMENT.—The Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall expedite research and development programs for technologies that can disrupt or prevent an explosive device from being introduced onto a pas-

senger plane or from damaging a passenger plane while in flight or on the ground. The research shall be used in support of implementation of section 44901 of title 49, United States Code.

“(2) PILOT PROJECTS.—The Secretary, in conjunction with the Secretary of Transportation, shall establish a grant program to fund pilot projects—

“(A) to deploy technologies described in paragraph (1); and

“(B) to test technologies to expedite the recovery, development, and analysis of information from aircraft accidents to determine the cause of the accident, including deployable flight deck and voice recorders and remote location recording devices.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2008 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.”

#### STANDARDS FOR INCREASING THE USE OF EXPLOSIVE DETECTION EQUIPMENT

Pub. L. 109-295, title V, §518, Oct. 4, 2006, 120 Stat. 1380, provided that: “The Secretary of Homeland Security, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 109-90, title V, §524, Oct. 18, 2005, 119 Stat. 2086.

#### USE OF EXISTING EQUIPMENT TO SCREEN PASSENGER CARGO; REPORTS

Pub. L. 109-90, title V, §525, Oct. 18, 2005, 119 Stat. 2086, provided that: “The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: *Provided*, That beginning with November 2005, TSA shall provide a monthly report to the Committees on Appropriations of the Senate and the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month thereafter.”

#### IN-LINE CHECKED BAGGAGE SCREENING

Pub. L. 108-458, title IV, §4019(a), (b), Dec. 17, 2004, 118 Stat. 3721, provided that:

“(a) IN-LINE BAGGAGE SCREENING EQUIPMENT.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take such action as may be necessary to expedite the installation and use of in-line baggage screening equipment at airports at which screening is required by section 44901 of title 49, United States Code.

“(b) SCHEDULE.—Not later than 180 days after the date of enactment of this Act [Dec. 17, 2004], the Assistant Secretary shall submit to the appropriate congressional committees a schedule to expedite the installation and use of in-line baggage screening equipment at such airports, with an estimate of the impact that such equipment, facility modification, and baggage conveyor placement will have on staffing needs and levels related to aviation security.”

#### CHECKED BAGGAGE SCREENING AREA MONITORING

Pub. L. 108-458, title IV, §4020, Dec. 17, 2004, 118 Stat. 3722, provided that:

“(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide, subject to the availability of funds, assistance to airports at which screening is required by section 44901 of title 49, United States Code, and that have checked baggage screening areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveil-

lance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.”

PILOT PROGRAM TO EVALUATE USE OF BLAST  
RESISTANT CARGO AND BAGGAGE CONTAINERS

Pub. L. 108–458, title IV, §4051, Dec. 17, 2004, 118 Stat. 3728, directed the Assistant Secretary of Homeland Security (Transportation Security Administration), beginning not later than 180 days after Dec. 17, 2004, to carry out a pilot program to evaluate the use of blast-resistant containers for cargo and baggage on passenger aircraft to minimize the potential effects of detonation of an explosive device, and directed the Assistant Secretary to provide incentives to air carriers to volunteer to participate in such program.

AIR CARGO SECURITY

Pub. L. 108–458, title IV, §4052, Dec. 17, 2004, 118 Stat. 3728, provided that:

“(a) AIR CARGO SCREENING TECHNOLOGY.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop technology to better identify, track, and screen air cargo.

“(b) IMPROVED AIR CARGO AND AIRPORT SECURITY.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

- “(1) \$200,000,000 for fiscal year 2005;
- “(2) \$200,000,000 for fiscal year 2006; and
- “(3) \$200,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

“(c) RESEARCH, DEVELOPMENT, AND DEPLOYMENT.—To carry out subsection (a), there is authorized to be appropriated to the Secretary, in addition to any amounts otherwise authorized by law, for research and development related to enhanced air cargo security technology as well as for deployment and installation of enhanced air cargo security technology—

- “(1) \$100,000,000 for fiscal year 2005;
- “(2) \$100,000,000 for fiscal year 2006; and
- “(3) \$100,000,000 for fiscal year 2007.

Such sums shall remain available until expended.

“(d) ADVANCED CARGO SECURITY GRANTS.—

“(1) IN GENERAL.—The Secretary shall establish and carry out a program to issue competitive grants to encourage the development of advanced air cargo security technology, including use of innovative financing or other means of funding such activities. The Secretary may make available funding for this purpose from amounts appropriated pursuant to subsection (c).

“(2) ELIGIBILITY CRITERIA, ETC.—The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and rapidly as possible.”

IDENTIFICATION STANDARDS

Pub. L. 108–458, title VII, §7220, Dec. 17, 2004, 118 Stat. 3835, provided that:

“(a) PROPOSED STANDARDS.—

“(1) IN GENERAL.—The Secretary of Homeland Security—

“(A) shall propose minimum standards for identification documents required of domestic commercial airline passengers for boarding an aircraft; and

“(B) may, from time to time, propose minimum standards amending or replacing standards previously proposed and transmitted to Congress and approved under this section.

“(2) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of enactment of this Act [Dec. 17, 2004], the Secretary shall submit the standards under paragraph (1)(A) to the Senate and the House of Representatives on the same day while each House is in session.

“(3) EFFECTIVE DATE.—Any proposed standards submitted to Congress under this subsection shall take effect when an approval resolution is passed by the House and the Senate under the procedures described in subsection (b) and becomes law.

“(b) CONGRESSIONAL APPROVAL PROCEDURES.—

“(1) RULEMAKING POWER.—This subsection is enacted by Congress—

“(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of such approval resolutions; and it supersedes other rules only to the extent that they are inconsistent therewith; and

“(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

“(2) APPROVAL RESOLUTION.—For the purpose of this subsection, the term ‘approval resolution’ means a joint resolution of Congress, the matter after the resolving clause of which is as follows: ‘That the Congress approves the proposed standards issued under section 7220 of the 9/11 Commission Implementation Act of 2004, transmitted by the President to the Congress on \_\_\_\_\_’, the blank space being filled in with the appropriate date.

“(3) INTRODUCTION.—Not later than the first day of session following the day on which proposed standards are transmitted to the House of Representatives and the Senate under subsection (a), an approval resolution—

“(A) shall be introduced (by request) in the House by the Majority Leader of the House of Representatives, for himself or herself and the Minority Leader of the House of Representatives, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader of the House; and

“(B) shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate.

“(4) PROHIBITIONS.—

“(A) AMENDMENTS.—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate.

“(B) MOTIONS TO SUSPEND.—No motion to suspend the application of this paragraph shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this paragraph by unanimous consent.

“(5) REFERRAL.—

“(A) IN GENERAL.—An approval resolution shall be referred to the committees of the House of Representatives and of the Senate with jurisdiction. Each committee shall make its recommendations to the House of Representatives or the Senate, as the case may be, within 45 days after its introduction. Except as provided in subparagraph (B), if a committee to which an approval resolution has been referred has not reported it at the close of the 45th day after its introduction, such committee shall be automatically discharged from further con-

sideration of the resolution and it shall be placed on the appropriate calendar.

“(B) FINAL PASSAGE.—A vote on final passage of the resolution shall be taken in each House on or before the close of the 15th day after the resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

“(C) COMPUTATION OF DAYS.—For purposes of this paragraph, in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

“(6) COORDINATION WITH ACTION OF OTHER HOUSE.—If prior to the passage by one House of an approval resolution of that House, that House receives the same approval resolution from the other House, then the procedure in that House shall be the same as if no approval resolution has been received from the other House, but the vote on final passage shall be on the approval resolution of the other House.

“(7) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

“(A) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, not shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) DEBATE.—Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 4 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

“(C) MOTION TO POSTPONE.—Motions to postpone made in the House of Representatives with respect to the consideration of an approval resolution and motions to proceed to the consideration of other business shall be decided without debate.

“(D) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

“(E) RULES OF THE HOUSE OF REPRESENTATIVES.—Except to the extent specifically provided in subparagraphs (A) through (D), consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other resolutions in similar circumstances.

“(8) FLOOR CONSIDERATION IN THE SENATE.—

“(A) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

“(B) DEBATE ON RESOLUTION.—Debate in the Senate on an approval resolution, and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.

“(C) DEBATE ON MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, which shall be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or designee. Such leaders, or either of them, may, from time under their control on the

passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

“(D) LIMIT ON DEBATE.—A motion in the Senate to further limit debate is not debatable. A motion to recommit an approval resolution is not in order.

“(c) DEFAULT STANDARDS.—

“(1) IN GENERAL.—If the standards proposed under subsection (a)(1)(A) are not approved pursuant to the procedures described in subsection (b), then not later than 1 year after rejection by a vote of either House of Congress, domestic commercial airline passengers seeking to board an aircraft shall present, for identification purposes—

“(A) a valid, unexpired passport;

“(B) domestically issued documents that the Secretary of Homeland Security designates as reliable for identification purposes;

“(C) any document issued by the Attorney General or the Secretary of Homeland Security under the authority of 1 of the immigration laws (as defined under section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))[]); or

“(D) a document issued by the country of nationality of any alien not required to possess a passport for admission to the United States that the Secretary designates as reliable for identifications purposes

“(2) EXCEPTION.—The documentary requirements described in paragraph (1)—

“(A) shall not apply to individuals below the age of 17, or such other age as determined by the Secretary of Homeland Security;

“(B) may be waived by the Secretary of Homeland Security in the case of an unforeseen medical emergency.

“(d) RECOMMENDATION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act [Dec. 17, 2004], the Secretary of Homeland Security shall recommend to Congress—

“(1) categories of Federal facilities that the Secretary determines to be at risk for terrorist attack and requiring minimum identification standards for access to such facilities; and

“(2) appropriate minimum identification standards to gain access to those facilities.”

#### DEADLINE FOR DEPLOYMENT OF FEDERAL SCREENERS

Pub. L. 107–71, title I, §110(c), Nov. 19, 2001, 115 Stat. 616, provided that:

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security shall deploy at all airports in the United States where screening is required under section 44901 of title 49, United States Code, a sufficient number of Federal screeners, Federal Security Managers, Federal security personnel, and Federal law enforcement officers to conduct the screening of all passengers and property under section 44901 of such title at such airports.

“(2) CERTIFICATION TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Under Secretary shall transmit to Congress a certification that the requirement of paragraph (1) has been met.”

#### REPORTS

Pub. L. 107–71, title I, §110(d), Nov. 19, 2001, 115 Stat. 616, provided that:

“(1) DEPLOYMENT.—Within 6 months after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security shall report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives on the deployment of the systems required by section 44901(c) of title 49, United States Code. The Under Secretary shall include in the report—

“(A) an installation schedule;

“(B) the dates of installation of each system; and



“(C) the date on which each system installed is operational.

“(2) SCREENING OF SMALL AIRCRAFT.—Within 1 year after the date of enactment of this Act [Nov. 19, 2001], the Under Secretary of Transportation for Security shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives on the screening requirements applicable to passengers boarding, and property being carried aboard, aircraft with 60 seats or less used in scheduled passenger service with recommendations for any necessary changes in those requirements.”

#### INSTALLATION OF ADVANCED SECURITY EQUIPMENT; AGREEMENTS

Pub. L. 104-264, title III, §305(b), Oct. 9, 1996, 110 Stat. 3252, provided that: “The Administrator is authorized to use noncompetitive or cooperative agreements with air carriers and airport authorities that provide for the Administrator to purchase and assist in installing advanced security equipment for the use of such entities.”

#### PASSENGER PROFILING

Pub. L. 104-264, title III, §307, Oct. 9, 1996, 110 Stat. 3253, provided that: “The Administrator of the Federal Aviation Administration, the Secretary of Transportation, the intelligence community, and the law enforcement community should continue to assist air carriers in developing computer-assisted passenger profiling programs and other appropriate passenger profiling programs which should be used in conjunction with other security measures and technologies.”

#### AUTHORITY TO USE CERTAIN FUNDS FOR AIRPORT SECURITY PROGRAMS AND ACTIVITIES

Pub. L. 104-264, title III, §308, Oct. 9, 1996, 110 Stat. 3253, which provided that funds from project grants made under subchapter I of chapter 471 of this title and passenger facility fees collected under section 40117 of this title could be used for the improvement of facilities and the purchase and deployment of equipment to enhance and ensure safe air travel, was repealed by Pub. L. 108-176, title I, §143, Dec. 12, 2003, 117 Stat. 2503.

#### INSTALLATION AND USE OF EXPLOSIVE DETECTION EQUIPMENT

Pub. L. 101-45, title I, June 30, 1989, 103 Stat. 110, provided in part that: “Not later than thirty days after the date of the enactment of this Act [June 30, 1989], the Federal Aviation Administrator shall initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection equipment that meets minimum performance standards requiring application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such equipment is necessary to ensure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of this Act”.

#### RESEARCH AND DEVELOPMENT OF IMPROVED AIRPORT SECURITY SYSTEMS

Pub. L. 100-649, §2(d), Nov. 10, 1988, 102 Stat. 3817, provided that: “The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems in detecting firearms that, during the 10-year period beginning on the effective date of this Act [see Effective Date of 1988 Amendment; Sunset Provision note set out under section 922 of Title 18, Crimes and Criminal Procedure], are subject to the prohibitions of section 922(p) of title 18, United States Code.”

#### DEFINITIONS OF TERMS IN TITLE IV OF PUB. L. 108-458

Pub. L. 108-458, title IV, §4081, Dec. 17, 2004, 118 Stat. 3731, provided that: “In this title [enacting section 44925 of this title, amending sections 114, 44903, 44904, 44909, 44917, 44923, 46301 to 46303, and 48301 of this title and sections 70102 and 70103 of Title 46, Shipping, and enacting provisions set out as notes under this section, sections 114, 44703, 44913, 44917, 44923, 44925, and 44935 of this title, section 2751 of Title 22, Foreign Relations and Intercourse, and section 70101 of Title 46] (other than in sections 4001 and 4026 [amending sections 114 and 44904 of this title and enacting provisions set out as a note under section 2751 of Title 22]), the following definitions apply:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

“(2) AVIATION DEFINITIONS.—The terms ‘air carrier’, ‘air transportation’, ‘aircraft’, ‘airport’, ‘cargo’, ‘foreign air carrier’, and ‘intrastate air transportation’ have the meanings given such terms in section 40102 of title 49, United States Code.

“(3) SECURE AREA OF AN AIRPORT.—The term ‘secure area of an airport’ means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulations).”

#### DEFINITIONS OF TERMS IN PUB. L. 107-71

For definitions of terms used in sections 101(g) and 110(c), (d), of Pub. L. 107-71, set out above, see section 133 of Pub. L. 107-71, set out as a note under section 40102 of this title.

### § 44902. Refusal to transport passengers and property

(a) MANDATORY REFUSAL.—The Under Secretary of Transportation for Security shall prescribe regulations requiring an air carrier, intrastate air carrier, or foreign air carrier to refuse to transport—

(1) a passenger who does not consent to a search under section 44901(a) of this title establishing whether the passenger is carrying unlawfully a dangerous weapon, explosive, or other destructive substance; or

(2) property of a passenger who does not consent to a search of the property establishing whether the property unlawfully contains a dangerous weapon, explosive, or other destructive substance.

(b) PERMISSIVE REFUSAL.—Subject to regulations of the Under Secretary, an air carrier, intrastate air carrier, or foreign air carrier may refuse to transport a passenger or property the carrier decides is, or might be, inimical to safety.

(c) AGREEING TO CONSENT TO SEARCH.—An agreement to carry passengers or property in air transportation or intrastate air transportation by an air carrier, intrastate air carrier, or foreign air carrier is deemed to include an agreement that the passenger or property will not be carried if consent to search the passenger or property for a purpose referred to in this section is not given.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1204; Pub. L. 107-71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44902(a) .....	49 App.:1511(a) (1st sentence).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1111; added Sept. 5, 1961, Pub. L. 87-197, § 4, 75 Stat. 467; re-stated Aug. 5, 1974, Pub. L. 93-366, §204, 88 Stat. 418.
44902(b) .....	49 App.:1511(a) (last sentence).	
44902(c) .....	49 App.:1511(b).	

In this section, the word “passenger” is substituted for “person” for consistency in the revised title.

In subsection (a)(1), the words “of his person” are omitted as surplus.

In subsection (a)(2), the words “or inspection” are omitted as surplus.

In subsection (b), the words “reasonable” and “also” are omitted as surplus. The word “rules” is omitted as being synonymous with “regulations”. The words “the carrier decides is” are substituted for “when, in the opinion of the carrier, such transportation would” to eliminate unnecessary words. The words “of flight” are omitted as surplus.

In subsection (c), the words “for compensation or hire” are omitted because of the definitions of “air transportation” and “intrastate air transportation” in section 40102(a) of the revised title. The word “inspect” is omitted as surplus.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-71 substituted “Under Secretary of Transportation for Security” for “Administrator of the Federal Aviation Administration” in introductory provisions.

Subsec. (b). 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.

§ 44903. Air transportation security

(a) DEFINITION.—In this section, “law enforcement personnel” means individuals—

(1) authorized to carry and use firearms;

(2) vested with the degree of the police power of arrest the Under Secretary of Transportation for Security considers necessary to carry out this section; and

(3) identifiable by appropriate indicia of authority.

(b) PROTECTION AGAINST VIOLENCE AND PIRACY.—The Under Secretary shall prescribe regulations to protect passengers and property on an aircraft operating in air transportation or intrastate air transportation against an act of criminal violence or aircraft piracy. When prescribing a regulation under this subsection, the Under Secretary shall—

(1) consult with the Secretary of Transportation, the Attorney General, the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities;

(2) consider whether a proposed regulation is consistent with—

(A) protecting passengers; and

(B) the public interest in promoting air transportation and intrastate air transportation;

(3) to the maximum extent practicable, require a uniform procedure for searching and detaining passengers and property to ensure—

(A) their safety; and

(B) courteous and efficient treatment by an air carrier, an agent or employee of an air carrier, and Government, State, and local law enforcement personnel carrying out this section; and

(4) consider the extent to which a proposed regulation will carry out this section.

(c) SECURITY PROGRAMS.—(1) The Under Secretary shall prescribe regulations under subsection (b) of this section that require each operator of an airport regularly serving an air carrier holding a certificate issued by the Secretary of Transportation to establish an air transportation security program that provides a law enforcement presence and capability at each of those airports that is adequate to ensure the safety of passengers. The regulations shall authorize the operator to use the services of qualified State, local, and private law enforcement personnel. When the Under Secretary decides, after being notified by an operator in the form the Under Secretary prescribes, that not enough qualified State, local, and private law enforcement personnel are available to carry out subsection (b), the Under Secretary may authorize the operator to use, on a reimbursable basis, personnel employed by the Under Secretary, or by another department, agency, or instrumentality of the Government with the consent of the head of the department, agency, or instrumentality, to supplement State, local, and private law enforcement personnel. When deciding whether additional personnel are needed, the Under Secretary shall consider the number of passengers boarded at the airport, the extent of anticipated risk of criminal violence or aircraft piracy at the airport or to the air carrier aircraft operations at the airport, and the availability of qualified State or local law enforcement personnel at the airport.

