

Calendar No. 808

108TH CONGRESS " "
2d Session

SENATE

REPORT
108-417

AVIATION SECURITY ADVANCEMENT ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2393



NOVEMBER 19, 2004.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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Mr. MCCAIN, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 2393]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2393) to improve aviation security, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The Aviation Security Advancement Act, S. 2393, as reported, seeks to improve the current system of aviation security. It increases the efficiency of the national air transportation system by addressing security screener workforce staffing, cargo and general aviation security, baggage screening, airport perimeter security, and other key matters.

BACKGROUND AND NEEDS

After the terrorist attacks of September 11, 2001 (known as 9/11), Congress acted quickly to pass the Aviation and Transportation Security Act (ATSA, P.L. 107-71). President Bush signed ATSA into law on November 19, 2001, and the Transportation Security Administration (TSA) was created as a result. TSA took control over all aspects of transportation security. The following year, on November 25, 2002, Congress passed the Homeland Security Act of 2002 (P.L. 107-296), that created the Department of Homeland Security (DHS) into which TSA was merged.

During the 108th Congress, Congress focused on reauthorizing the programs of the Federal Aviation Administration (FAA) and enacted Vision 100—Century of Aviation Reauthorization Act (P.L.

108–176) which was signed into law by President Bush on December 12, 2003. Vision 100 adopted a number of additional civil aviation security requirements aimed at improving aviation security beyond the steps taken in ATSA. Included in the legislation were provisions to strengthen flight crew training, improve passenger prescreening programs, and provide increased funding for airport security improvement projects through the creation of an Aviation Security Capital Fund.

Following passage of Vision 100, Senator Rockefeller developed S. 2393, the Aviation Security Advancement Act, in an effort to assess the progress made by TSA since 9/11. S. 2393 was introduced by Senators Rockefeller, McCain and Hollings on May 6, 2004, and the Commerce Committee held a hearing on June 22, 2004, to review efforts by TSA to strengthen aviation security and to consider additional measures to defend the nation's air transportation system. S. 2393 is designed to address potential loopholes that remained in the system regarding passenger screening, air cargo security, baggage screening, and other portions of the aviation security system that need improvement.

While Congress examined ways to make additional improvements to the current aviation security regime, the independent, bipartisan National Commission on Terrorist Attacks Upon the United States (9/11 Commission) completed its work that provided the most complete account of the circumstances surrounding the 9/11 terrorist attacks. On July 22, 2004, the 9/11 Commission released its final report which included general and specific recommendations designed to guard against future attacks, and generally notes a number of shortcomings in the current state of transportation security in the U.S. Chief among the Commission's concerns is that the TSA had not developed an integrated strategic plan for the aviation transportation sector nor specific plans for the various modes: air, sea, and land. The Commission identified this lack of preparedness as a major concern when faced with a U.S. transportation system of such size and magnitude that it is virtually impossible to completely secure from terrorist attack. The report also concluded that major vulnerabilities still exist in cargo and general aviation, and that while aviation still remains a possible target, terrorists could turn their attention to other modes of transportation where opportunities to do harm are as great if not greater.

More specifically, the 9/11 Commission's final report focused on three major recommendations in developing a strategy for aviation and transportation security. The first recommendation details the inadequacy of the general system of planning for transportation security, and the latter two recommendations focus on the aviation security issues of passenger and baggage screening. Senator McCain worked with Senator Lieberman to develop legislation that incorporated the three main recommendations of the Commission and introduced S. 2774, the 9/11 Commission Report Implementation Act of 2004, on September 7, 2004. S. 2774 requires a national strategy for transportation security, improves procedures aimed at identifying terrorists and their associates by assigning responsibility of the "no-fly list" to TSA, and enhances passenger and cargo screening by promoting the use of advanced technology to improve such screening.

S. 2393, as reported, takes further steps to strengthen both cargo and general aviation security which were identified by the 9/11 report as areas where “major vulnerabilities still exist” in the air transportation system. Regarding general aviation, the bill would require the development of uniform pilot licenses that are tamper resistant with photographic identification and the capability to accommodate biometric identifiers. It also provides aircraft charter and rental operators the ability to provide DHS the names of potential customers to cross-check suspect individuals against terrorist watchlists. On cargo matters, the bill increases funding for all-cargo aviation security and promotes the use of improved technology for cargo screening.

