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[Laws in effect as of January 7, 2003]
[Document not affected by Public Laws enacted between
January 7, 2003 and December 19, 2003]
[**CITE**: **49USC44903**]

TITLE 49--TRANSPORTATION

SUBTITLE VII--AVIATION PROGRAMS

PART A--AIR COMMERCE AND SAFETY

subpart iii--safety

CHAPTER 449--SECURITY

SUBCHAPTER I--REQUIREMENTS

Sec. 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) may provide 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.

(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 prescreening 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.

(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.

(Pub. L. 103-272, Sec. 1(e), July 5, 1994, 108 Stat. 1205; Pub. L. 106-181, title VII, Sec. 717, Apr. 5, 2000, 114 Stat. 163; Pub. L. 106-528, Secs. 4, 6, Nov. 22, 2000, 114 Stat. 2520, 2521; Pub. L. 107-71, title I, Secs. 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, Secs. 1405, 1406, Nov. 25, 2002, 116 Stat. 2307; Pub. L. 108-176, title VI, Sec. 606(a), Dec. 12, 2003, 117 Stat. 2568.)

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, Sec. 316(a), (b), (e)(2), (3), (f); added Aug. 5, 1974, Pub. L. 93-366, Sec. 202, 88 Stat. 415, 417.
44903(b)	49 App.:1357(a).	
44903(c)(1)	49 App.:1357(b).	
44903(c)(2)	49 App.:1357(g).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, Sec. 316(g); added Aug. 15, 1990, Pub. L. 101-370, Sec. 2, 104 Stat. 451.
44903(d)	49 App.:1356b.	Aug. 8, 1985, Pub. L. 99-83, Sec. 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 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.

Amendments

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

2002--Subsec. (h). Pub. L. 107-296, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 1405(b)(2), substituted ``Under Secretary'' for ``Secretary'' in two places in introductory provisions.

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

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

Subsec. (k). Pub. L. 107-296, Sec. 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, Sec. 101(f)(7), (9), substituted ``Under Secretary of Transportation for Security'' for ``Administrator of the Federal Aviation Administration''.

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

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

Subsec. (c)(2)(C). Pub. L. 107-71, Sec. 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, Sec. 106(d), added par. (3).

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

Subsec. (g)(2). Pub. L. 107-71, Sec. 101(f)(7), substituted ``Under Secretary'' for ``Administrator'' in introductory provisions.

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

Subsec. (g)(2)(D). Pub. L. 107-71, Sec. 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, Sec. 101(f)(7), substituted ``Under Secretary'' for ``Administrator''.

Subsec. (g)(2)(E). Pub. L. 107-71, Sec. 101(f)(8), substituted ``Under Secretary's'' for ``Administrator's''.

Subsec. (g)(2)(F). Pub. L. 107-71, Secs. 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, Sec. 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, Sec. 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, Sec. 126(b), added subsec. (h) relating to authority to arm flight deck crews with less-than-lethal weapons.

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

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

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

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

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

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.

CAPPS2

Pub. L. 108-176, title VI, Sec. 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, Sec. 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

2001--Pub. L. 107-71, title I, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 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, Sec. 1402(b)(2), Nov. 25, 2002, 116 Stat. 2305.

Charter Air Carriers

Pub. L. 107-71, title I, Sec. 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 takeoff weight of 12,500 pounds or more, was repealed by Pub. L. 108-176, title VI, Sec. 606(b), Dec. 12, 2003, 117 Stat. 2568.

Physical Security for ATC Facilities

Pub. L. 106-528, Sec. 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, Sec. 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, Sec. 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.

Section Referred to in Other Sections

This section is referred to in sections 106, 40109, 44901, 44915, 44917, 44918, 44921, 44933, 44935, 44937, 44940, 46301, 46314, 46316 of this title.