(2)(A) The Under Secretary may approve a security program of an airport operator, or an amendment in an existing program, that incorporates a security program of an airport tenant (except an air carrier separately complying with part 108 or 129 of title 14, Code of Federal Regulations) having access to a secured area of the airport, if the program or amendment incorporates—

(i) the measures the tenant will use, within the tenant’s leased areas or areas designated for the tenant’s exclusive use under an agreement with the airport operator, to carry out the security requirements imposed by the Under Secretary on the airport operator under the access control system requirements of section 107.14 of title 14, Code of Federal Regulations, or under other requirements of part 107 of title 14; and

(ii) the methods the airport operator will use to monitor and audit the tenant’s compliance

with the security requirements and provides that the tenant will be required to pay monetary penalties to the airport operator if the tenant fails to carry out a security requirement under a contractual provision or requirement imposed by the airport operator.

(B) If the Under Secretary approves a program or amendment described in subparagraph (A) of this paragraph, the airport operator may not be found to be in violation of a requirement of this subsection or subsection (b) of this section when the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for the violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.

(C) MAXIMUM USE OF CHEMICAL AND BIOLOGICAL WEAPON DETECTION EQUIPMENT.—The Secretary of Transportation may require airports to maximize the use of technology and equipment that is designed to detect or neutralize potential chemical or biological weapons.

(3) PILOT PROGRAMS.—The Administrator shall establish pilot programs in no fewer than 20 airports to test and evaluate new and emerging technology for providing access control and other security protections for closed or secure areas of the airports. Such technology may include biometric or other technology that ensures only authorized access to secure areas.

(d) AUTHORIZING INDIVIDUALS TO CARRY FIREARMS AND MAKE ARRESTS.—With the approval of the Attorney General and the Secretary of State, the Secretary of Transportation may authorize an individual who carries out air transportation security duties—

(1) to carry firearms; and

(2) to make arrests without warrant for an offense against the United States committed in the presence of the individual or for a felony under the laws of the United States, if the individual reasonably believes the individual to be arrested has committed or is committing a felony.

(e) EXCLUSIVE RESPONSIBILITY OVER PASSENGER SAFETY.—The Under Secretary has the exclusive responsibility to direct law enforcement activity related to the safety of passengers on an aircraft involved in an offense under section 46502 of this title from the moment all external doors of the aircraft are closed following boarding until those doors are opened to allow passengers to leave the aircraft. When requested by the Under Secretary, other departments, agencies, and instrumentalities of the Government shall provide assistance necessary to carry out this subsection.

(f) GOVERNMENT AND INDUSTRY CONSORTIA.—The Under Secretary may establish at airports such consortia of government and aviation industry representatives as the Under Secretary may designate to provide advice on matters related to aviation security and safety. Such consortia shall not be considered Federal advisory committees for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(g) IMPROVEMENT OF SECURED-AREA ACCESS CONTROL.—

(1) ENFORCEMENT.—

(A) UNDER SECRETARY TO PUBLISH SANCTIONS.—The Under Secretary shall publish in the Federal Register a list of sanctions for use as guidelines in the discipline of employees for infractions of airport access control requirements. The guidelines shall incorporate a progressive disciplinary approach that relates proposed sanctions to the severity or recurring nature of the infraction and shall include measures such as remedial training, suspension from security-related duties, suspension from all duties without pay, and termination of employment.

(B) USE OF SANCTIONS.—Each airport operator, air carrier, and security screening company shall include the list of sanctions published by the Under Secretary in its security program. The security program shall include a process for taking prompt disciplinary action against an employee who commits an infraction of airport access control requirements.

(2) IMPROVEMENTS.—The Under Secretary shall—

(A) work with airport operators and air carriers to implement and strengthen existing controls to eliminate airport access control weaknesses;

(B) require airport operators and air carriers to develop and implement comprehensive and recurring training programs that teach employees their roles in airport security, the importance of their participation, how their performance will be evaluated, and what action will be taken if they fail to perform;

(C) require airport operators and air carriers to develop and implement programs that foster and reward compliance with airport access control requirements and discourage and penalize noncompliance in accordance with guidelines issued by the Under Secretary to measure employee compliance;

(D) on an ongoing basis, assess and test for compliance with access control requirements, report annually findings of the assessments, and assess the effectiveness of penalties in ensuring compliance with security procedures and take any other appropriate enforcement actions when noncompliance is found;

(E) improve and better administer the Under Secretary's security database to ensure its efficiency, reliability, and usefulness for identification of systemic problems and allocation of resources;

(F) improve the execution of the Under Secretary's quality control program; and

(G) work with airport operators to strengthen access control points in secured areas (including air traffic control operations areas, maintenance areas, crew lounges, baggage handling areas, concessions, and catering delivery areas) to ensure the security of passengers and aircraft and consider the deployment of biometric or similar technologies that identify individuals based on unique personal characteristics.

(h) IMPROVED AIRPORT PERIMETER ACCESS SECURITY.—

(1) IN GENERAL.—The Under Secretary, in consultation with the airport operator and law enforcement authorities, may order the deployment of such personnel at any secure area of the airport as necessary to counter the risk of criminal violence, the risk of aircraft piracy at the airport, the risk to air carrier aircraft operations at the airport, or to meet national security concerns.

(2) SECURITY OF AIRCRAFT AND GROUND ACCESS TO SECURE AREAS.—In determining where to deploy such personnel, the Under Secretary shall consider the physical security needs of air traffic control facilities, parked aircraft, aircraft servicing equipment, aircraft supplies (including fuel), automobile parking facilities within airport perimeters or adjacent to secured facilities, and access and transition areas at airports served by other means of ground or water transportation.

(3) DEPLOYMENT OF FEDERAL LAW ENFORCEMENT PERSONNEL.—The Secretary may enter into a memorandum of understanding or other agreement with the Attorney General or the head of any other appropriate Federal law enforcement agency to deploy Federal law enforcement personnel at an airport in order to meet aviation safety and security concerns.

(4) AIRPORT PERIMETER SCREENING.—The Under Secretary—

(A) shall require, as soon as practicable after the date of enactment of this subsection, screening or inspection of all individuals, goods, property, vehicles, and other equipment before entry into a secured area of an airport in the United States described in section 44903(c);

(B) shall prescribe specific requirements for such screening and inspection that will assure at least the same level of protection as will result from screening of passengers and their baggage;

(C) shall establish procedures to ensure the safety and integrity of—

(i) all persons providing services with respect to aircraft providing passenger air transportation or intrastate air transportation and facilities of such persons at an airport in the United States described in section 44903(c);

(ii) all supplies, including catering and passenger amenities, placed aboard such aircraft, including the sealing of supplies to ensure easy visual detection of tampering; and

(iii) all persons providing such supplies and facilities of such persons;

(D) shall require vendors having direct access to the airfield and aircraft to develop security programs; and

(E) shall issue, not later than March 31, 2005, guidance for the use of biometric or other technology that positively verifies the identity of each employee and law enforcement officer who enters a secure area of an airport.

(5) USE OF BIOMETRIC TECHNOLOGY IN AIRPORT ACCESS CONTROL SYSTEMS.—In issuing guidance

under paragraph (4)(E), the Assistant Secretary of Homeland Security (Transportation Security Administration) in consultation with representatives of the aviation industry, the biometric identifier industry, and the National Institute of Standards and Technology, shall establish, at a minimum—

(A) comprehensive technical and operational system requirements and performance standards for the use of biometric identifier technology in airport access control systems (including airport perimeter access control systems) to ensure that the biometric identifier systems are effective, reliable, and secure;

(B) a list of products and vendors that meet the requirements and standards set forth in subparagraph (A);

(C) procedures for implementing biometric identifier systems—

(i) to ensure that individuals do not use an assumed identity to enroll in a biometric identifier system; and

(ii) to resolve failures to enroll, false matches, and false non-matches; and

(D) best practices for incorporating biometric identifier technology into airport access control systems in the most effective manner, including a process to best utilize existing airport access control systems, facilities, and equipment and existing data networks connecting airports.

(6) USE OF BIOMETRIC TECHNOLOGY FOR ARMED LAW ENFORCEMENT TRAVEL.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Secretary of Homeland Security, in consultation with the Attorney General, shall—

(i) implement this section<sup>1</sup> by publication in the Federal Register; and

(ii) establish a national registered armed law enforcement program, that shall be federally managed, for law enforcement officers needing to be armed when traveling by commercial aircraft.

(B) PROGRAM REQUIREMENTS.—The program shall—

(i) establish a credential or a system that incorporates biometric technology and other applicable technologies;

(ii) establish a system for law enforcement officers who need to be armed when traveling by commercial aircraft on a regular basis and for those who need to be armed during temporary travel assignments;

(iii) comply with other uniform credentialing initiatives, including the Homeland Security Presidential Directive 12;

(iv) apply to all Federal, State, local, tribal, and territorial government law enforcement agencies; and

(v) establish a process by which the travel credential or system may be used to verify the identity, using biometric technology, of a Federal, State, local, tribal, or

<sup>1</sup> So in original. Probably should be “paragraph”.

territorial law enforcement officer seeking to carry a weapon on board a commercial aircraft, without unnecessarily disclosing to the public that the individual is a law enforcement officer.

(C) PROCEDURES.—In establishing the program, the Secretary shall develop procedures—

(i) to ensure that a law enforcement officer of a Federal, State, local, tribal, or territorial government flying armed has a specific reason for flying armed and the reason is within the scope of the duties of such officer;

(ii) to preserve the anonymity of the armed law enforcement officer;

(iii) to resolve failures to enroll, false matches, and false nonmatches relating to the use of the law enforcement travel credential or system;

(iv) to determine the method of issuance of the biometric credential to law enforcement officers needing to be armed when traveling by commercial aircraft;

(v) to invalidate any law enforcement travel credential or system that is lost, stolen, or no longer authorized for use;

(vi) to coordinate the program with the Federal Air Marshal Service, including the force multiplier program of the Service; and

(vii) to implement a phased approach to launching the program, addressing the immediate needs of the relevant Federal agent population before expanding to other law enforcement populations.

(7) DEFINITIONS.—In this subsection, the following definitions apply:

(A) BIOMETRIC IDENTIFIER INFORMATION.—The term “biometric identifier information” means the distinct physical or behavioral characteristics of an individual that are used for unique identification, or verification of the identity, of an individual.

(B) BIOMETRIC IDENTIFIER.—The term “biometric identifier” means a technology that enables the automated identification, or verification of the identity, of an individual based on biometric information.

(C) FAILURE TO ENROLL.—The term “failure to enroll” means the inability of an individual to enroll in a biometric identifier system due to an insufficiently distinctive biometric sample, the lack of a body part necessary to provide the biometric sample, a system design that makes it difficult to provide consistent biometric identifier information, or other factors.

(D) FALSE MATCH.—The term “false match” means the incorrect matching of one individual’s biometric identifier information to another individual’s biometric identifier information by a biometric identifier system.

(E) FALSE NON-MATCH.—The term “false non-match” means the rejection of a valid identity by a biometric identifier system.

(F) SECURE AREA OF AN AIRPORT.—The term “secure area of an airport” means the sterile area and the Secure Identification Display

Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).

(i) AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.—

(1) IN GENERAL.—If the Under Secretary, after receiving the recommendations of the National Institute of Justice, determines, with the approval of the Attorney General and the Secretary of State, that it is appropriate and necessary and would effectively serve the public interest in avoiding air piracy, the Under Secretary may authorize members of the flight deck crew on any aircraft providing air transportation or intrastate air transportation to carry a less-than-lethal weapon while the aircraft is engaged in providing such transportation.

(2) USAGE.—If the Under Secretary grants authority under paragraph (1) for flight deck crew members to carry a less-than-lethal weapon while engaged in providing air transportation or intrastate air transportation, the Under Secretary shall—

(A) prescribe rules requiring that any such crew member be trained in the proper use of the weapon; and

(B) prescribe guidelines setting forth the circumstances under which such weapons may be used.

(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.

(j) SHORT-TERM ASSESSMENT AND DEPLOYMENT OF EMERGING SECURITY TECHNOLOGIES AND PROCEDURES.—

(1) IN GENERAL.—The Under Secretary of Transportation for Security shall recommend to airport operators, within 6 months after the date of enactment of the Aviation and Transportation Security Act, commercially available measures or procedures to prevent access to secure airport areas by unauthorized persons. As part of the 6-month assessment, the Under Secretary for Transportation Security shall—

(A) review the effectiveness of biometrics systems currently in use at several United States airports, including San Francisco International;

(B) review the effectiveness of increased surveillance at access points;

(C) review the effectiveness of card- or keypad-based access systems;

(D) review the effectiveness of airport emergency exit systems and determine whether those that lead to secure areas of the airport should be monitored or how breaches can be swiftly responded to; and

(E) specifically target the elimination of the “piggy-backing” phenomenon, where another person follows an authorized person through the access point.

The 6-month assessment shall include a 12-month deployment strategy for currently

available technology at all category X airports, as defined in the Federal Aviation Administration approved air carrier security programs required under part 108 of title 14, Code of Federal Regulations. Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall conduct a review of reductions in unauthorized access at these airports.

(2) COMPUTER-ASSISTED PASSENGER PRE-SCREENING SYSTEM.—

(A) IN GENERAL.—The Secretary of Transportation shall ensure that the Computer-Assisted Passenger Prescreening System, or any successor system—

(i) is used to evaluate all passengers before they board an aircraft; and

(ii) includes procedures to ensure that individuals selected by the system and their carry-on and checked baggage are adequately screened.

(B) MODIFICATIONS.—The Secretary of Transportation may modify any requirement under the Computer-Assisted Passenger Prescreening System for flights that originate and terminate within the same State, if the Secretary determines that—

(i) the State has extraordinary air transportation needs or concerns due to its isolation and dependence on air transportation; and

(ii) the routine characteristics of passengers, given the nature of the market, regularly triggers primary selectee status.

(C) ADVANCED AIRLINE PASSENGER PRE-SCREENING.—

(i) COMMENCEMENT OF TESTING.—Not later than January 1, 2005, the Assistant Secretary of Homeland Security (Transportation Security Administration), or the designee of the Assistant Secretary, shall commence testing of an advanced passenger prescreening system that will allow the Department of Homeland Security to assume the performance of comparing passenger information, as defined by the Assistant Secretary, to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government.

(ii) ASSUMPTION OF FUNCTION.—Not later than 180 days after completion of testing under clause (i), the Assistant Secretary, or the designee of the Assistant Secretary, shall begin to assume the performance of the passenger prescreening function of comparing passenger information to the automatic selectee and no fly lists and utilize all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government in performing that function.

(iii) REQUIREMENTS.—In assuming performance of the function under clause (ii), the Assistant Secretary shall—

(I) establish a procedure to enable airline passengers, who are delayed or prohibited from boarding a flight because the advanced passenger prescreening sys-

tem determined that they might pose a security threat, to appeal such determination and correct information contained in the system;

(II) ensure that Federal Government databases that will be used to establish the identity of a passenger under the system will not produce a large number of false positives;

(III) establish an internal oversight board to oversee and monitor the manner in which the system is being implemented;

(IV) establish sufficient operational safeguards to reduce the opportunities for abuse;

(V) implement substantial security measures to protect the system from unauthorized access;

(VI) adopt policies establishing effective oversight of the use and operation of the system; and

(VII) ensure that there are no specific privacy concerns with the technological architecture of the system.

(iv) PASSENGER INFORMATION.—Not later than 180 days after the completion of the testing of the advanced passenger prescreening system, the Assistant Secretary, by order or interim final rule—

(I) shall require air carriers to supply to the Assistant Secretary the passenger information needed to begin implementing the advanced passenger prescreening system; and

(II) shall require entities that provide systems and services to air carriers in the operation of air carrier reservations systems to provide to air carriers passenger information in possession of such entities, but only to the extent necessary to comply with subclause (I).

(v) INCLUSION OF DETAINEES ON NO FLY LIST.—The Assistant Secretary, in coordination with the Terrorist Screening Center, shall include on the No Fly List any individual who was a detainee held at the Naval Station, Guantanamo Bay, Cuba, unless the President certifies in writing to Congress that the detainee poses no threat to the United States, its citizens, or its allies. For purposes of this clause, the term “detainee” means an individual in the custody or under the physical control of the United States as a result of armed conflict.

(D) SCREENING OF EMPLOYEES AGAINST WATCHLIST.—The Assistant Secretary of Homeland Security (Transportation Security Administration), in coordination with the Secretary of Transportation and the Administrator of the Federal Aviation Administration, shall ensure that individuals are screened against all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government before—

(i) being certificated by the Federal Aviation Administration;

(ii) being granted unescorted access to the secure area of an airport; or

(iii) being granted unescorted access to the air operations area (as defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section) of an airport.

(E) AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING.—

(i) IN GENERAL.—Not later than 90 days after the date on which the Assistant Secretary assumes the performance of the advanced passenger prescreening function under subparagraph (C)(ii), the Assistant Secretary shall establish a process by which operators of aircraft to be used in charter air transportation with a maximum takeoff weight greater than 12,500 pounds and lessors of aircraft with a maximum takeoff weight greater than 12,500 pounds may—

(I) request the Department of Homeland Security to use the advanced passenger prescreening system to compare information about any individual seeking to charter an aircraft with a maximum takeoff weight greater than 12,500 pounds, any passenger proposed to be transported aboard such aircraft, and any individual seeking to lease an aircraft with a maximum takeoff weight greater than 12,500 pounds to the automatic selectee and no fly lists, utilizing all appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government; and

(II) refuse to charter or lease an aircraft with a maximum takeoff weight greater than 12,500 pounds to or transport aboard such aircraft any persons identified on such watch list.

(ii) REQUIREMENTS.—The requirements of subparagraph (C)(iii) shall apply to this subparagraph.

(iii) NO FLY AND AUTOMATIC SELECTEE LISTS.—The Secretary of Homeland Security, in consultation with the Terrorist Screening Center, shall design and review, as necessary, guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the no fly and automatic selectee lists.

(F) APPLICABILITY.—Section 607 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 44903 note; 117 Stat. 2568) shall not apply to the advanced passenger prescreening system established under subparagraph (C).

(G) APPEAL PROCEDURES.—

(i) IN GENERAL.—The Assistant Secretary shall establish a timely and fair process for individuals identified as a threat under one or more of subparagraphs (C), (D), and (E) to appeal to the Transportation Security Administration the determination and correct any erroneous information.