In addition, most of the major deadlines and requirements of ATSA have now been met, and TSA and Congress have had an appropriate opportunity to assess the agency’s capabilities and the areas where there are shortcomings. A consistent concern regarding the TSA’s mission has been whether the agency has been properly funded at a level needed to provide the necessary amount of protection for the nation’s aviation network. S. 2393 takes steps to increase funding and undertake other actions to strengthen many existing programs that have been fundamental to TSA’s efforts to develop the strongest aviation security regime possible. Screener staffing standards required by the bill would standardize and promote more effective screening at the nation’s commercial airports. Letters of Intent (LOIs) to fund priority capital security projects at airports would be authorized at a higher level. A schedule for the placement of in-line Explosive Detection Systems (EDS) to increase the efficiency of baggage screening is likewise mandated by this legislation. The Committee, recognizing the benefits of more thorough screening of all airline passengers before boarding, supports the development of next generation Backscatter body imaging systems to provide comprehensive screening of airline passengers for both metal weapons and explosive devices. This bill provides funding to explore the benefits of such technology.

S. 2393 also contains a number of provisions to bolster the existing aviation security system including: increased support for the Federal Air Marshal (FAM) program; encouragement to improve intelligence information sharing with State and local entities; advancement of biometric technology for precise identification of workers and travelers; increased funding to support improvement of airport perimeter security; revision of TSA’s prohibited items list to include butane lighters; assistance to commercial airports in using security cameras to monitor baggage handling areas; and detailed reports on the threat to aviation security of man-portable air defense systems (MANPADS) and chemical and biological explosives.

SUMMARY OF PROVISIONS

S. 2393 requires the FAA to establish new, standardized pilots licenses that are tamper resistant, include a photograph of the individual, and are capable of accommodating a biometric identifier.

The bill mandates that DHS develop procedures so aircraft charter and rental operations can provide TSA the names of potential customers to check against terrorist watchlists. Those identified as a flight security risk by TSA are prohibited from boarding aircraft,

and privacy safeguards are required to protect the civil rights of all individuals being screened.

S. 2393 directs DHS to develop standards for determining aviation security staffing levels necessary to provide appropriate aviation security for all U.S. commercial airports, and to ensure that the average aviation security-related delay experienced by airline passengers is minimized.

S. 2393 authorizes appropriations for improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft. It establishes a grant program to develop, test, purchase, and deploy next-generation air cargo security technology. Authorizes appropriations for: (1) research in, development, and deployment of such technology; and (2) projects and activities for which airport security improvement project letters of intent have been issued.

The legislation requires DHS to develop a plan to enhance air cargo security at airports for commercial passenger and cargo aircraft (including supply chain security).

S. 2393 directs TSA to issue an order: (1) requiring all-cargo aircraft operators to maintain a barrier (including use of a hardened cockpit door) between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access; and (2) prohibiting the possession of a flight deck door key to any flight crew member not assigned to the flight deck.

In addition, S. 2393 mandates the physical screening of each air passenger and their baggage on all-cargo aircraft, as well as a physical search of the aircraft each day and securing, sealing, or removal of access to aircraft unattended overnight. It also requires a doubling of cargo inspections on passenger aircraft.

S. 2393 directs DHS to establish a schedule for replacing trace-detection equipment used for in-line baggage screening with explosive detection system equipment at airports.

The bill authorizes appropriations for: (1) next generation explosive detection systems; (2) installation of portal detection systems at airports to detect biological, radiological, and explosive materials; (3) the deployment of Federal Air Marshals; (4) research and development of biometric technology applications to aviation security; (5) establishment of competitive centers of excellence at the national laboratories; (6) airport perimeter security technology; (7) improved pilot licenses; (8) aircraft charter and rental screening; and (9) security monitoring cameras for airport baggage handling areas.

S. 2393 requires that air carriers offer bereavement fares to the public to the greatest extent practicable, at the lowest fare offered by the carrier for the flight requested when flying in connection with the death of a relative or other relationships as determined by the air carrier.