(ii) RECORDS.—The process shall include the establishment of a method by which the Assistant Secretary will be able to maintain a record of air passengers and

other individuals who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers and other individuals, the Transportation Security Administration record shall contain information determined by the Assistant Secretary to authenticate the identity of such a passenger or individual.

(H) DEFINITION.—In this paragraph, the term “secure area of an airport” means the sterile area and the Secure Identification Display Area of an airport (as such terms are defined in section 1540.5 of title 49, Code of Federal Regulations, or any successor regulation to such section).

(k) LIMITATION ON LIABILITY FOR ACTS TO THWART CRIMINAL VIOLENCE OR AIRCRAFT PIRACY.—An individual shall not be liable for damages in any action brought in a Federal or State court arising out of the acts of the individual in attempting to thwart an act of criminal violence or piracy on an aircraft if that individual reasonably believed that such an act of criminal violence or piracy was occurring or was about to occur.

(l) AIR CHARTER PROGRAM.—

(1) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall implement an aviation security program for charter air carriers (as defined in section 40102(a)) with a maximum certificated takeoff weight of more than 12,500 pounds.

(2) EXEMPTION FOR ARMED FORCES CHARTERS.—

(A) IN GENERAL.—Paragraph (1) and the other requirements of this chapter do not apply to passengers and property carried by aircraft when employed to provide charter transportation to members of the armed forces.

(B) SECURITY PROCEDURES.—The Secretary of Defense, in consultation with the Secretary of Homeland Security and the Secretary of Transportation, shall establish security procedures relating to the operation of aircraft when employed to provide charter transportation to members of the armed forces to or from an airport described in section 44903(c).

(C) ARMED FORCES DEFINED.—In this paragraph, the term “armed forces” has the meaning given that term by section 101(a)(4) of title 10.

(m) SECURITY SCREENING FOR MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Department of Defense, shall develop and implement a plan to provide expedited security screening services for a member of the armed forces, and, to the extent possible, any accompanying family member, if the member of the armed forces, while in uniform, presents documentation indicating official orders for air transportation departing from a primary airport (as defined in section 47102).

(2) PROTOCOLS.—In developing the plan, the Assistant Secretary shall consider—

(A) leveraging existing security screening models used to reduce passenger wait times;

(B) establishing standard guidelines for the screening of military uniform items, including combat boots; and

(C) incorporating any new screening protocols into an existing trusted passenger program, as established pursuant to section 109(a)(3) of the Aviation and Transportation Security Act (49 U.S.C. 114 note), or into the development of any new credential or system that incorporates biometric technology and other applicable technologies to verify the identity of individuals traveling in air transportation.

(3) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall affect the authority of the Assistant Secretary to require additional screening of a member of the armed forces if intelligence or law enforcement information indicates that additional screening is necessary.

(4) **REPORT TO CONGRESS.**—The Assistant Secretary shall submit to the appropriate committees of Congress a report on the implementation of the plan.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1205; Pub. L. 106–181, title VII, §717, Apr. 5, 2000, 114 Stat. 163; Pub. L. 106–528, §§4, 6, Nov. 22, 2000, 114 Stat. 2520, 2521; Pub. L. 107–71, title I, §§101(f)(7)–(9), 106(a), (c), (d), 120, 126(b), 136, 144, Nov. 19, 2001, 115 Stat. 603, 608–610, 629, 632, 636, 644; Pub. L. 107–296, title XIV, §§1405, 1406, Nov. 25, 2002, 116 Stat. 2307; Pub. L. 108–176, title VI, §606(a), Dec. 12, 2003, 117 Stat. 2568; Pub. L. 108–458, title IV, §§4011(a), 4012(a)(1), Dec. 17, 2004, 118 Stat. 3712, 3714; Pub. L. 110–53, title XVI, §1615(a), Aug. 3, 2007, 121 Stat. 486; Pub. L. 111–83, title V, §553, Oct. 28, 2009, 123 Stat. 2179; Pub. L. 112–86, §2(a), Jan. 3, 2012, 125 Stat. 1874.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44903(a) .....	49 App.:1357(f).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(a), (b), (e)(2), (3), (f); added Aug. 5, 1974, Pub. L. 93–366, §202, 88 Stat. 415, 417.
44903(b) .....	49 App.:1357(a).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §316(g); added Aug. 15, 1990, Pub. L. 101–370, §2, 104 Stat. 451.
44903(c)(1) ..	49 App.:1357(b).	
44903(c)(2) ..	49 App.:1357(g).	
44903(d) .....	49 App.:1356b.	Aug. 8, 1985, Pub. L. 99–83, §553(b), 99 Stat. 226.
44903(e) .....	49 App.:1357(e)(2), (3).	

In this section, the word “passengers” is substituted for “persons” for consistency in the revised title.

In subsection (a)(2), the words “the degree of” are substituted for “such” for clarity.

In subsection (b), before clause (1), the word “rules” is omitted as being synonymous with “regulations”. The words “such reasonable . . . requiring such practices, methods, and procedures, or governing the design, materials, and construction of aircraft, as he may deem necessary” are omitted as surplus. The word “air” after “intrastate” is added for clarity and consistency. The words “and amending” are omitted as surplus. In clause (1), the words “the heads of other departments, agencies, and instrumentalities of the United States Government, and State and local authorities” are substituted for “such other Federal, State, and local agencies” for consistency in the revised title and with other titles of the United States

Code. The words “as he may deem appropriate” are omitted as surplus. In clause (2)(A), the words “in air transportation or intrastate air transportation against acts of criminal violence and aircraft piracy” are omitted as surplus. In clause (3), before subclause (A), the words “inspection” and “in air transportation and intrastate air transportation” are omitted as surplus. In subclause (B), the words “that they will receive” and “any air transportation security program established under” are omitted as surplus. In clause (4), the words “contribute to . . . the purposes of” are omitted as surplus.

In subsection (c)(1), the words “traveling in air transportation or intrastate air transportation from acts of criminal violence and aircraft piracy” and “whose services are made available by their employers” are omitted as surplus. The words “department, agency, or instrumentality of the Government” are substituted for “Federal department or agency” for consistency in the revised title and with other titles of the Code. The word “When” is substituted for “In any case in which” to eliminate unnecessary words. The words “receipt of”, “by order”, “the services of”, “directly”, and “at the airport concerned in such numbers and for such period of time as the Administrator may deem necessary” are omitted as surplus. The words “When deciding whether additional personnel are needed” are substituted for “In making the determination referred to in the preceding sentence” for clarity.

In subsection (c)(2)(A), before clause (i), the words “under this section” are omitted as surplus. The words “or an amendment in an existing program” are substituted for “and may approve an amendment to a security program of an airport operator approved by the Administrator under subsection (b)” to eliminate unnecessary words. In clause (ii), the word “monetary” is substituted for “financial” for consistency.

In subsection (e), the words “Notwithstanding any other provisions of law”, “the commission of”, “considered”, and “the moment when” before “such door” are omitted as surplus. The words “to allow passengers to leave” are substituted for “disembarkation”, and the words “the aircraft” are added, for clarity. The words “departments, agencies, and instrumentalities of the Government” are substituted for “Federal departments and agencies” for consistency in the revised title and with other titles of the Code. The words “as may be . . . the purposes of” are omitted as surplus.

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (f), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The date of enactment of this subsection, referred to in subsec. (h)(4)(A), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

The date of enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, referred to in subsec. (h)(6)(A), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

The date of enactment of this paragraph, referred to in subsec. (i)(3), is the date of enactment of Pub. L. 107–296, which was approved Nov. 25, 2002.

The date of enactment of the Aviation and Transportation Security Act, referred to in subsec. (j)(1), is the date of enactment of Pub. L. 107–71, which was approved Nov. 19, 2001.

The date of enactment of this Act, referred to in subsec. (j)(1), probably means the date of enactment of Pub. L. 107–71, which enacted subsec. (j), originally (i), of this section and which was approved Nov. 19, 2001.

Section 607 of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsec. (j)(2)(F), is section 607 of Pub. L. 108–176, which is set out as a note below.

AMENDMENTS

2012—Subsec. (m). Pub. L. 112–86 added subsec. (m).



2009—Subsec. (j)(2)(C)(v). Pub. L. 111-83 added cl. (v).

2007—Subsec. (h)(6). Pub. L. 110-53 amended par. (6) generally. Prior to amendment, par. (6) related to establishment of a uniform law enforcement officer travel credential incorporating biometric identifier technology not later than 120 days after Dec. 17, 2004.

2004—Subsec. (h)(4)(E). Pub. L. 108-458, §4011(a)(1), substituted “shall issue, not later than March 31, 2005, guidance for” for “may provide for”.

Subsec. (h)(5) to (7). Pub. L. 108-458, §4011(a)(2), added pars. (5) to (7).

Subsec. (j)(2)(C) to (H). Pub. L. 108-458, §4012(a)(1), added subpars. (C) to (H).

2003—Subsec. (l). Pub. L. 108-176 added subsec. (l).

2002—Subsec. (h). Pub. L. 107-296, §1406(3), redesignated subsec. (h), relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as (k).

Pub. L. 107-296, §1406(2), redesignated subsec. (h), relating to authority to arm flight deck crews with less-than-lethal weapons, as (i).

Subsec. (i). Pub. L. 107-296, §1406(2), redesignated subsec. (h), relating to authority to arm flight deck crews with less-than-lethal weapons, as (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 107-296, §1405(b)(1), substituted “If the Under Secretary” for “If the Secretary” and “the Under Secretary may” for “the Secretary may”.

Subsec. (i)(2). Pub. L. 107-296, §1405(b)(2), substituted “Under Secretary” for “Secretary” in two places in introductory provisions.

Subsec. (i)(3). Pub. L. 107-296, §1405(a), added par. (3).

Subsec. (j). Pub. L. 107-296, §1406(1), redesignated subsec. (i) as (j).

Subsec. (k). Pub. L. 107-296, §1406(3), redesignated subsec. (h), relating to limitation on liability for acts to thwart criminal violence or aircraft piracy, as (k).

2001—Subsec. (a)(2). Pub. L. 107-71, §101(f)(7), (9), substituted “Under Secretary of Transportation for Security” for “Administrator of the Federal Aviation Administration”.

Subsec. (b). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in two places in introductory provisions.

Subsec. (c)(1), (2)(A), (B). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” wherever appearing.

Subsec. (c)(2)(C). Pub. L. 107-71, §120, amended heading and text of subpar. (C) generally, substituting provisions relating to maximum use of chemical and biological weapon detection equipment for provisions relating to a manual process at explosive detection locations for randomly selecting additional checked bags for screening.

Subsec. (c)(3). Pub. L. 107-71, §106(d), added par. (3).

Subsecs. (e), (f), (g)(1)(A), (B). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” wherever appearing.

Subsec. (g)(2). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in introductory provisions.

Subsec. (g)(2)(A). Pub. L. 107-71, §106(c)(1), substituted “weaknesses;” for “weaknesses by January 31, 2001;”.

Subsec. (g)(2)(D). Pub. L. 107-71, §106(c)(2), added subpar. (D) and struck out former subpar. (D) which read as follows: “assess and test for compliance with access control requirements, report findings, and assess penalties or take other appropriate enforcement actions when noncompliance is found;”.

Subsec. (g)(2)(C). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsec. (g)(2)(E). Pub. L. 107-71, §101(f)(8), substituted “Under Secretary’s” for “Administrator’s”.

Subsec. (g)(2)(F). Pub. L. 107-71, §§101(f)(8), 106(c)(3), substituted “Under Secretary’s” for “Administrator’s” and “program;” for “program by January 31, 2001;”.

Subsec. (g)(2)(G). Pub. L. 107-71, §106(c)(4), added subpar. (G) and struck out former subpar. (G) which read as follows: “require airport operators and air carriers to strengthen access control points in secured areas

(including air traffic control operations areas) to ensure the security of passengers and aircraft by January 31, 2001.”

Subsec. (h). Pub. L. 107-71, §144, which directed that subsec. (h) relating to limitation on liability for acts to thwart criminal violence or aircraft piracy be added at end of section 44903, without specifying the Code title to be amended, was executed by making the addition at the end of this section, to reflect the probable intent of Congress.

Pub. L. 107-71, §126(b), added subsec. (h) relating to authority to arm flight deck crews with less-than-lethal weapons.

Pub. L. 107-71, §106(a), added subsec. (h) relating to improved airport perimeter access security.

Subsec. (i). Pub. L. 107-71, §136, added subsec. (i).

2000—Subsec. (c)(2)(C). Pub. L. 106-528, §6, added subpar. (C).

Subsec. (f). Pub. L. 106-181 added subsec. (f).

Subsec. (g). Pub. L. 106-528, §4, added subsec. (g).

#### EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-86, §2(b), Jan. 3, 2012, 125 Stat. 1875, provided that: “Not later than 180 days after the date of enactment of this Act [Jan. 3, 2012], the Assistant Secretary shall implement the plan required by this Act [amending this section and enacting provisions set out as a note under section 40101 of this title].”

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

#### EFFECTIVE DATE OF 2000 AMENDMENTS

Amendment by Pub. L. 106-528 effective 30 days after Nov. 22, 2000, see section 9 of Pub. L. 106-528, set out as a note under section 106 of this title.

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

#### 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.

#### STRATEGIC PLAN TO TEST AND IMPLEMENT ADVANCED PASSENGER PRESCREENING SYSTEM

Pub. L. 110-53, title XVI, §1605, Aug. 3, 2007, 121 Stat. 481, provided that:

“(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act [Aug. 3, 2007], the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate a plan that—

“(1) describes the system to be utilized by the Department of Homeland Security to assume the per-

formance of comparing passenger information, as defined by the Administrator, to the automatic selectee and no-fly lists, utilizing appropriate records in the consolidated and integrated terrorist watchlist maintained by the Federal Government;

“(2) provides a projected timeline for each phase of testing and implementation of the system;

“(3) explains how the system will be integrated with the prescreening system for passengers on international flights; and

“(4) describes how the system complies with section 552a of title 5, United States Code.

“(b) GAO ASSESSMENT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives that—

“(1) describes the progress made by the Transportation Security Administration in implementing the secure flight passenger pre-screening program;

“(2) describes the effectiveness of the current appeals process for passengers wrongly assigned to the no-fly and terrorist watch lists;

“(3) describes the Transportation Security Administration’s plan to protect private passenger information and progress made in integrating the system with the pre-screening program for international flights operated by United States Customs and Border Protection;

“(4) provides a realistic determination of when the system will be completed; and

“(5) includes any other relevant observations or recommendations the Comptroller General deems appropriate.”

#### PILOT PROJECT TO TEST DIFFERENT TECHNOLOGIES AT AIRPORT EXIT LANES

Pub. L. 110–53, title XVI, §1613, Aug. 3, 2007, 121 Stat. 485, provided that:

“(a) IN GENERAL.—The Administrator of the Transportation Security Administration shall conduct a pilot program at not more than 2 airports to identify technologies to improve security at airport exit lanes.

“(b) PROGRAM COMPONENTS.—In conducting the pilot program under this section, the Administrator shall—

“(1) utilize different technologies that protect the integrity of the airport exit lanes from unauthorized entry;

“(2) work with airport officials to deploy such technologies in multiple configurations at a selected airport or airports at which some of the exits are not collocated with a screening checkpoint; and

“(3) ensure the level of security is at or above the level of existing security at the airport or airports where the pilot program is conducted.

“(c) REPORTS.—

“(1) INITIAL BRIEFING.—Not later than 180 days after the date of enactment of this Act [Aug. 3, 2007], the Administrator shall conduct a briefing to the congressional committees set forth in paragraph (3) that describes—

“(A) the airport or airports selected to participate in the pilot program;

“(B) the technologies to be tested;

“(C) the potential savings from implementing the technologies at selected airport exits;

“(D) the types of configurations expected to be deployed at such airports; and

“(E) the expected financial contribution from each airport.

“(2) FINAL REPORT.—Not later than 18 months after the technologies are deployed at the airports participating in the pilot program, the Administrator shall submit a final report to the congressional committees set forth in paragraph (3) that describes—

“(A) the changes in security procedures and technologies deployed;

“(B) the estimated cost savings at the airport or airports that participated in the pilot program; and

“(C) the efficacy and staffing benefits of the pilot program and its applicability to other airports in the United States.

“(3) CONGRESSIONAL COMMITTEES.—The reports required under this subsection shall be submitted to—

“(A) the Committee on Commerce, Science, and Transportation of the Senate;

“(B) the Committee on Appropriations of the Senate;

“(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

“(D) the Committee on Homeland Security of the House of Representatives; and

“(E) the Committee on Appropriations of the House of Representatives.

“(d) USE OF EXISTING FUNDS.—This section shall be executed using existing funds.”

#### SECURITY CREDENTIALS FOR AIRLINE CREWS

Pub. L. 110–53, title XVI, §1614, Aug. 3, 2007, 121 Stat. 486, provided that:

“(a) REPORT.—Not later than 180 days after the date of enactment of this Act [Aug. 3, 2007], the Administrator of the Transportation Security Administration, after consultation with airline, airport, and flight crew representatives, shall submit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Administration’s efforts to institute a sterile area access system or method that will enhance security by properly identifying authorized airline flight deck and cabin crew members at screening checkpoints and granting them expedited access through screening checkpoints. The Administrator shall include in the report recommendations on the feasibility of implementing the system for the domestic aviation industry beginning 1 year after the date on which the report is submitted.

“(b) BEGINNING IMPLEMENTATION.—The Administrator shall begin implementation of the system or method referred to in subsection (a) not later than 1 year after the date on which the Administrator submits the report under subsection (a).”

#### CAPPS2

Pub. L. 108–176, title VI, §607, Dec. 12, 2003, 117 Stat. 2568, provided that:

“(a) IN GENERAL.—The Under Secretary for Border and Transportation Security of the Department of Homeland Security shall not implement, on other than a test basis, the computer assisted passenger prescreening system (commonly known as and in this section referred to as ‘CAPPS2’) until the Under Secretary provides to Congress a certification that—

“(1) a procedure is established enabling airline passengers, who are delayed or prohibited from boarding a flight because CAPPS2 determined that they might pose a security threat, to appeal such determination and correct information contained in CAPPS2;

“(2) the error rate of the Government and private data bases that will be used to both establish identity and assign a risk level to a passenger under CAPPS2 will not produce a large number of false positives that will result in a significant number of passengers being mistaken as a security threat;

“(3) the Under Secretary has demonstrated the efficacy and accuracy of all search tools in CAPPS2 and has demonstrated that CAPPS2 can make an accurate predictive assessment of those passengers who would constitute a security threat;

“(4) the Secretary of Homeland Security has established an internal oversight board to oversee and monitor the manner in which CAPPS2 is being implemented;

“(5) the Under Secretary has built in sufficient operational safeguards to reduce the opportunities for abuse;

“(6) substantial security measures are in place to protect CAPPS2 from unauthorized access by hackers or other intruders;

“(7) the Under Secretary has adopted policies establishing effective oversight of the use and operation of the system; and

“(8) there are no specific privacy concerns with the technological architecture of the system.

“(b) GAO REPORT.—Not later than 90 days after the date on which certification is provided under subsection (a), the Comptroller General shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate that assesses the impact of CAPPS2 on the issues listed in subsection (a) and on privacy and civil liberties. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effect of CAPPS2 on privacy, discrimination, and other civil liberties.”

#### REIMBURSEMENT OF AIR CARRIERS FOR CERTAIN SCREENING AND RELATED ACTIVITIES

Pub. L. 108-176, title VIII, §821, Dec. 12, 2003, 117 Stat. 2594, provided that: “The Secretary of Homeland Security, subject to the availability of funds (other than amounts in the Aviation Trust Fund) provided for this purpose, shall reimburse air carriers and airports for—

“(1) the screening of catering supplies; and

“(2) checking documents at security checkpoints.”

#### IMPROVED FLIGHT DECK INTEGRITY MEASURES

Pub. L. 107-71, title I, §104, Nov. 19, 2001, 115 Stat. 605, provided that:

“(a) IN GENERAL.—As soon as possible after the date of enactment of this Act [Nov. 19, 2001], the Administrator of the Federal Aviation Administration shall—

“(1) issue an order (without regard to the provisions of chapter 5 of title 5, United States Code)—

“(A) prohibiting access to the flight deck of aircraft engaged in passenger air transportation or intrastate air transportation that are required to have a door between the passenger and pilot compartments under title 14, Code of Federal Regulations, except to authorized persons;

“(B) requiring the strengthening of the flight deck door and locks on any such aircraft operating in air transportation or intrastate air transportation that has a rigid door in a bulkhead between the flight deck and the passenger area to ensure that the door cannot be forced open from the passenger compartment;

“(C) requiring that such flight deck doors remain locked while any such aircraft is in flight except when necessary to permit access and egress by authorized persons; and

“(D) prohibiting the possession of a key to any such flight deck door by any member of the flight crew who is not assigned to the flight deck; and

“(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the aircraft.

“(b) IMPLEMENTATION OF OTHER METHODS.—As soon as possible after such date of enactment [Nov. 19, 2001], the Administrator of the Federal Aviation Administration may develop and implement methods—

“(1) to use video monitors or other devices to alert pilots in the flight deck to activity in the cabin, except that the use of such monitors or devices shall be subject to nondisclosure requirements applicable to cockpit video recordings under section 1114(c) [of title 49];

“(2) to ensure continuous operation of an aircraft transponder in the event of an emergency; and

“(3) to revise the procedures by which cabin crews of aircraft can notify flight deck crews of security

breaches and other emergencies, including providing for the installation of switches or other devices or methods in an aircraft cabin to enable flight crews to discreetly notify the pilots in the case of a security breach occurring in the cabin.

“(c) COMMUTER AIRCRAFT.—The Administrator shall investigate means of securing the flight deck of scheduled passenger aircraft operating in air transportation or intrastate air transportation that do not have a rigid fixed door with a lock between the passenger compartment and the flight deck and issue such an order as the Administrator deems appropriate to ensure the inaccessibility, to the greatest extent feasible, of the flight deck while the aircraft is so operating, taking into consideration such aircraft operating in regions where there is minimal threat to aviation security or national security.”

#### SMALL AND MEDIUM AIRPORTS

Pub. L. 107-71, title I, §106(b), Nov. 19, 2001, 115 Stat. 609, provided that:

“(1) TECHNICAL SUPPORT AND FINANCIAL ASSISTANCE.—The Under Secretary of Transportation for Security shall develop a plan to—

“(A) provide technical support to airports, each of which had less than 1 percent of the total annual enplanements in the United States for the most recent calendar year for which data is available, to enhance security operations; and

“(B) provide financial assistance to those airports to defray the costs of enhancing security.

“(2) REMOVAL OF CERTAIN RESTRICTIONS.—

“(A) CERTIFICATION BY OPERATOR.—If the operator of an airport described in paragraph (1), after consultation with the appropriate State and local law enforcement authorities, determines that safeguards are in place to sufficiently protect public safety, and so certifies in writing to the Under Secretary, then any security rule, order, or other directive restricting the parking of passenger vehicles shall not apply at that airport after the applicable time period specified in subparagraph (B), unless the Under Secretary, taking into account individual airport circumstances, notifies the airport operator that the safeguards in place do not adequately respond to specific security risks and that the restriction must be continued in order to ensure public safety.

“(B) COUNTERMAND PERIOD.—The time period within which the Secretary may notify an airport operator, after receiving a certification under subparagraph (A), that a restriction must be continued in order to ensure public safety at the airport is—

“(i) 15 days for a nonhub airport (as defined in section 41714(h) of title 49, United States Code);

“(ii) 30 days for a small hub airport (as defined in such section);

“(iii) 60 days for a medium hub airport (as defined in such section); and

“(iv) 120 days for an airport that had at least 1 percent of the total annual enplanements in the United States for the most recent calendar year for which data is available.”

#### AIRPORT SECURITY AWARENESS PROGRAMS

Pub. L. 107-71, title I, §106(e), Nov. 19, 2001, 115 Stat. 610, provided that: “The Under Secretary of Transportation for Security shall require scheduled passenger air carriers, and airports in the United States described in section 44903(c) [of title 49] to develop security awareness programs for airport employees, ground crews, gate, ticket, and curbside agents of the air carriers, and other individuals employed at such airports.”

#### AIRLINE COMPUTER RESERVATION SYSTEMS

Pub. L. 107-71, title I, §117, Nov. 19, 2001, 115 Stat. 624, provided that: “In order to ensure that all airline computer reservation systems maintained by United States air carriers are secure from unauthorized access by persons seeking information on reservations, passenger

manifests, or other nonpublic information, the Secretary of Transportation shall require all such air carriers to utilize to the maximum extent practicable the best technology available to secure their computer reservation system against such unauthorized access.”

AUTHORIZATION OF FUNDS FOR REIMBURSEMENT OF  
AIRPORTS FOR SECURITY MANDATES

Pub. L. 107-71, title I, §121, Nov. 19, 2001, 115 Stat. 630, provided that:

“(a) AIRPORT SECURITY.—There is authorized to be appropriated to the Secretary of Transportation for fiscal years 2002 and 2003 a total of \$1,500,000,000 to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs incurred by such operators to comply with new, additional, or revised security requirements imposed on such operators by the Federal Aviation Administration or Transportation Security Administration on or after September 11, 2001. Such sums shall remain available until expended.

“(b) DOCUMENTATION OF COSTS; AUDIT.—The Secretary may not reimburse an airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers under this section for any cost for which the airport operator, on-airport parking lot, or vendor of on-airfield direct services does not demonstrate to the satisfaction of the Secretary, using sworn financial statements or other appropriate data, that—

“(1) the cost is eligible for reimbursement under subsection (a); and

“(2) the cost was incurred by the airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers.

The Inspector General of the Department of Transportation and the Comptroller General of the United States may audit such statements and may request any other information necessary to conduct such an audit.

“(c) CLAIM PROCEDURE.—Within 30 days after the date of enactment of this Act [Nov. 19, 2001], the Secretary, after consultation with airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers, shall publish in the Federal Register the procedures for filing claims for reimbursement under this section of eligible costs incurred by airport operators.”

FLIGHT DECK SECURITY

Pub. L. 107-71, title I, §128, Nov. 19, 2001, 115 Stat. 633, which authorized the pilot of a passenger aircraft to carry a firearm into the cockpit if approved by the Under Secretary of Transportation for Security and the air carrier, if the firearm is approved by the Under Secretary, and if the pilot has received proper training, was repealed by Pub. L. 107-296, title XIV, §1402(b)(2), Nov. 25, 2002, 116 Stat. 2305.

CHARTER AIR CARRIERS

Pub. L. 107-71, title I, §132(a), Nov. 19, 2001, 115 Stat. 635, which provided that within 90 days after Nov. 19, 2001, the Under Secretary of Transportation for Security was to implement an aviation security program for charter air carriers with a maximum certificated take-off weight of 12,500 pounds or more, was repealed by Pub. L. 108-176, title VI, §606(b), Dec. 12, 2003, 117 Stat. 2568.

PHYSICAL SECURITY FOR ATC FACILITIES

Pub. L. 106-528, §5, Nov. 22, 2000, 114 Stat. 2521, provided that:

“(a) IN GENERAL.—In order to ensure physical security at Federal Aviation Administration staffed facilities that house air traffic control systems, the Administrator of the Federal Aviation Administration shall act immediately to—

“(1) correct physical security weaknesses at air traffic control facilities so the facilities can be granted physical security accreditation not later than April 30, 2004; and

“(2) ensure that follow-up inspections are conducted, deficiencies are promptly corrected, and accreditation is kept current for all air traffic control facilities.

“(b) REPORTS.—Not later than April 30, 2001, and annually thereafter through April 30, 2004, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress being made in improving the physical security of air traffic control facilities, including the percentage of such facilities that have been granted physical security accreditation.”

DEPUTIZING OF STATE AND LOCAL LAW ENFORCEMENT  
OFFICERS

Pub. L. 106-181, title V, §512, Apr. 5, 2000, 114 Stat. 142, provided that:

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) AIRCRAFT.—The term ‘aircraft’ has the meaning given that term in section 40102 of title 49, United States Code.

“(2) AIR TRANSPORTATION.—The term ‘air transportation’ has the meaning given that term in such section.

“(3) PROGRAM.—The term ‘program’ means the program established under subsection (b)(1)(A).

“(b) ESTABLISHMENT OF A PROGRAM TO DEPUTIZE LOCAL LAW ENFORCEMENT OFFICERS.—

“(1) IN GENERAL.—The Attorney General may—

“(A) establish a program under which the Attorney General may deputize State and local law enforcement officers having jurisdiction over airports and airport authorities as Deputy United States Marshals for the limited purpose of enforcing Federal laws that regulate security on board aircraft, including laws relating to violent, abusive, or disruptive behavior by passengers in air transportation; and

“(B) encourage the participation of law enforcement officers of State and local governments in the program.

“(2) CONSULTATION.—In establishing the program, the Attorney General shall consult with appropriate officials of—

“(A) the United States Government (including the Administrator [of the Federal Aviation Administration] or a designated representative of the Administrator); and

“(B) State and local governments in any geographic area in which the program may operate.

“(3) TRAINING AND BACKGROUND OF LAW ENFORCEMENT OFFICERS.—

“(A) IN GENERAL.—Under the program, to qualify to serve as a Deputy United States Marshal under the program, a State or local law enforcement officer shall—

“(i) meet the minimum background and training requirements for a law enforcement officer under part 107 of title 14, Code of Federal Regulations (or equivalent requirements established by the Attorney General); and

“(ii) receive approval to participate in the program from the State or local law enforcement agency that is the employer of that law enforcement officer.

“(B) TRAINING NOT FEDERAL RESPONSIBILITY.—The United States Government shall not be responsible for providing to a State or local law enforcement officer the training required to meet the training requirements under subparagraph (A)(i). Nothing in this subsection may be construed to grant any such law enforcement officer the right to attend any institution of the United States Government established to provide training to law enforcement officers of the United States Government.

“(c) POWERS AND STATUS OF DEPUTIZED LAW ENFORCEMENT OFFICERS.—

“(1) IN GENERAL.—Subject to paragraph (2), a State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program may arrest and apprehend an individual suspected of violating any Federal law described in subsection (b)(1)(A), including any individual who violates a provision subject to a civil penalty under section 46301 of title 49, United States Code, or section 46302, 46303, 46318, 46504, 46505, or 46507 of that title, or who commits an act described in section 46506 of that title.

“(2) LIMITATION.—The powers granted to a State or local law enforcement officer deputized under the program shall be limited to enforcing Federal laws relating to security on board aircraft in flight.

“(3) STATUS.—A State or local law enforcement officer that is deputized as a Deputy United States Marshal under the program shall not—

“(A) be considered to be an employee of the United States Government; or

“(B) receive compensation from the United States Government by reason of service as a Deputy United States Marshal under the program.

“(d) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to—

“(1) grant a State or local law enforcement officer that is deputized under the program the power to enforce any Federal law that is not described in subsection (c); or

“(2) limit the authority that a State or local law enforcement officer may otherwise exercise in the officer's capacity under any other applicable State or Federal law.

“(e) REGULATIONS.—The Attorney General may promulgate such regulations as may be necessary to carry out this section.

“(f) NOTIFICATION OF CONGRESS.—Not later than 90 days after the date of the enactment of this Act [Apr. 5, 2000], the Attorney General shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on whether or not the Attorney General intends to establish the program authorized by this section.”

#### DEVELOPMENT OF AVIATION SECURITY LIAISON AGREEMENT

Pub. L. 104-264, title III, §309, Oct. 9, 1996, 110 Stat. 3253, provided that: “The Secretary of Transportation and the Attorney General, acting through the Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation, shall enter into an interagency agreement providing for the establishment of an aviation security liaison at existing appropriate Federal agencies' field offices in or near cities served by a designated high-risk airport.”

#### DEFINITIONS OF TERMS IN PUB. L. 107-71

For definitions of terms used in sections 104, 106(b), (e), 117, 121, 128, and 132(a) of Pub. L. 107-71, set out above, see section 133 of Pub. L. 107-71, set out as a note under section 40102 of this title.

### § 44904. Domestic air transportation system security

(a) ASSESSING THREATS.—The Under Secretary of Transportation for Security and the Director of the Federal Bureau of Investigation jointly shall assess current and potential threats to the domestic air transportation system. The assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against that system and the ways in which those individuals might carry out those acts. The Under Secretary and the Director jointly shall decide on and carry out the most effective method for continuous analysis

and monitoring of security threats to that system.

(b) ASSESSING SECURITY.—In coordination with the Director, the Under Secretary shall carry out periodic threat and vulnerability assessments on security at each airport that is part of the domestic air transportation system. Each assessment shall include consideration of—

(1) the adequacy of security procedures related to the handling and transportation of checked baggage and cargo;

(2) space requirements for security personnel and equipment;

(3) separation of screened and unscreened passengers, baggage, and cargo;

(4) separation of the controlled and uncontrolled areas of airport facilities; and

(5) coordination of the activities of security personnel of the Transportation Security Administration, the United States Customs Service, the Immigration and Naturalization Service, and air carriers, and of other law enforcement personnel.

(c) MODAL SECURITY PLAN FOR AVIATION.—In addition to the requirements set forth in subparagraphs (B) through (F) of section 114(t)(3),<sup>1</sup> the modal security plan for aviation prepared under section 114(t)<sup>1</sup> shall—

(1) establish a damage mitigation and recovery plan for the aviation system in the event of a terrorist attack; and

(2) include a threat matrix document that outlines each threat to the United States civil aviation system and the corresponding layers of security in place to address such threat.

(d) OPERATIONAL CRITERIA.—Not later than 90 days after the date of the submission of the National Strategy for Transportation Security under section 114(t)(4)(A),<sup>1</sup> the Assistant Secretary of Homeland Security (Transportation Security Administration) shall issue operational criteria to protect airport infrastructure and operations against the threats identified in the plans prepared under section 114(t)(1)<sup>1</sup> and shall approve best practices guidelines for airport assets.

(e) IMPROVING SECURITY.—The Under Secretary shall take necessary actions to improve domestic air transportation security by correcting any deficiencies in that security discovered in the assessments, analyses, and monitoring carried out under this section.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1207; Pub. L. 107-71, title I, §101(f)(1), (7), (9), Nov. 19, 2001, 115 Stat. 603; Pub. L. 108-458, title IV, §4001(b), Dec. 17, 2004, 118 Stat. 3712.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44904(a) .....	49 App..1357 (note).	Nov. 16, 1990, Pub. L. 101-604, §106(a), (b), 104 Stat. 3075.
44904(b) .....	49 App..1357 (note).	Nov. 16, 1990, Pub. L. 101-604, §106(c), 104 Stat. 3075.
44904(c) .....	49 App..1357 (note).	Nov. 16, 1990, Pub. L. 101-604, §106(e), 104 Stat. 3075.

In subsection (a), the words “domestic air transportation system” are substituted for “domestic aviation system” for consistency in this section.

<sup>1</sup> See References in Text note below.

In subsection (b), before clause (1), the word “Director” is substituted for “Federal Bureau of Investigation” because of 28:532. In clauses (1) and (3), the word “mail” is omitted as being included in “cargo”.

In subsection (c), the word “correcting” is substituted for “remedying” for clarity.

#### REFERENCES IN TEXT

Section 114(t), referred to in subsecs. (c) and (d), was redesignated section 114(s) by Pub. L. 110-161, div. E, title V, §568(a), Dec. 26, 2007, 121 Stat. 2092.

#### AMENDMENTS

2004—Subsecs. (c) to (e). Pub. L. 108-458 added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

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

Subsec. (b). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in introductory provisions.

Subsec. (b)(5). Pub. L. 107-71, §101(f)(1), substituted “the Transportation Security Administration” for “the Administration”.

Subsec. (c). 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.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 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.

#### ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

#### REGULAR JOINT THREAT ASSESSMENTS

Pub. L. 104-264, title III, §310, Oct. 9, 1996, 110 Stat. 3253, provided that: “The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall carry out joint threat and vulnerability assessments on security every 3 years, or more frequently, as necessary, at each airport determined to be high risk.”

#### § 44905. Information about threats to civil aviation

(a) PROVIDING INFORMATION.—Under guidelines the Secretary of Transportation prescribes, an air carrier, airport operator, ticket agent, or individual employed by an air carrier, airport operator, or ticket agent, receiving information (except a communication directed by the United States Government) about a threat to civil aviation shall provide the information promptly to the Secretary.

(b) FLIGHT CANCELLATION.—If a decision is made that a particular threat cannot be addressed in a way adequate to ensure, to the extent feasible, the safety of passengers and crew of a particular flight or series of flights, the Under Secretary of Transportation for Security shall cancel the flight or series of flights.

(c) GUIDELINES ON PUBLIC NOTICE.—(1) The President shall develop guidelines for ensuring that public notice is provided in appropriate cases about threats to civil aviation. The guidelines shall identify officials responsible for—

(A) deciding, on a case-by-case basis, if public notice of a threat is in the best interest of the United States and the traveling public;

(B) ensuring that public notice is provided in a timely and effective way, including the use of a toll-free telephone number; and

(C) canceling the departure of a flight or series of flights under subsection (b) of this section.