The legislation directs TSA to modify the prohibited items list to prohibit air carrier passengers from carrying butane lighters on-board any aircraft.

In addition, S. 2393 requires the Secretary to report to specified congressional committees on: (1) the air marshal program; (2) certain TSA-related baggage claim issues; (3) implementation of Government Accounting Office (GAO) homeland security information sharing recommendations; (4) protecting commercial aircraft from

the threat of man-portable air defense systems (MANPADS); (5) the status of efforts and needs regarding the use of passenger checkpoint screening equipment to detect chemical and plastic explosives; and (6) on the number of individuals serving as FAMs with background on hiring practices. The FAM report is to be submitted in classified form with a new submission required every 90 days.

S. 2393 includes a provision under which no other law or policy shall expose the identity of a FAM to anyone other than those designated by DHS.

S. 2393 also requires DHS to provide assistance to commercial airports for the acquisition and installation of security monitoring cameras for surveillance of baggage areas in order to deter theft and promote timely resolution of liability claims against TSA.

LEGISLATIVE HISTORY

S. 2393 was introduced by Senators Rockefeller, McCain and Hollings on May 6, 2004, and was referred to the Senate Committee on Commerce, Science, and Transportation. Cosponsors of the measure include Senators Snowe, Lautenberg and Bill Nelson. On June 22, 2004, the Senate Commerce Committee held a hearing on the issue of aviation security and examined the contents of the bill.

On September 22, 2004, the Senate Committee on Commerce, Science, and Transportation met in Executive Session to consider S. 2393. At that time, Senator Rockefeller offered a manager's amendment that included general aviation security provisions in addition to addressing a number of other security issues. Provisions by Senator Boxer in the manager's amendment included: protecting the identity of air marshals; requiring quarterly reports on the make up of the air marshal workforce; requiring a report on chemical and biological explosive screening; and requiring a report on the threat of man-portable air defense systems. The amendment also had a provision from Senators Dorgan and Wyden to put butane lighters on the TSA's prohibited items list, a provision from Senator Snowe to increase cargo inspections on passenger aircraft by two-fold, a provision from Senator Breaux to require air carriers offer bereavement fares, and a provision from Senator Lautenberg to promote the use of security cameras in airport baggage handling areas. The manager's amendment was accepted by voice vote and S. 2393 was subsequently passed out of Committee unanimously.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 2393—Aviation Security Advancement Act

Summary: S. 2393 would authorize funding over the 2005–2009 period for new and existing aviation security programs administered by the Transportation Security Administration (TSA) and the Federal Aviation Administration (FAA). CBO estimates that implementing S. 2393 would cost \$2.3 billion over the next five years, assuming appropriation of the amounts specified and estimated to

be necessary. Enacting the bill would not affect direct spending or revenues.

S. 2393 would authorize the appropriation of more than \$1.8 billion for TSA to improve airport and cargo security through grants, demonstration projects, and research and development funding. In addition, the bill would direct TSA to screen passenger lists of charter and rental aircraft, increase inspections of air cargo, purchase and install security cameras in certain baggage handling areas of airports, and set standards for appropriate staffing levels for airport security. CBO estimates that those additional requirements would cost almost \$350 million over the 2005–2009 period. Finally, the bill would authorize the appropriation of \$50 million for the FAA to develop a system for issuing pilot's licenses that are tamper proof and secure and \$83 million for the deployment of additional federal air marshals.

S. 2393 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

S. 2393 would impose private-sector mandates as defined in UMRA on U.S. and foreign air carriers, all-cargo aircraft operators and their flight crews, and airline passengers. CBO expects that the aggregate direct costs to comply with those mandates would not exceed the annual threshold established by UMRA for private-sector mandates (\$120 million in 2004, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2393 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Improvements to Airport and Cargo Security:					
Authorization Level	921	450	450	0	0
Estimated Outlays	644	659	450	68	0
Passenger and Cargo Screening:					
Estimated Authorization Level	215	33	34	35	36
Estimated Outlays	150	93	34	35	36
Pilot License System:					
Authorization Level	50	0	0	0	0
Estimated Outlays	40	10	0	0	0
Standards for Security Staffing Levels:					
Estimated Authorization Level	4	0	0	0	0
Estimated Outlays	2	2	0	0	0
Air Marshal Deployment:					
Authorization Level	20	31	32	0	0
Estimated Outlays	15	28	31	6	3
Total Changes:					
Estimated Authorization Level	1,210	514	516	35	36
Estimated Outlays	851	792	515	109	39

Basis of estimate: For this estimate, CBO assumes that S. 2393 will be enacted early in fiscal year 2005 and that necessary funds will be provided near the start of each fiscal year. Estimates of outlays are based on historical spending patterns for affected programs.