(2) The guidelines shall provide for consideration of—

(A) the specificity of the threat;

(B) the credibility of intelligence information related to the threat;

(C) the ability to counter the threat effectively;

(D) the protection of intelligence information sources and methods;

(E) cancellation, by an air carrier or the Under Secretary, of a flight or series of flights instead of public notice;

(F) the ability of passengers and crew to take steps to reduce the risk to their safety after receiving public notice of a threat; and

(G) other factors the Under Secretary considers appropriate.

(d) GUIDELINES ON NOTICE TO CREWS.—The Under Secretary shall develop guidelines for ensuring that notice in appropriate cases of threats to the security of an air carrier flight is provided to the flight crew and cabin crew of that flight.

(e) LIMITATION ON NOTICE TO SELECTIVE TRAVELERS.—Notice of a threat to civil aviation may be provided to selective potential travelers only if the threat applies only to those travelers.

(f) RESTRICTING ACCESS TO INFORMATION.—In cooperation with the departments, agencies, and instrumentalities of the Government that collect, receive, and analyze intelligence information related to aviation security, the Under Secretary shall develop procedures to minimize the number of individuals who have access to information about threats. However, a restriction on access to that information may be imposed only if the restriction does not diminish the ability of the Government to carry out its duties and powers related to aviation security effectively, including providing notice to the public and flight and cabin crews under this section.

(g) DISTRIBUTION OF GUIDELINES.—The guidelines developed under this section shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1207; 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>
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.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-277 inserted “and” at end of par. (1), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: “shall publish the advisory in the Federal Register; and”.

**§ 44909. Passenger manifests**

(a) AIR CARRIER REQUIREMENTS.—(1) Not later than March 16, 1991, the Secretary of Transportation shall require each air carrier to provide a passenger manifest for a flight to an appropriate representative of the Secretary of State—

(A) not later than one hour after that carrier is notified of an aviation disaster outside the United States involving that flight; or

(B) if it is not technologically feasible or reasonable to comply with clause (A) of this paragraph, then as expeditiously as possible, but not later than 3 hours after the carrier is so notified.

(2) The passenger manifest should include the following information:

(A) the full name of each passenger.

(B) the passport number of each passenger, if required for travel.

(C) the name and telephone number of a contact for each passenger.

(3) In carrying out this subsection, the Secretary of Transportation shall consider the necessity and feasibility of requiring air carriers to collect passenger manifest information as a condition for passengers boarding a flight of the carrier.

(b) FOREIGN AIR CARRIER REQUIREMENTS.—The Secretary of Transportation shall consider imposing a requirement on foreign air carriers comparable to that imposed on air carriers under subsection (a)(1) and (2) of this section.

(c) FLIGHTS IN FOREIGN AIR TRANSPORTATION TO THE UNITED STATES.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of the Aviation and Transportation Security Act, each air carrier and foreign air carrier operating a passenger flight in foreign air transportation to the United States shall provide to the Commissioner of Customs by electronic transmission a passenger and crew manifest containing the information specified in paragraph (2). Carriers may use the advanced passenger information system established under section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) to provide the information required by the preceding sentence.

(2) INFORMATION.—A passenger and crew manifest for a flight required under paragraph (1) shall contain the following information:

(A) The full name of each passenger and crew member.

(B) The date of birth and citizenship of each passenger and crew member.

(C) The sex of each passenger and crew member.

(D) The passport number and country of issuance of each passenger and crew member if required for travel.

(E) The United States visa number or resident alien card number of each passenger and crew member, as applicable.

(F) Such other information as the Under Secretary, in consultation with the Commis-

sioner of Customs, determines is reasonably necessary to ensure aviation safety.

(3) PASSENGER NAME RECORDS.—The carriers shall make passenger name record information available to the Customs Service upon request.

(4) TRANSMISSION OF MANIFEST.—Subject to paragraphs (5) and (6), a passenger and crew manifest required for a flight under paragraph (1) shall be transmitted to the Customs Service in advance of the aircraft landing in the United States in such manner, time, and form as the Customs Service prescribes.

(5) TRANSMISSION OF MANIFESTS TO OTHER FEDERAL AGENCIES.—Upon request, information provided to the Under Secretary or the Customs Service under this subsection may be shared with other Federal agencies for the purpose of protecting national security.

(6) PRESCREENING INTERNATIONAL PASSENGERS.—

(A) IN GENERAL.—Not later than 60 days after date of enactment of this paragraph, the Secretary of Homeland Security, or the designee of the Secretary, shall issue a notice of proposed rulemaking that will allow the Department of Homeland Security to compare passenger information for any international flight to or from the United States against the consolidated and integrated terrorist watchlist maintained by the Federal Government before departure of the flight.

(B) APPEAL PROCEDURES.—

(i) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals identified as a threat under subparagraph (A) to appeal to the Department of Homeland Security the determination and correct any erroneous information.

(ii) RECORDS.—The process shall include the establishment of a method by which the Secretary will be able to maintain a record of air passengers and other individuals who have been misidentified and have corrected erroneous information. To prevent repeated delays of misidentified passengers and other individuals, the Department of Homeland Security record shall contain information determined by the Secretary to authenticate the identity of such a passenger or individual.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1211; Pub. L. 106-181, title VII, §718, Apr. 5, 2000, 114 Stat. 163; Pub. L. 107-71, title I, §115, Nov. 19, 2001, 115 Stat. 623; Pub. L. 108-458, title IV, §4012(a)(2), Dec. 17, 2004, 118 Stat. 3717.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44909(a)(1) ..	49 App.:1380(a).	Aug. 23, 1958, Pub. L. 85-726, §410, 72 Stat. 769; Oct. 15, 1962, Pub. L. 87-820, §8, 76 Stat. 936; restated Nov. 16, 1990, Pub. L. 101-604, §203(a), 104 Stat. 3082.
44909(a)(2) ..	49 App.:1380(b).	
44909(a)(3) ..	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101-604, §203(b), 104 Stat. 3082.
44909(b) .....	49 App.:1380 (note).	Nov. 16, 1990, Pub. L. 101-604, §203(c), 104 Stat. 3083.

In subsection (a)(1), before clause (A), the words “each air carrier” are substituted “all United States air carriers” because of the definition of “air carrier” in section 40102(a) of the revised title. The words “an appropriate representative of the Secretary of State” are substituted for “appropriate representatives of the United States Department of State” because of 22:2651 and for consistency in the revised title and with other titles of the United States Code. In clause (B), the words “to comply with clause (A) of this paragraph” are substituted for “to fulfill the requirement of this subsection” for consistency in the revised title and with other titles of the Code.

In subsection (a)(2), before clause (B), the words “For purposes of this section” are omitted as unnecessary.

In subsection (a)(3), the words “In carrying out this subsection” are substituted for “In implementing the requirement pursuant to the amendment made by subsection (a) of this section” for clarity and to eliminate unnecessary words.

In subsection (b), the word “imposing” is added for clarity. The words “imposed on air carriers under subsection (a)(1) and (2) of this section” are substituted for “imposed pursuant to the amendment made by subsection (a)” for clarity and because of the restatement.

#### REFERENCES IN TEXT

The date of enactment of the Aviation and Transportation Security Act, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 107-71, which was approved Nov. 19, 2001.

The date of enactment of this paragraph, referred to in subsec. (c)(6)(A), is the date of enactment of Pub. L. 108-458, which was approved Dec. 17, 2004.

#### AMENDMENTS

2004—Subsec. (c)(4). Pub. L. 108-458, §4012(a)(2)(A), substituted “paragraphs (5) and (6),” for “paragraph (5).”

Subsec. (c)(6). Pub. L. 108-458, §4012(a)(2)(B), added par. (6).

2001—Subsec. (c). Pub. L. 107-71 which directed the addition of subsec. (c) to section 44909, without specifying the Code title to be amended, was executed by making the addition to this section, to reflect the probable intent of Congress.

2000—Subsec. (a)(2). Pub. L. 106-181 substituted “should” for “shall” in introductory provisions.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

#### 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.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 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.

### § 44910. Agreements on aircraft sabotage, aircraft hijacking, and airport security

The Secretary of State shall seek multilateral and bilateral agreement on strengthening enforcement measures and standards for compliance related to aircraft sabotage, aircraft hijacking, and airport security.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1212.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44910 .....	49 App.:1515 (note).	Aug. 8, 1985, Pub. L. 99-83, §556, 99 Stat. 227.

### § 44911. Intelligence

(a) DEFINITION.—In this section, “intelligence community” means the intelligence and intelligence-related activities of the following units of the United States Government:

- (1) the Department of State.
- (2) the Department of Defense.
- (3) the Department of the Treasury.
- (4) the Department of Energy.
- (5) the Departments of the Army, Navy, and Air Force.
- (6) the Central Intelligence Agency.
- (7) the National Security Agency.
- (8) the Defense Intelligence Agency.
- (9) the Federal Bureau of Investigation.
- (10) the Drug Enforcement Administration.

(b) POLICIES AND PROCEDURES ON REPORT AVAILABILITY.—The head of each unit in the intelligence community shall prescribe policies and procedures to ensure that intelligence reports about terrorism are made available, as appropriate, to the heads of other units in the intelligence community, the Secretary of Transportation, and the Under Secretary of Transportation for Security.

(c) UNIT FOR STRATEGIC PLANNING ON TERRORISM.—The heads of the units in the intelligence community shall place greater emphasis on strategic intelligence efforts by establishing a unit for strategic planning on terrorism.

(d) DESIGNATION OF INTELLIGENCE OFFICER.—At the request of the Secretary, the Director of Central Intelligence shall designate at least one intelligence officer of the Central Intelligence Agency to serve in a senior position in the Office of the Secretary.

(e) WRITTEN WORKING AGREEMENTS.—The heads of units in the intelligence community, the Secretary, and the Under Secretary shall review and, as appropriate, revise written working agreements between the intelligence community and the Under Secretary.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1212; Pub. L. 107-71, title I, §§101(f)(7), (9), 102(b), (c), Nov. 19, 2001, 115 Stat. 603, 605.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44911(a) .....	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101-604, §111(e), 104 Stat. 3080.
44911(b) .....	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101-604, §111(a), 104 Stat. 3080.

HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
44911(c) .....	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101-604, §111(b), 104 Stat. 3080.
44911(d) .....	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101-604, §111(c), 104 Stat. 3080.
44911(e) .....	49 App.:1358d (note).	Nov. 16, 1990, Pub. L. 101-604, §111(d), 104 Stat. 3080.

In this section, the word “units” is substituted for “agencies” for consistency in the revised title and with other titles of the United States Code.

In subsections (b) and (e), the words “Not later than 180 days after the date of enactment of this Act” in section 111(a) and (d) of the Aviation Security Improvement Act of 1990 (Public Law 101-640, 104 Stat. 3080) are omitted as obsolete.

In subsection (b), the words “the heads of other units in the intelligence community, the Secretary of Transportation, and the Administrator of the Federal Aviation Administration” are substituted for “other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration” for clarity and consistency in the revised title and with other titles of the Code.

In subsections (c) and (e), the words “heads of units in the intelligence community” are substituted for “intelligence community” for clarity and consistency in the revised title and with other titles of the Code.

In subsection (e), the words “memorandums of understanding” are omitted as being included in “written working agreements”.

AMENDMENTS

2001—Subsec. (b). Pub. L. 107-71, §102(b), struck out “international” before “terrorism”.

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

Subsec. (c). Pub. L. 107-71, §102(c), substituted “place” for “consider placing”.

Subsec. (e). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in two places.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

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.

§ 44912. Research and development

(a) PROGRAM REQUIREMENT.—(1) The Under Secretary of Transportation for Security shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to

counteract terrorist acts against civil aviation. The program shall provide for developing and having in place, not later than November 16, 1993, new equipment and procedures necessary to meet the technological challenges presented by terrorism. The program shall include research on, and development of, technological improvements and ways to enhance human performance.

(2) In designing and carrying out the program established under this subsection, the Under Secretary shall—

(A) consult and coordinate activities with other departments, agencies, and instrumentalities of the United States Government doing similar research;

(B) identify departments, agencies, and instrumentalities that would benefit from that research; and

(C) seek cost-sharing agreements with those departments, agencies, and instrumentalities.

(3) In carrying out the program established under this subsection, the Under Secretary shall review and consider the annual reports the Secretary of Transportation submits to Congress on transportation security and intelligence.

(4)(A) In carrying out the program established under this subsection, the Administrator shall designate an individual to be responsible for engineering, research, and development with respect to security technology under the program.

(B) The individual designated under subparagraph (A) shall use appropriate systems engineering and risk management models in making decisions regarding the allocation of funds for engineering, research, and development with respect to security technology under the program.

(C) The individual designated under subparagraph (A) shall, on an annual basis, submit to the Research, Engineering and Development Advisory Committee a report on activities under this paragraph during the preceding year. Each report shall include, for the year covered by such report, information on—

(i) progress made in engineering, research, and development with respect to security technology;

(ii) the allocation of funds for engineering, research, and development with respect to security technology; and

(iii) engineering, research, and development with respect to any technologies drawn from other agencies, including the rationale for engineering, research, and development with respect to such technologies.

(5) The Under Secretary may—

(A) make grants to institutions of higher learning and other appropriate research facilities with demonstrated ability to carry out research described in paragraph (1) of this subsection, and fix the amounts and terms of the grants; and

(B) make cooperative agreements with governmental authorities the Under Secretary decides are appropriate.

(b) REVIEW OF THREATS.—(1) The Under Secretary shall periodically review threats to civil aviation, with particular focus on—

(A) a comprehensive systems analysis (employing vulnerability analysis, threat attribute definition, and technology roadmaps) of the civil aviation system, including—

(i) the destruction, commandeering, or diversion of civil aircraft or the use of civil aircraft as a weapon; and

(ii) the disruption of civil aviation service, including by cyber attack;

(B) explosive material that presents the most significant threat to civil aircraft;

(C) the minimum amounts, configurations, and types of explosive material that can cause, or would reasonably be expected to cause, catastrophic damage to aircraft in air transportation;

(D) the amounts, configurations, and types of explosive material that can be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(E) the potential release of chemical, biological, or similar weapons or devices either within an aircraft or within an airport;

(F) the feasibility of using various ways to minimize damage caused by explosive material that cannot be detected reliably by existing, or reasonably anticipated, near-term explosive detection technologies;

(G) the ability to screen passengers, carry-on baggage, checked baggage, and cargo; and

(H) the technologies that might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the way in which those technologies can be countered effectively.

(2) The Under Secretary shall use the results of the review under this subsection to develop the focus and priorities of the program established under subsection (a) of this section.

(c) SCIENTIFIC ADVISORY PANEL.—(1) The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering, and Development Advisory Committee, to review, comment on, advise the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft, commercial aviation facilities, commercial aviation personnel and passengers, and other components of the commercial aviation system by the next generation of terrorist weapons.

(2)(A) The advisory panel shall consist of individuals who have scientific and technical expertise in—

(i) the development and testing of effective explosive detection systems;

(ii) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective explosive detection technology must be capable of detecting;

(iii) technologies involved in minimizing airframe damage to aircraft from explosives; and

(iv) other scientific and technical areas the Administrator considers appropriate.

(B) In appointing individuals to the advisory panel, the Administrator should consider individuals from academia and the national laboratories, as appropriate.

(3) The Administrator shall organize the advisory panel into teams capable of undertaking the review of policies and technologies upon request.

(4) Not later than 90 days after the date of the enactment of the Aviation and Transportation Security Act, and every two years thereafter, the Administrator shall review the composition of the advisory panel in order to ensure that the expertise of the individuals on the panel is suited to the current and anticipated duties of the panel.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1212; Pub. L. 107-71, title I, §§101(f)(7), (9), 112, Nov. 19, 2001, 115 Stat. 603, 620.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44912(a) .....	49 App.:1357(d)(3)(A), (D), (4)–(7).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §316(d)(3)–(8); added Nov. 16, 1990, Pub. L. 101-604, §107, 104 Stat. 3076.
44912(b) .....	49 App.:1357(d)(3)(B), (C).	
44912(c) .....	49 App.:1357(d)(8).	

In subsection (a)(1), the words “It shall be the purpose of the program established under paragraph (3)” and “established under paragraph (3)” are omitted as unnecessary.

In subsection (a)(2)(A), the word “activities” is added for clarity. The words “departments, agencies, and instrumentalities of the United States Government” are substituted for “Federal agencies” for consistency in the revised title and with other titles of the United States Code.

In subsection (a)(4), the words “The Administrator may . . . make grants” are substituted for “Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants” to eliminate unnecessary words. In clause (A), the words “institutions of higher learning” are substituted for “colleges, universities”, and the word “institutions” is substituted for “institutions and facilities”, for clarity and consistency in the revised title and with other titles of the Code. In clause (B), the words “governmental authorities” are substituted for “governmental entities” for consistency in the revised title and with other titles of the Code.

In subsection (b)(1), before clause (A), the words “Not later than 180 days after November 16, 1990” are omitted as obsolete. Clause (B) is substituted for 49 App.:1357(d)(3)(B)(ii) and (iii) for clarity and to eliminate unnecessary words.

In subsection (b)(1)(E), the word “mail” is omitted as being included in “cargo”.

#### REFERENCES IN TEXT

The date of the enactment of the Aviation and Transportation Security Act, referred to in subsec. (c)(4), is the date of enactment of Pub. L. 107-71, which was approved Nov. 19, 2001.

#### AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107-71, §101(f)(7), (9), substituted “Under Secretary of Transportation for Security” for “Administrator of the Federal Aviation Administration”.

Subsec. (a)(2), (3). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsec. (a)(4). Pub. L. 107-71, §112(b)(1)(B), added par. (4). Former par. (4) redesignated (5).

Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in two places.

Subsec. (a)(5). Pub. L. 107-71, §112(b)(1)(A), redesignated par. (4) as (5).

Subsec. (b)(1). Pub. L. 107-71, §§101(f)(7), 112(a)(1), in introductory provisions, substituted “Under Secretary” for “Administrator” and “periodically review” for “complete an intensive review of”.

Subsec. (b)(1)(A). Pub. L. 107-71, § 112(b)(2)(B), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (b)(1)(B). Pub. L. 107-71, § 112(b)(2)(A), redesignated subpar. (A) as (B). Former subpar. (B) redesignated (C).

Pub. L. 107-71, § 112(a)(2), substituted “aircraft in air transportation;” for “commercial aircraft in service and expected to be in service in the 10-year period beginning on November 16, 1990;”.

Subsec. (b)(1)(C). Pub. L. 107-71, § 112(b)(2)(A), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 107-71, § 112(b)(2)(A), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 107-71, § 112(a)(3), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (b)(1)(E) to (G). Pub. L. 107-71, § 112(b)(2)(A), redesignated subpars. (D) to (F) as (E) to (G), respectively. Former subpar. (G) redesignated (H).

Pub. L. 107-71, § 112(a)(3), redesignated subpars. (D) to (F) as (E) to (G), respectively.

Subsec. (b)(1)(H). Pub. L. 107-71, § 112(b)(2)(A), redesignated subpar. (G) as (H).

Subsec. (b)(2). Pub. L. 107-71, § 101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsec. (c). Pub. L. 107-71, § 112(b)(3), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, to review, comment on, advise on the progress of, and recommend modifications in, the program established under subsection (a) of this section, including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in—

“(1) the development and testing of effective explosive detection systems;

“(2) aircraft structure and experimentation to decide on the type and minimum weights of explosives that an effective technology must be capable of detecting;

“(3) technologies involved in minimizing airframe damage to aircraft from explosives; and

“(4) other scientific and technical areas the Administrator considers appropriate.”

#### 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.

#### RESEARCH AND DEVELOPMENT OF AVIATION SECURITY TECHNOLOGY

Pub. L. 107-71, title I, § 137, Nov. 19, 2001, 115 Stat. 637, as amended by Pub. L. 110-53, title XVI, § 1608, Aug. 3, 2007, 121 Stat. 484, provided that:

“(a) FUNDING.—To augment the programs authorized in section 44912(a)(1) of title 49, United States Code, there is authorized to be appropriated an additional \$50,000,000 for each of fiscal years 2006 through 2011 and such sums as are necessary for each fiscal year thereafter to the Transportation Security Administration, for research, development, testing, and evaluation of the following technologies which may enhance transportation security in the future. Grants to industry, academia, and Government entities to carry out the provisions of this section shall be available for fiscal years 2006 through 2011 for—

“(1) the acceleration of research, development, testing, and evaluation of explosives detection technology for checked baggage, specifically, technology that is—

“(A) more cost-effective for deployment for explosives detection in checked baggage at small- to medium-sized airports, and is currently under development as part of the Argus research program at the Transportation Security Administration;

“(B) faster, to facilitate screening of all checked baggage at larger airports; or

“(C) more accurate, to reduce the number of false positives requiring additional security measures;

“(2) acceleration of research, development, testing, and evaluation of new screening technology for carry-on items to provide more effective means of detecting and identifying weapons, explosives, and components of weapons of mass destruction, including advanced x-ray technology;

“(3) acceleration of research, development, testing, and evaluation of threat screening technology for other categories of items being loaded onto aircraft, including cargo, catering, and duty-free items;

“(4) acceleration of research, development, testing, and evaluation of threats carried on persons boarding aircraft or entering secure areas, including detection of weapons, explosives, and components of weapons of mass destruction;

“(5) acceleration of research, development, testing and evaluation of integrated systems of airport security enhancement, including quantitative methods of assessing security factors at airports selected for testing such systems;

“(6) expansion of the existing program of research, development, testing, and evaluation of improved methods of education, training, and testing of key airport security personnel; and

“(7) acceleration of research, development, testing, and evaluation of aircraft hardening materials, and techniques to reduce the vulnerability of aircraft to terrorist attack.

“(b) GRANTS.—Grants awarded under this subtitle [probably should be “this section”] shall identify potential outcomes of the research, and propose a method for quantitatively assessing effective increases in security upon completion of the research program. At the conclusion of each grant, the grant recipient shall submit a final report to the Transportation Security Administration that shall include sufficient information to permit the Under Secretary of Transportation for Security to prepare a cost-benefit analysis of potential improvements to airport security based upon deployment of the proposed technology. The Under Secretary shall begin awarding grants under this subtitle within 90 days of the date of enactment of this Act [Nov. 19, 2001].

“(c) BUDGET SUBMISSION.—A budget submission and detailed strategy for deploying the identified security upgrades recommended upon completion of the grants awarded under subsection (b), shall be submitted to Congress as part of the Department of Transportation’s annual budget submission.

“(d) DEFENSE RESEARCH.—There is authorized to be appropriated \$20,000,000 to the Transportation Security Administration to issue research grants in conjunction with the Defense Advanced Research Projects Agency. Grants may be awarded under this section for—

“(1) research and development of longer-term improvements to airport security, including advanced weapons detection;

“(2) secure networking and sharing of threat information between Federal agencies, law enforcement entities, and other appropriate parties;

“(3) advances in biometrics for identification and threat assessment; or

“(4) other technologies for preventing acts of terrorism in aviation.”

[For definitions of terms used in section 137 of Pub. L. 107-71, set out above, see section 133 of Pub. L. 107-71, set out as a note under section 40102 of this title.]

## TERMINATION OF ADVISORY PANELS

Advisory panels established after Jan. 5, 1973, to terminate not later than expiration of 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to expiration of such 2-year period, or in the case of a panel established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

**§ 44913. Explosive detection**

(a) DEPLOYMENT AND PURCHASE OF EQUIPMENT.—(1) A deployment or purchase of explosive detection equipment under section 108.7(b)(8) or 108.20 of title 14, Code of Federal Regulations, or similar regulation is required only if the Under Secretary of Transportation for Security certifies that the equipment alone, or as part of an integrated system, can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Under Secretary shall base the certification on the results of tests conducted under protocols developed in consultation with expert scientists outside of the Transportation Security Administration. Those tests shall be completed not later than April 16, 1992.

(2) Before completion of the tests described in paragraph (1) of this subsection, but not later than April 16, 1992, the Under Secretary may require deployment of explosive detection equipment described in paragraph (1) if the Under Secretary decides that deployment will enhance aviation security significantly. In making that decision, the Under Secretary shall consider factors such as the ability of the equipment alone, or as part of an integrated system, to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Under Secretary shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of a deployment decision made under this paragraph.

(3) Until such time as the Under Secretary determines that equipment certified under paragraph (1) is commercially available and has successfully completed operational testing as provided in paragraph (1), the Under Secretary shall facilitate the deployment of such approved commercially available explosive detection devices as the Under Secretary determines will enhance aviation security significantly. The Under Secretary shall require that equipment deployed under this paragraph be replaced by equipment certified under paragraph (1) when equipment certified under paragraph (1) becomes commercially available. The Under Secretary is authorized, based on operational considerations at individual airports, to waive the required installation of commercially available equipment under paragraph (1) in the interests of aviation security. The Under Secretary may permit the requirements of this paragraph to be met at air-

ports by the deployment of dogs or other appropriate animals to supplement equipment for screening passengers, baggage, mail, or cargo for explosives or weapons.

(4) This subsection does not prohibit the Under Secretary from purchasing or deploying explosive detection equipment described in paragraph (1) of this subsection.

(b) GRANTS.—The Secretary of Transportation may provide grants to continue the Explosive Detection K-9 Team Training Program to detect explosives at airports and on aircraft.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1214; Pub. L. 104-264, title III, §305(a), Oct. 9, 1996, 110 Stat. 3252; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 107-71, title I, §101(f)(2), (7), (9), Nov. 19, 2001, 115 Stat. 603.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44913(a)(1) ..	49 App.:1358c(a), (b).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §320; added Nov. 16, 1990, Pub. L. 101-604, §108, 104 Stat. 3077.
44913(a)(2) ..	49 App.:1358c(c).	
44913(a)(3) ..	49 App.:1358c(d).	
44913(b) .....	49 App.:2225.	Sept. 3, 1982, Pub. L. 97-248, §529, 96 Stat. 699; Dec. 30, 1987, Pub. L. 100-223, §114, 101 Stat. 1505.

In subsection (a), the words “after November 16, 1990” are omitted as executed. The words “The Administrator shall base the certification on” are substituted for “based on” because of the restatement.

In subsection (b), the words “but not be limited to” are omitted as unnecessary.

## AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107-71, §101(f)(9), substituted “of Transportation for Security” for “of the Federal Aviation Administration”.

Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in two places.

Pub. L. 107-71, §101(f)(2), substituted “of the Transportation Security Administration” for “of the Administration” in second sentence.

Subsec. (a)(2) to (4). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” wherever appearing.

1996—Subsec. (a)(2). Pub. L. 104-287 substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

Subsec. (a)(3), (4). Pub. L. 104-264 added par. (3) and redesignated former par. (3) as (4).

## EFFECTIVE DATE OF 1996 AMENDMENT

Except as otherwise specifically provided, amendment by Pub. L. 104-264 applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as a note under section 106 of this title.

## 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.

IMPROVED EXPLOSIVE DETECTION SYSTEMS

Pub. L. 108-458, title IV, §4024, Dec. 17, 2004, 118 Stat. 3724, provided that:

“(a) PLAN AND GUIDELINES.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall develop a plan and guidelines for implementing improved explosive detection system equipment.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of improved explosive detection systems for aviation security under section 44913 of title 49, United States Code.”

WEAPONS AND EXPLOSIVE DETECTION STUDY

Section 303 of Pub. L. 104-264 provided that:

“(a) IN GENERAL.—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the Director of the National Academy of Sciences (or if the National Academy of Sciences is not available, the head of another equivalent entity) to conduct a study in accordance to this section.

“(b) PANEL OF EXPERTS.—

“(1) IN GENERAL.—In carrying out a study under this section, the Director of the National Academy of Sciences (or the head of another equivalent entity) shall establish a panel (hereinafter in this section referred to as the ‘panel’).

“(2) EXPERTISE.—Each member of the panel shall have expertise in weapons and explosive detection technology, security, air carrier and airport operations, or another appropriate area. The Director of the National Academy of Sciences (or the head of another equivalent entity) shall ensure that the panel has an appropriate number of representatives of the areas specified in the preceding sentence.

“(c) STUDY.—The panel, in consultation with the National Science and Technology Council, representatives of appropriate Federal agencies, and appropriate members of the private sector, shall—

“(1) assess the weapons and explosive detection technologies that are available at the time of the study that are capable of being effectively deployed in commercial aviation;

“(2) determine how the technologies referred to in paragraph (1) may more effectively be used for promotion and improvement of security at airport and aviation facilities and other secured areas;

“(3) assess the cost and advisability of requiring hardened cargo containers as a way to enhance aviation security and reduce the required sensitivity of bomb detection equipment; and

“(4) on the basis of the assessments and determinations made under paragraphs (1), (2), and (3), identify the most promising technologies for the improvement of the efficiency and cost-effectiveness of weapons and explosive detection.

“(d) COOPERATION.—The National Science and Technology Council shall take such actions as may be necessary to facilitate, to the maximum extent practicable and upon request of the Director of the National Academy of Sciences (or the head of another equivalent entity), the cooperation of representatives of appropriate Federal agencies, as provided for in subsection (c), in providing the panel, for the study under this section—

“(1) expertise; and

“(2) to the extent allowable by law, resources and facilities.

“(e) REPORTS.—The Director of the National Academy of Sciences (or the head of another equivalent entity) shall, pursuant to an arrangement entered into under subsection (a), submit to the Administrator such reports as the Administrator considers to be appropriate. Upon receipt of a report under this subsection, the Administrator shall submit a copy of the report to the appropriate committees of Congress.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1997 through 2001 such sums as may be necessary to carry out this section.”

§ 44914. Airport construction guidelines

In consultation with air carriers, airport authorities, and others the Under Secretary of Transportation for Security considers appropriate, the Under Secretary shall develop guidelines for airport design and construction to allow for maximum security enhancement. In developing the guidelines, the Under Secretary shall consider the results of the assessment carried out under section 44904(a) of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1214; Pub. L. 107-71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44914 .....	49 App.:1357 (note). 49 App.:1432(d).	Nov. 16, 1990, Pub. L. 101-604, §106(f), 104 Stat. 3075. Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §612(d); added Nov. 16, 1990, Pub. L. 101-604, §110(a), 104 Stat. 3080.

The words “In developing the guidelines” are substituted for “In developing airport construction guidelines under subsection (d) of section 612 of the Federal Aviation Act of 1958, as added by section 110 of this Act” in section 106(f) of the Aviation Security Improvement Act of 1990 (Public Law 101-604, 104 Stat. 3075) to eliminate unnecessary words.

AMENDMENTS

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

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.

§ 44915. Exemptions

The Under Secretary of Transportation for Security may exempt from sections 44901, 44903(a)–(c) and (e), 44906, 44935, and 44936 of this title airports in Alaska served only by air carriers that—

(1) hold certificates issued under section 41102 of this title;

(2) operate aircraft with certificates for a maximum gross takeoff weight of less than 12,500 pounds; and

(3) board passengers, or load property intended to be carried in an aircraft cabin, that will be screened under section 44901 of this title at another airport in Alaska before the passengers board, or the property is loaded on, an aircraft for a place outside Alaska.



(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1215; Pub. L. 107-71, title I, §101(f)(7), (9), Nov. 19, 2001, 115 Stat. 603.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44915 .....	49 App.:1358.	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §317; added July 12, 1976, Pub. L. 94-353, §17(a), 90 Stat. 882.

In clause (1), the word “issued” is substituted for “granted” for consistency in this part. The words “by the Civil Aeronautics Board” are omitted as surplus.

Clause (3) is substituted for 49 App.:1358 (words after 3d comma) for consistency in the revised title.

## AMENDMENTS

2001—Pub. L. 107-71 substituted “Under Secretary of Transportation for Security” for “Administrator of the Federal Aviation Administration” in introductory provisions.

## 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.

## § 44916. Assessments and evaluations

(a) PERIODIC ASSESSMENTS.—The Under Secretary of Transportation for Security shall require each air carrier and airport (including the airport owner or operator in cooperation with the air carriers and vendors serving each airport) that provides for intrastate, interstate, or foreign air transportation to conduct periodic vulnerability assessments of the security systems of that air carrier or airport, respectively. The Transportation Security Administration shall perform periodic audits of such assessments.

(b) INVESTIGATIONS.—The Under Secretary shall conduct periodic and unannounced inspections of security systems of airports and air carriers to determine the effectiveness and vulnerabilities of such systems. To the extent allowable by law, the Under Secretary may provide for anonymous tests of those security systems.

(Added Pub. L. 104-264, title III, §312(a), Oct. 9, 1996, 110 Stat. 3253; amended Pub. L. 107-71, title I, §101(f)(3), (7), Nov. 19, 2001, 115 Stat. 603.)

## AMENDMENTS

2001—Subsec. (a). Pub. L. 107-71, §101(f)(3), substituted “Under Secretary of Transportation for Security” for “Administrator” in first sentence and “Transportation Security Administration” for “Administration” in second sentence.

Subsec. (b). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in two places.

## EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see

section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

## 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.

## § 44917. Deployment of Federal air marshals

(a) IN GENERAL.—The Under Secretary of Transportation for Security under the authority provided by section 44903(d)—

(1) may provide for deployment of Federal air marshals on every passenger flight of air carriers in air transportation or intrastate air transportation;

(2) shall provide for deployment of Federal air marshals on every such flight determined by the Secretary to present high security risks;

(3) shall provide for appropriate training, supervision, and equipment of Federal air marshals;

(4) shall require air carriers providing flights described in paragraph (1) to provide seating for a Federal air marshal on any such flight without regard to the availability of seats on the flight and at no cost to the United States Government or the marshal;

(5) may require air carriers to provide, on a space-available basis, to an off-duty Federal air marshal a seat on a flight to the airport nearest the marshal’s home at no cost to the marshal or the United States Government if the marshal is traveling to that airport after completing his or her security duties;

(6) may enter into agreements with Federal, State, and local agencies under which appropriately-trained law enforcement personnel from such agencies, when traveling on a flight of an air carrier, will carry a firearm and be prepared to assist Federal air marshals;

(7) shall establish procedures to ensure that Federal air marshals are made aware of any armed or unarmed law enforcement personnel on board an aircraft; and

(8) may appoint—

(A) an individual who is a retired law enforcement officer;

(B) an individual who is a retired member of the Armed Forces; and

(C) an individual who has been furloughed from an air carrier crew position in the 1-year period beginning on September 11, 2001,

as a Federal air marshal, regardless of age, if the individual otherwise meets the background and fitness qualifications required for Federal air marshals.

(b) LONG DISTANCE FLIGHTS.—In making the determination under subsection (a)(2), nonstop, long distance flights, such as those targeted on September 11, 2001, should be a priority.

(c) INTERIM MEASURES.—Until the Under Secretary completes implementation of subsection

(a), the Under Secretary may use, after consultation with and concurrence of the heads of other Federal agencies and departments, personnel from those agencies and departments, on a nonreimbursable basis, to provide air marshal service.

(d) TRAINING FOR FOREIGN LAW ENFORCEMENT PERSONNEL.—

(1) IN GENERAL.—The Assistant Secretary for Immigration and Customs Enforcement of the Department of Homeland Security, after consultation with the Secretary of State, may direct the Federal Air Marshal Service to provide appropriate air marshal training to law enforcement personnel of foreign countries.

(2) WATCHLIST SCREENING.—The Federal Air Marshal Service may only provide appropriate air marshal training to law enforcement personnel of foreign countries after comparing the identifying information and records of law enforcement personnel of foreign countries against all appropriate records in the consolidated and integrated terrorist watchlists maintained by the Federal Government.

(3) FEES.—The Assistant Secretary shall establish reasonable fees and charges to pay expenses incurred in carrying out this subsection. Funds collected under this subsection shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Assistant Secretary for purposes for which amounts in such account are available.

(Added Pub. L. 107–71, title I, §105(a), Nov. 19, 2001, 115 Stat. 606; amended Pub. L. 108–458, title IV, §4018, Dec. 17, 2004, 118 Stat. 3721.)

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–458 added subsec. (d).

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.

FEDERAL AIR MARSHALS

Pub. L. 108–458, title IV, §4016, Dec. 17, 2004, 118 Stat. 3720, provided that:

“(a) FEDERAL AIR MARSHAL ANONYMITY.—The Director of the Federal Air Marshal Service of the Department of Homeland Security shall continue operational initiatives to protect the anonymity of Federal air marshals.

“(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Bureau of Immigration and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal air marshals under section 44917 of title 49, United States Code, \$83,000,000 for the 3 fiscal-year period beginning with fiscal year 2005. Such sums shall remain available until expended.

“(c) FEDERAL LAW ENFORCEMENT COUNTERTERRORISM TRAINING.—

“(1) AVAILABILITY OF INFORMATION.—The Assistant Secretary for Immigration and Customs Enforcement

and the Director of Federal Air Marshal Service of the Department of Homeland Security, shall make available, as practicable, appropriate information on in-flight counterterrorism and weapons handling procedures and tactics training to Federal law enforcement officers who fly while in possession of a firearm.

“(2) IDENTIFICATION OF FRAUDULENT DOCUMENTS.—The Assistant Secretary for Immigration and Customs Enforcement and the Director of Federal Air Marshal Service of the Department of Homeland Security, in coordination with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall ensure that Transportation Security Administration screeners and Federal air marshals receive training in identifying fraudulent identification documents, including fraudulent or expired visas and passports. Such training shall also be made available to other Federal law enforcement agencies and local law enforcement agencies located in a State that borders Canada or Mexico.”

§ 44918. Crew training

(a) BASIC SECURITY TRAINING.—

(1) IN GENERAL.—Each air carrier providing scheduled passenger air transportation shall carry out a training program for flight and cabin crew members to prepare the crew members for potential threat conditions.

(2) PROGRAM ELEMENTS.—An air carrier training program under this subsection shall include, at a minimum, elements that address each of the following:

(A) Recognizing suspicious activities and determining the seriousness of any occurrence.

(B) Crew communication and coordination.

(C) The proper commands to give passengers and attackers.

(D) Appropriate responses to defend oneself.

(E) Use of protective devices assigned to crew members (to the extent such devices are required by the Administrator of the Federal Aviation Administration or the Under Secretary for Border and Transportation Security of the Department of Homeland Security).

(F) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(G) Situational training exercises regarding various threat conditions.

(H) Flight deck procedures or aircraft maneuvers to defend the aircraft and cabin crew responses to such procedures and maneuvers.

(I) The proper conduct of a cabin search, including explosive device recognition.

(J) Any other subject matter considered appropriate by the Under Secretary.

(3) APPROVAL.—An air carrier training program under this subsection shall be subject to approval by the Under Secretary.

(4) MINIMUM STANDARDS.—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary may establish minimum standards for the training provided under this subsection and for recurrent training.

(5) EXISTING PROGRAMS.—Notwithstanding paragraphs (3) and (4), any training program of an air carrier to prepare flight and cabin crew members for potential threat conditions that

was approved by the Administrator or the Under Secretary before the date of enactment of the Vision 100—Century of Aviation Reauthorization Act may continue in effect until disapproved or ordered modified by the Under Secretary.

(6) **MONITORING.**—The Under Secretary, in consultation with the Administrator, shall monitor air carrier training programs under this subsection and periodically shall review an air carrier's training program to ensure that the program is adequately preparing crew members for potential threat conditions. In determining when an air carrier's training program should be reviewed under this paragraph, the Under Secretary shall consider complaints from crew members. The Under Secretary shall ensure that employees responsible for monitoring the training programs have the necessary resources and knowledge.

(7) **UPDATES.**—The Under Secretary, in consultation with the Administrator, shall order air carriers to modify training programs under this subsection to reflect new or different security threats.

(b) **ADVANCED SELF-DEFENSE TRAINING.**—

(1) **IN GENERAL.**—Not later than one year after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, the Under Secretary shall develop and provide a voluntary training program for flight and cabin crew members of air carriers providing scheduled passenger air transportation.

(2) **PROGRAM ELEMENTS.**—The training program under this subsection shall include both classroom and effective hands-on training in the following elements of self-defense:

(A) Deterring a passenger who might present a threat.

(B) Advanced control, striking, and restraint techniques.

(C) Training to defend oneself against edged or contact weapons.

(D) Methods to subdue and restrain an attacker.

(E) Use of available items aboard the aircraft for self-defense.

(F) Appropriate and effective responses to defend oneself, including the use of force against an attacker.

(G) Any other element of training that the Under Secretary considers appropriate.

(3) **PARTICIPATION NOT REQUIRED.**—A crew member shall not be required to participate in the training program under this subsection.

(4) **COMPENSATION.**—Neither the Federal Government nor an air carrier shall be required to compensate a crew member for participating in the training program under this subsection.

(5) **FEES.**—A crew member shall not be required to pay a fee for the training program under this subsection.

(6) **CONSULTATION.**—In developing the training program under this subsection, the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, representatives of air carriers, the director of self-defense training in the Federal Air Marshals Service, flight attendants, labor

organizations representing flight attendants, and educational institutions offering law enforcement training programs.

(7) **DESIGNATION OF TSA OFFICIAL.**—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for implementing the training program under this subsection. The official shall consult with air carriers and labor organizations representing crew members before implementing the program to ensure that it is appropriate for situations that may arise on board an aircraft during a flight.

(c) **LIMITATION.**—Actions by crew members under this section shall be subject to the provisions of section 44903(k).

(Added Pub. L. 107-71, title I, §107(a), Nov. 19, 2001, 115 Stat. 610; amended Pub. L. 107-296, title XIV, §1403(a), Nov. 25, 2002, 116 Stat. 2305; Pub. L. 108-176, title VI, §603, Dec. 12, 2003, 117 Stat. 2563.)

#### REFERENCES IN TEXT

The date of enactment of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsecs. (a)(4), (5) and (b)(1), is the date of enactment of Pub. L. 108-176, which was approved Dec. 12, 2003.

#### AMENDMENTS

2003—Pub. L. 108-176 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (e) relating to development of detailed guidance for a scheduled passenger air carrier flight and cabin crew training program to prepare crew members for potential threat conditions.

2002—Subsec. (e). Pub. L. 107-296 designated existing provisions as par. (1), inserted heading, substituted “The Under Secretary” for “The Administrator”, added pars. (2) and (3), and realigned margins.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

### § 44919. Security screening pilot program

(a) **ESTABLISHMENT OF PROGRAM.**—The Under Secretary shall establish a pilot program under which, upon approval of an application submitted by an operator of an airport, the screening of passengers and property at the airport under section 44901 will be carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary.

(b) **PERIOD OF PILOT PROGRAM.**—The pilot program under this section shall begin on the last day of the 1-year period beginning on the date of enactment of this section and end on the last day of the 3-year period beginning on such date of enactment.

(c) **APPLICATIONS.**—An operator of an airport may submit to the Under Secretary an application to participate in the pilot program under this section.

(d) **SELECTION OF AIRPORTS.**—From among applications submitted under subsection (c), the Under Secretary may select for participation in the pilot program not more than 1 airport from each of the 5 airport security risk categories, as defined by the Under Secretary.

(e) **SUPERVISION OF SCREENED PERSONNEL.**—The Under Secretary shall provide Federal Government supervisors to oversee all screening at each airport participating in the pilot program under this section and provide Federal Government law enforcement officers at the airport pursuant to this chapter.

(f) **QUALIFIED PRIVATE SCREENING COMPANY.**—A private screening company is qualified to provide screening services at an airport participating in the pilot program under this section if the company will only employ individuals to provide such services who meet all the requirements of this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

(g) **STANDARDS FOR PRIVATE SCREENING COMPANIES.**—The Under Secretary may enter into a contract with a private screening company to provide screening at an airport participating in the pilot program under this section only if the Under Secretary determines and certifies to Congress that the private screening company is owned and controlled by a citizen of the United States, to the extent that the Under Secretary determines that there are private screening companies owned and controlled by such citizens.

(h) **TERMINATION OF CONTRACTS.**—The Under Secretary may terminate any contract entered into with a private screening company to provide screening services at an airport under the pilot program if the Under Secretary finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training of personnel to provide such services or to the provision of screening at the airport.

(i) **ELECTION.**—If a contract is in effect with respect to screening at an airport under the pilot program on the last day of the 3-year period beginning on the date of enactment of this section, the operator of the airport may elect to continue to have such screening carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary under section 44920 or by Federal Government personnel in accordance with this chapter.

(Added Pub. L. 107-71, title I, §108(a), Nov. 19, 2001, 115 Stat. 611.)

#### REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (b) and (i), is the date of enactment of Pub. L. 107-71, which was approved Nov. 19, 2001.

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administra-

tion 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.

#### § 44920. Security screening opt-out program

(a) **IN GENERAL.**—On or after the last day of the 2-year period beginning on the date on which the Under Secretary transmits to Congress the certification required by section 110(c) of the Aviation and Transportation Security Act, an operator of an airport may submit to the Under Secretary an application to have the screening of passengers and property at the airport under section 44901 to be carried out by the screening personnel of a qualified private screening company under a contract entered into with the Under Secretary.

(b) **APPROVAL OF APPLICATIONS.**—The Under Secretary may approve any application submitted under subsection (a).

(c) **QUALIFIED PRIVATE SCREENING COMPANY.**—A private screening company is qualified to provide screening services at an airport under this section if the company will only employ individuals to provide such services who meet all the requirements of this chapter applicable to Federal Government personnel who perform screening services at airports under this chapter and will provide compensation and other benefits to such individuals that are not less than the level of compensation and other benefits provided to such Federal Government personnel in accordance with this chapter.

(d) **STANDARDS FOR PRIVATE SCREENING COMPANIES.**—The Under Secretary may enter into a contract with a private screening company to provide screening at an airport under this section only if the Under Secretary determines and certifies to Congress that—

(1) the level of screening services and protection provided at the airport under the contract will be equal to or greater than the level that would be provided at the airport by Federal Government personnel under this chapter; and

(2) the private screening company is owned and controlled by a citizen of the United States, to the extent that the Under Secretary determines that there are private screening companies owned and controlled by such citizens.

(e) **SUPERVISION OF SCREENED PERSONNEL.**—The Under Secretary shall provide Federal Government supervisors to oversee all screening at each airport at which screening services are provided under this section and provide Federal Government law enforcement officers at the airport pursuant to this chapter.

(f) **TERMINATION OF CONTRACTS.**—The Under Secretary may terminate any contract entered into with a private screening company to provide screening services at an airport under this section if the Under Secretary finds that the company has failed repeatedly to comply with any standard, regulation, directive, order, law, or contract applicable to the hiring or training

of personnel to provide such services or to the provision of screening at the airport.

(g) OPERATOR OF AIRPORT.—Notwithstanding any other provision of law, an operator of an airport shall not be liable for any claims for damages filed in State or Federal court (including a claim for compensatory, punitive, contributory, or indemnity damages) relating to—

(1) such airport operator's decision to submit an application to the Secretary of Homeland Security under subsection (a) or section 44919 or such airport operator's decision not to submit an application; and

(2) any act of negligence, gross negligence, or intentional wrongdoing by—

(A) a qualified private screening company or any of its employees in any case in which the qualified private screening company is acting under a contract entered into with the Secretary of Homeland Security or the Secretary's designee; or

(B) employees of the Federal Government providing passenger and property security screening services at the airport.

(3) Nothing in this section shall relieve any airport operator from liability for its own acts or omissions related to its security responsibilities, nor except as may be provided by the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 shall it relieve any qualified private screening company or its employees from any liability related to its own acts of negligence, gross negligence, or intentional wrongdoing.

(Added Pub. L. 107-71, title I, §108(a), Nov. 19, 2001, 115 Stat. 612; amended Pub. L. 109-90, title V, § 547, Oct. 18, 2005, 119 Stat. 2089.)

#### REFERENCES IN TEXT

Section 110(c) of the Aviation and Transportation Security Act, referred to in subsec. (a), is section 110(c) of Pub. L. 107-71, which is set out as a note under section 44901 of this title.

The Support Anti-Terrorism by Fostering Effective Technologies Act of 2002, referred to in subsec. (g)(3), is subtitle G (§§861-865) of title VIII of Pub. L. 107-296, Nov. 25, 2002, 116 Stat. 2238, also known as the SAFETY Act, which is classified generally to part G (§441 et seq.) of subchapter VIII of chapter 1 of Title 6, Domestic Security. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6 and Tables.

#### AMENDMENTS

2005—Subsec. (g). Pub. L. 109-90 added subsec. (g).

#### 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.

### § 44921. Federal flight deck officer program

(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air car-

riers providing air transportation or intrastate air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against acts of criminal violence or air piracy. Such officers shall be known as "Federal flight deck officers".

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section.

(2) COMMENCEMENT OF PROGRAM.—Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

(A) The type of firearm to be used by a Federal flight deck officer.

(B) The type of ammunition to be used by a Federal flight deck officer.

(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot's base airport.

(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

(L) Methods for ensuring that pilots (including Federal flight deck officers) will be

able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

(M) Any other issues that the Under Secretary considers necessary.

(N) The Under Secretary's decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

(1) IN GENERAL.—The Under Secretary shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

(2) TRAINING.—

(A) IN GENERAL.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

(ii) Training to ensure that the officer maintains exclusive control over the officer's firearm at all times, including training in defensive maneuvers.

(iii) Training to assist the officer in determining when it is appropriate to use the officer's firearm and when it is appropriate to use less than lethal force.

(C) TRAINING IN USE OF FIREARMS.—

(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to

the level of proficiency required of Federal air marshals.

(ii) CONDUCT OF TRAINING.—The training of a Federal flight deck officer in the use of a firearm may be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

(iii) REQUALIFICATION.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur at an interval required by the Under Secretary.

(d) DEPUTIZATION.—

(1) IN GENERAL.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

(2) QUALIFICATION.—A pilot is qualified to be a Federal flight deck officer under this section if—

(A) the pilot is employed by an air carrier;

(B) the Under Secretary determines (in the Under Secretary's discretion) that the pilot meets the standards established by the Under Secretary for being such an officer; and

(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

(3) DEPUTIZATION BY OTHER FEDERAL AGENCIES.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

(4) REVOCATION.—The Under Secretary may,<sup>1</sup> (in the Under Secretary's discretion) revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot's training or qualification and requalification to carry firearms under the program.

(f) AUTHORITY TO CARRY FIREARMS.—

(1) IN GENERAL.—The Under Secretary shall authorize a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

(2) PREEMPTION.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm

<sup>1</sup> So in original. The comma probably should not appear.

in any State and from 1 State to another State.

(3) CARRYING FIREARMS OUTSIDE UNITED STATES.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

(g) AUTHORITY TO USE FORCE.—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

(h) LIMITATION ON LIABILITY.—

(1) LIABILITY OF AIR CARRIERS.—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer's use of or failure to use a firearm.

(2) LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

(3) LIABILITY OF FEDERAL GOVERNMENT.—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer in defending the flight deck of an aircraft, the officer shall be treated as an employee of the Federal Government under chapter 171 of title 28, relating to tort claims procedure.

(i) PROCEDURES FOLLOWING ACCIDENTAL DISCHARGES.—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

(1) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

(2) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary<sup>2</sup> may temporarily suspend the program until the shortcoming is corrected.

(j) LIMITATION ON AUTHORITY OF AIR CARRIERS.—No air carrier shall prohibit or threaten any retaliatory action against a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier; or

(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or

her volunteering for or participating in the program under this section.

(k) APPLICABILITY.—

(1) EXEMPTION.—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

(2) PILOT DEFINED.—The term “pilot” means an individual who has final authority and responsibility for the operation and safety of the flight or any other flight deck crew member.

(3) ALL-CARGO AIR TRANSPORTATION.—In this section, the term “air transportation” includes all-cargo air transportation.

(Added Pub. L. 107-296, title XIV, §1402(a), Nov. 25, 2002, 116 Stat. 2300; amended Pub. L. 108-176, title VI, §609(b), Dec. 12, 2003, 117 Stat. 2570.)

#### REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(1), (2), is the date of enactment of Pub. L. 107-296, which was approved Nov. 25, 2002.

#### AMENDMENTS

2003—Subsec. (a). Pub. L. 108-176, §609(b)(1), struck out “passenger” before “air transportation” in two places.

Subsec. (k)(2). Pub. L. 108-176, §609(b)(2), substituted “or any other flight deck crew member” for “or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under which the flight is being conducted, the individual designated as second in command”.

Subsec. (k)(3). Pub. L. 108-176, §609(b)(3), added par. (3).

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

#### EFFECTIVE DATE

Section effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as a note under section 101 of Title 6, Domestic Security.

#### 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.

#### EQUITABLE IMPLEMENTATION OF 2003 AMENDMENTS

Pub. L. 108-176, title VI, §609(c), Dec. 12, 2003, 117 Stat. 2570, provided that: “In carrying out the amendments made by subsection (d) [probably means subsec. (b), which amended this section], the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall ensure that passenger and cargo pilots are treated equitably in receiving access to training as Federal flight deck officers.”

#### TIME FOR IMPLEMENTATION

Pub. L. 108-176, title VI, §609(d), Dec. 12, 2003, 117 Stat. 2570, provided that: “The requirements of subsection (e)

<sup>2</sup>So in original. The words “the Under Secretary” probably should not appear.

[section 609 of Pub. L. 108-176 has no subsec. (e)] shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act [Dec. 12, 2003].”

**§ 44922. Deputation of State and local law enforcement officers**

(a) DEPUTATION AUTHORITY.—The Under Secretary of Transportation for Security may deputize a State or local law enforcement officer to carry out Federal airport security duties under this chapter.

(b) FULFILLMENT OF REQUIREMENTS.—A State or local law enforcement officer who is deputized under this section shall be treated as a Federal law enforcement officer for purposes of meeting the requirements of this chapter and other provisions of law to provide Federal law enforcement officers to carry out Federal airport security duties.

(c) AGREEMENTS.—To deputize a State or local law enforcement officer under this section, the Under Secretary shall enter into a voluntary agreement with the appropriate State or local law enforcement agency that employs the State or local law enforcement officer.

(d) REIMBURSEMENT.—

(1) IN GENERAL.—The Under Secretary shall reimburse a State or local law enforcement agency for all reasonable, allowable, and allocable costs incurred by the State or local law enforcement agency with respect to a law enforcement officer deputized under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(e) FEDERAL TORT CLAIMS ACT.—A State or local law enforcement officer who is deputized under this section shall be treated as an “employee of the Government” for purposes of sections 1346(b), 2401(b), and chapter 171 of title 28, United States Code, while carrying out Federal airport security duties within the course and scope of the officer’s employment, subject to Federal supervision and control, and in accordance with the terms of such deputation.

(f) STATIONING OF OFFICERS.—The Under Secretary may allow law enforcement personnel to be stationed other than at the airport security screening location if that would be preferable for law enforcement purposes and if such personnel would still be able to provide prompt responsiveness to problems occurring at the screening location.

(Added Pub. L. 108-7, div. I, title III, §351(a), Feb. 20, 2003, 117 Stat. 419.)

**§ 44923. Airport security improvement projects**

(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall make grants to airport sponsors—

(1) for projects to replace baggage conveyer systems related to aviation security;

(2) for projects to reconfigure terminal baggage areas as needed to install explosive detection systems;

(3) for projects to enable the Under Secretary to deploy explosive detection systems behind the ticket counter, in the baggage sorting area, or in line with the baggage handling system; and

(4) for other airport security capital improvement projects.

(b) APPLICATIONS.—A sponsor seeking a grant under this section shall submit to the Under Secretary an application in such form and containing such information as the Under Secretary prescribes.

(c) APPROVAL.—The Under Secretary, after consultation with the Secretary of Transportation, may approve an application of a sponsor for a grant under this section only if the Under Secretary determines that the project will improve security at an airport or improve the efficiency of the airport without lessening security.

(d) LETTERS OF INTENT.—

(1) ISSUANCE.—The Under Secretary shall issue a letter of intent to a sponsor committing to obligate from future budget authority an amount, not more than the Federal Government’s share of the project’s cost, for an airport security improvement project (including interest costs and costs of formulating the project).

(2) SCHEDULE.—A letter of intent under this subsection shall establish a schedule under which the Under Secretary will reimburse the sponsor for the Government’s share of the project’s costs, as amounts become available, if the sponsor, after the Under Secretary issues the letter, carries out the project without receiving amounts under this section.

(3) NOTICE TO UNDER SECRETARY.—A sponsor that has been issued a letter of intent under this subsection shall notify the Under Secretary of the sponsor’s intent to carry out a project before the project begins.

(4) NOTICE TO CONGRESS.—The Under Secretary shall transmit to the Committees on Appropriations and Transportation and Infrastructure of the House of Representatives and the Committees on Appropriations and Commerce, Science and Transportation of the Senate a written notification at least 3 days before the issuance of a letter of intent under this section.

(5) LIMITATIONS.—A letter of intent issued under this subsection is not an obligation of the Government under section 1501 of title 31, and the letter is not deemed to be an administrative commitment for financing. An obligation or administrative commitment may be made only as amounts are provided in authorization and appropriations laws.

(6) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the obligation of amounts pursuant to a letter of intent under this subsection in the same fiscal year as the letter of intent is issued.

(e) FEDERAL SHARE.—

(1) IN GENERAL.—The Government’s share of the cost of a project under this section shall be 90 percent for a project at a medium or large hub airport and 95 percent for a project at any other airport.

(2) EXISTING LETTERS OF INTENT.—The Under Secretary shall revise letters of intent issued



before the date of enactment of this section to reflect the cost share established in this subsection with respect to grants made after September 30, 2003.

(f) SPONSOR DEFINED.—In this section, the term “sponsor” has the meaning given that term in section 47102.

(g) APPLICABILITY OF CERTAIN REQUIREMENTS.—The requirements that apply to grants and letters of intent issued under chapter 471 (other than section 47102(3)) shall apply to grants and letters of intent issued under this section.

(h) AVIATION SECURITY CAPITAL FUND.—

(1) IN GENERAL.—There is established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. The first \$250,000,000 derived from fees received under section 44940(a)(1) in each of fiscal years 2004 through 2028 shall be available to be deposited in the Fund. The Under Secretary shall impose the fee authorized by section 44940(a)(1) so as to collect at least \$250,000,000 in each of such fiscal years for deposit into the Fund. Amounts in the Fund shall be available to the Under Secretary to make grants under this section.

(2) ALLOCATION.—Of the amount made available under paragraph (1) for a fiscal year, not less than \$200,000,000 shall be allocated to fulfill letters of intent issued under subsection (d).

(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, up to \$50,000,000 shall be used to make discretionary grants, including other transportation agreements for airport security improvement projects, with priority given to small hub airports and nonhub airports.

(i) LEVERAGED FUNDING.—For purposes of this section, a grant under subsection (a) to an airport sponsor to service an obligation issued by or on behalf of that sponsor to fund a project described in subsection (a) shall be considered to be a grant for that project.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts made available under subsection (h), there is authorized to be appropriated to carry out this section \$400,000,000 for each of fiscal years 2005, 2006, and 2007, and \$450,000,000 for each of fiscal years 2008 through 2011<sup>1</sup> Such sums shall remain available until expended.

(2) ALLOCATIONS.—50 percent of amounts appropriated pursuant to this subsection for a fiscal year shall be used for making allocations under subsection (h)(2) and 50 percent of such amounts shall be used for making discretionary grants under subsection (h)(3).

(Added Pub. L. 108–176, title VI, § 605(a), Dec. 12, 2003, 117 Stat. 2566; amended Pub. L. 108–458, title IV, § 4019(e)(1), Dec. 17, 2004, 118 Stat. 3722; Pub. L. 110–53, title XVI, §§ 1603(a), 1604(a), Aug. 3, 2007, 121 Stat. 480.)

#### REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (e)(2), is the date of enactment of Pub. L. 108–176, which was approved Dec. 12, 2003.

<sup>1</sup> So in original. Probably should be followed by a period.

#### AMENDMENTS

2007—Subsec. (a). Pub. L. 110–53, § 1604(a)(1), substituted “shall make” for “may make” in introductory provisions.

Subsec. (d)(1). Pub. L. 110–53, § 1604(a)(2), substituted “shall issue” for “may issue”.

Subsec. (h)(1). Pub. L. 110–53, § 1604(a)(3), substituted “2028” for “2007”.

Subsec. (h)(2), (3). Pub. L. 110–53, § 1604(a)(4), added pars. (2) and (3) and struck out former pars. (2) and (3) which related to allocation of \$125,000,000 of amount available per fiscal year for large, medium, and small hub airports, nonhub airports, and on the basis of aviation security risks, and allocation of \$125,000,000 of amount available per fiscal year for discretionary grants, with priority given to fulfilling letters of intent issued under subsec. (d).

Subsec. (i). Pub. L. 110–53, § 1604(a)(6), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (i)(1). Pub. L. 110–53, § 1603(a), substituted “2007, and \$450,000,000 for each of fiscal years 2008 through 2011” for “2007.”

Subsec. (j). Pub. L. 110–53, § 1604(a)(5), redesignated subsec. (i) as (j).

2004—Subsec. (i)(1). Pub. L. 108–458 substituted “\$400,000,000 for each of fiscal years 2005, 2006, and 2007” for “\$250,000,000 for each of fiscal years 2004 through 2007”.

#### EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

#### PRIORITIZATION OF PROJECTS

Pub. L. 110–53, title XVI, § 1604(b), Aug. 3, 2007, 121 Stat. 480, provided that:

“(1) IN GENERAL.—The Administrator of the Transportation Security Administration shall establish a prioritization schedule for airport security improvement projects described in section 44923 of title 49, United States Code, based on risk and other relevant factors, to be funded under that section. The schedule shall include both hub airports referred to in paragraphs (29), (31), and (42) of section 40102[(a)] of such title and nonhub airports (as defined in section 47102(13) of such title).

“(2) AIRPORTS THAT HAVE INCURRED ELIGIBLE COSTS.—The schedule shall include airports that have incurred eligible costs associated with development of partial or completed in-line baggage systems before the date of enactment of this Act [Aug. 3, 2007] in reasonable anticipation of receiving a grant under section 44923 of title 49, United States Code, in reimbursement of those costs but that have not received such a grant.

“(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall provide a copy of the prioritization schedule, a corresponding timeline, and a description of the funding allocation under section 44923 of title 49, United States Code, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives.”

#### PERIOD OF REIMBURSEMENT

Pub. L. 108–458, title IV, § 4019(e)(2), Dec. 17, 2004, 118 Stat. 3722, provided that: “Notwithstanding any other provision of law, the Secretary [of Homeland Security] may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, and letters of intent issued under section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 [Pub. L. 108–7, div. I] (49 U.S.C. 47110 note).”

**§ 44924. Repair station security**

(a) SECURITY REVIEW AND AUDIT.—To ensure the security of maintenance and repair work conducted on air carrier aircraft and components at foreign repair stations, the Under Secretary for Border and Transportation Security of the Department of Homeland Security, in consultation with the Administrator of the Federal Aviation Administration, shall complete a security review and audit of foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, and that work on air carrier aircraft and components. The review shall be completed not later than 6 months after the date on which the Under Secretary issues regulations under subsection (f).

(b) ADDRESSING SECURITY CONCERNS.—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under subsection (a) within 90 days of providing notice to the repair station of the security issues and vulnerabilities so identified and shall notify the Administrator that a deficiency was identified in the security audit.

(c) SUSPENSIONS AND REVOCATIONS OF CERTIFICATES.—

(1) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If, after the 90th day on which a notice is provided to a foreign repair station under subsection (b), the Under Secretary determines that the foreign repair station does not maintain and carry out effective security measures, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and transmits the determination to the Administrator.

(2) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

(3) PROCEDURES FOR APPEALS.—The Under Secretary, in consultation with the Administrator, shall establish procedures for appealing a revocation of a certificate under this subsection.

(d) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by subsection (a) are not completed on or before the date that is 6 months after the date on which the Under Secretary issues regulations under subsection (f), the Administrator shall be barred from certifying any foreign repair station (other than a station that was previously certified, or is in the process of certification, by the Administration under this part) until such audits are completed for existing stations.

(e) PRIORITY FOR AUDITS.—In conducting the audits described in subsection (a), the Under Secretary and the Administrator shall give priority to foreign repair stations located in coun-

tries identified by the Government as posing the most significant security risks.

(f) REGULATIONS.—Not later than 240 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic aircraft repair stations.

(g) REPORT TO CONGRESS.—If the Under Secretary does not issue final regulations before the deadline specified in subsection (f), the Under Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing an explanation as to why the deadline was not met and a schedule for issuing the final regulations.

(Added Pub. L. 108-176, title VI, §611(b)(1), Dec. 12, 2003, 117 Stat. 2571; amended Pub. L. 110-53, title XVI, §1616(b), Aug. 3, 2007, 121 Stat. 488.)

## REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (f), is the date of enactment of Pub. L. 108-176, which was approved Dec. 12, 2003.

## AMENDMENTS

2007—Subsec. (a). Pub. L. 110-53, §1616(b)(1), substituted “6 months” for “18 months”.

Subsec. (d). Pub. L. 110-53, §1616(b)(2), inserted “(other than a station that was previously certified, or is in the process of certification, by the Administration under this part)” after “foreign repair station”.

Pub. L. 110-53, §1616(b)(1), which directed amendment of subsec. (b) by substituting “6 months” for “18 months”, was executed by making the substitution in subsec. (d), to reflect the probable intent of Congress.

## EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as an Effective Date of 2003 Amendment note under section 106 of this title.

## SUSPENSION OF CERTIFICATION OF FOREIGN REPAIR STATIONS

Pub. L. 110-53, title XVI, §1616(a), Aug. 3, 2007, 121 Stat. 488, provided that: “If the regulations required by section 44924(f) of title 49, United States Code, are not issued within 1 year after the date of enactment of this Act [Aug. 3, 2007], the Administrator of the Federal Aviation Administration may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations, after such date unless the station was previously certified, or is in the process of certification by the Administration under that part.”

**§ 44925. Deployment and use of detection equipment at airport screening checkpoints**

(a) WEAPONS AND EXPLOSIVES.—The Secretary of Homeland Security shall give a high priority to developing, testing, improving, and deploying, at airport screening checkpoints, equipment that detects nonmetallic, chemical, biological, and radiological weapons, and explosives, in all forms, on individuals and in their personal property. The Secretary shall ensure that the equipment alone, or as part of an integrated system, can detect under realistic operating conditions the types of weapons and explosives that terrorists would likely try to smuggle aboard an air carrier aircraft.

(b) STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall submit to the appropriate congressional committees a strategic plan to promote the optimal utilization and deployment of explosive detection equipment at airports to screen individuals and their personal property. Such equipment includes walk-through explosive detection portals, document scanners, shoe scanners, and backscatter x-ray scanners. The plan may be submitted in a classified format.

(2) CONTENT.—The strategic plan shall include, at minimum—

(A) a description of current efforts to detect explosives in all forms on individuals and in their personal property;

(B) a description of the operational applications of explosive detection equipment at airport screening checkpoints;

(C) a deployment schedule and a description of the quantities of equipment needed to implement the plan;

(D) a description of funding needs to implement the plan, including a financing plan that provides for leveraging of non-Federal funding;

(E) a description of the measures taken and anticipated to be taken in carrying out subsection (d); and

(F) a description of any recommended legislative actions.

(3) IMPLEMENTATION.—The Secretary shall begin implementation of the strategic plan within one year after the date of enactment of this paragraph.

(c) PORTAL DETECTION SYSTEMS.—There is authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration \$250,000,000, in addition to any amounts otherwise authorized by law, for research, development, and installation of detection systems and other devices for the detection of biological, chemical, radiological, and explosive materials.

(d) INTERIM ACTION.—Until measures are implemented that enable the screening of all passengers for explosives, the Assistant Secretary shall provide, by such means as the Assistant Secretary considers appropriate, explosives detection screening for all passengers identified for additional screening and their personal property that will be carried aboard a passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation.

(Added Pub. L. 108–458, title IV, §4013(a), Dec. 17, 2004, 118 Stat. 3719; amended Pub. L. 110–53, title XVI, §1607(b), Aug. 3, 2007, 121 Stat. 483.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 108–458, which was approved Dec. 17, 2004.

The date of enactment of this paragraph, referred to in subsec. (b)(3), is the date of enactment of Pub. L. 110–53, which was approved Aug. 3, 2007.

AMENDMENTS

2007—Subsec. (b)(3). Pub. L. 110–53 added par. (3).

ISSUANCE OF STRATEGIC PLAN FOR DEPLOYMENT AND USE OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT SCREENING CHECKPOINTS

Pub. L. 110–53, title XVI, §1607(a), Aug. 3, 2007, 121 Stat. 483, provided that: “Not later than 30 days after the date of enactment of this Act [Aug. 3, 2007], the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall issue the strategic plan the Secretary was required by section 44925(b) of title 49, United States Code, to have issued within 90 days after the date of enactment of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) [Dec. 17, 2004].”

ADVANCED AIRPORT CHECKPOINT SCREENING DEVICES

Pub. L. 108–458, title IV, §4014, Dec. 17, 2004, 118 Stat. 3720, directed the Assistant Secretary of Homeland Security (Transportation Security Administration), not later than Mar. 31, 2005, to develop and initiate a pilot program to deploy and test advanced airport checkpoint screening devices and technology as an integrated system at not less than 5 airports in the United States.

**§ 44926. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a timely and fair process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under the regimes utilized by the Transportation Security Administration, United States Customs and Border Protection, or any other office or component of the Department of Homeland Security.

(b) OFFICE OF APPEALS AND REDRESS.—

(1) ESTABLISHMENT.—The Secretary shall establish in the Department an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the Transportation Security Administration, United States Customs and Border Protection, and such other offices and components of the Department as the Secretary determines appropriate.

(2) RECORDS.—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office, under the direction of the Secretary, will be able to maintain a record of air carrier passengers and other individuals who have been misidentified and have corrected erroneous information.

(3) INFORMATION.—To prevent repeated delays of an<sup>1</sup> misidentified passenger or other individual, the Office shall—

(A) ensure that the records maintained under this subsection contain information determined by the Secretary to authenticate the identity of such a passenger or individual;

(B) furnish to the Transportation Security Administration, United States Customs and

<sup>1</sup> So in original.

Border Protection, or any other appropriate office or component of the Department, upon request, such information as may be necessary to allow such office or component to assist air carriers in improving their administration of the advanced passenger pre-screening system and reduce the number of false positives; and

(C) require air carriers and foreign air carriers take action to identify passengers determined, under the process established under subsection (a), to have been wrongly identified.

(4) **HANDLING OF PERSONALLY IDENTIFIABLE INFORMATION.**—The Secretary, in conjunction with the Chief Privacy Officer of the Department shall—

(A) require that Federal employees of the Department handling personally identifiable information of passengers (in this paragraph referred to as “PII”) complete mandatory privacy and security training prior to being authorized to handle PII;

(B) ensure that the records maintained under this subsection are secured by encryption, one-way hashing, other data anonymization techniques, or such other equivalent security technical protections as the Secretary determines necessary;

(C) limit the information collected from misidentified passengers or other individuals to the minimum amount necessary to resolve a redress request;

(D) require that the data generated under this subsection shall be shared or transferred via a secure data network, that has been audited to ensure that the anti-hacking and other security related software functions properly and is updated as necessary;

(E) ensure that any employee of the Department receiving the data contained within the records handles the information in accordance with the section 552a of title 5, United States Code, and the Federal Information Security Management Act of 2002 (Public Law 107-296);

(F) only retain the data for as long as needed to assist the individual traveler in the redress process; and

(G) conduct and publish a privacy impact assessment of the process described within this subsection and transmit the assessment to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and Committee on Homeland Security and Governmental Affairs of the Senate.

(5) **INITIATION OF REDRESS PROCESS AT AIRPORTS.**—The Office shall establish at each airport at which the Department has a significant presence a process to provide information to air carrier passengers to begin the redress process established pursuant to subsection (a).

(Added Pub. L. 110-53, title XVI, §1606(a), Aug. 3, 2007, 121 Stat. 482.)

REFERENCES IN TEXT

The Federal Information Security Management Act of 2002, referred to in subsec. (b)(4)(E), is title X of Pub.

L. 107-296, Nov. 25, 116 Stat. 2259. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Title 6, Domestic Security, and Tables.

SUBCHAPTER II—ADMINISTRATION AND PERSONNEL

**[[§§ 44931, 44932. Repealed. Pub. L. 107-71, title I, § 101(f)(6), Nov. 19, 2001, 115 Stat. 603]**

Section 44931, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1215, related to the Director of Intelligence and Security.

Section 44932, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1215; Pub. L. 107-71, title I, §110(a), Nov. 19, 2001, 115 Stat. 614, related to the Assistant Administrator for Civil Aviation Security.

**§ 44933. Federal Security Managers**

(a) **ESTABLISHMENT, DESIGNATION, AND STATIONING.**—The Under Secretary of Transportation for Security shall establish the position of Federal Security Manager at each airport in the United States described in section 44903(c). The Under Secretary shall designate individuals as Managers for, and station those Managers at, those airports.

(b) **DUTIES AND POWERS.**—The Manager at each airport shall—

(1) oversee the screening of passengers and property at the airport; and

(2) carry out other duties prescribed by the Under Secretary.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1216; Pub. L. 107-71, title I, §§101(f)(4), 103, Nov. 19, 2001, 115 Stat. 603, 605.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44933(a) .....	49 App.:1358b(a)(1), (2), (4).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §319(a); added Nov. 16, 1990, Pub. L. 101-604, §104, 104 Stat. 3070.
44933(b) .....	49 App.:1358b(a)(3).	
44933(c) .....	49 App.:1358b(a)(5).	

In subsection (a), the words “Not later than 90 days after November 16, 1990” are omitted as obsolete. The words “The Administrator shall designate individuals as Managers for, and station those Managers at, those airports” are substituted for “and shall begin designating persons as such Managers and stationing such Managers at such airports” for clarity and because of the restatement. The words “and designate a current field employee of the Administration as a Manager” are substituted for “assign the functions and responsibilities described in this section to existing Federal Aviation Administration field personnel and designate such personnel accordingly” to eliminate unnecessary words. The words “to the office of” are omitted as unnecessary. The words “Not later than 1 year after November 16, 1990” are omitted as obsolete. The words “Secretary of Transportation” are substituted for “Department of Transportation” because of 49:102.

In subsection (b), before clause (1), the words “The Manager at each airport shall” are substituted for “The responsibilities of a Federal Security Manager shall include the following” to eliminate unnecessary words. In clause (2)(A), the words “air carrier” are substituted for “such air carrier” because this is the first time the term is used in the source provisions. In clause (3), the words “United States Government” are substituted for “Federal” for clarity and consistency in the revised title and with other titles of the United