Improvements to Airport and Cargo Security

S. 2393 would authorize the appropriation of \$1.8 billion over the 2005–2007 period for TSA to make physical and technological improvements in airport and cargo security. Of that amount, section 6 would authorize the appropriations of over \$1.3 billion for demonstration projects, grants to research and develop next-generation technology for screening and tracking passengers and baggage, and security improvement projects authorized by the Vision 100-Century of Aviation Reauthorization Act. The bill also would authorize the appropriation of \$350 million to develop explosive, chemical, and radiological detection systems, \$100 million to protect the perimeter of airports, and \$21 million to research and develop biometric technology to verify the identity of airport and air carrier staff.

Passenger and Cargo Screening

CBO estimates that implementing passenger and cargo screening provisions of S. 2393 would cost nearly \$350 million over the next five years.

Section 19 would authorize TSA to help airports to install security cameras in baggage handling areas that are not open to public view. Based on information from TSA, CBO estimates that installing the cameras in 450 airports would cost almost \$180 million.

Sections 3 and 4 would require TSA to review the passenger lists of all charter and rental aircraft when requested by the aircraft owner or operator. The agency would compare information about the passengers and crew of specific flights with information from a database containing known or suspected terrorists and their associates. Under the bill, TSA could ground a flight if it is determined to be a security risk. The number of passengers on charter and rental aircraft is unknown. Further, CBO expects that many operators of charter or rental aircraft, particularly operators who do not require advance reservations (e.g., sightseeing tours) or operators who serve frequent customers (e.g., sports teams) would not request TSA screening because of potential delays. For this estimate, CBO assumes that TSA would screen around 10 million passenger records per year for operators of charter and rental aircraft. Based on information from TSA, we estimate that the additional passenger screening would cost about \$12 million in 2005 and nearly \$90 million over the 2005–2009 period.

Within one year of the bill's enactment, section 7 would require TSA to at least double the volume of cargo that is currently screened or inspected for passenger aircraft. Air carrier operators screen cargo on passenger flights, subject to TSA requirements. The agency provides regulatory oversight of the air carriers' work through its dedicated cargo inspectors.

In addition, the bill would instruct TSA to require evaluations and background checks of employees that ship, forward, and handle cargo. Based on information from TSA, CBO estimates that the agency would need 100 additional inspectors to monitor cargo screening at a cost of \$14 million in 2005 and about \$80 million over the next five years.

Other Provisions

Several additional provisions of S. 2393 would add over \$137 million to the bill's cost over the 2005–2009 period.

- Section 2 would authorize the appropriation of \$50 million for the FAA to create a system to issue pilot's licenses that are secure and include unique biometric or other information. The funds would likely be spent over the next two years.

- Section 5 would require TSA to set standards for determining the appropriate level of security staffing at commercial airports and to study the possibility of combining the screening and security-related functions of federal employees stationed at airports. Based on information from TSA, CBO estimates that this work would cost about \$4 million over the next two years.

- Section 9 would authorize the appropriation of \$83 million for the deployment of additional federal air marshals over the next three years.

- S. 2393 would require the preparation of several studies and reports, including an analysis of TSA's standards for security staffing levels by the Government Accountability Office (GAO), a report by the Department of Homeland Security (DHS) on its implementation of GAO recommendations on information sharing, and a report on protecting commercial aircraft from the threat of Man-Portable Air Defense Systems (MANPADS). Investigation of those issues by TSA, GAO, and DHS is already under way, and CBO expects that the cost of the new reporting requirements under S. 2393 would be negligible.

Estimate impact on state, local, and tribal governments: S. 2393 contains no intergovernmental mandates as defined in the UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: S. 2293 would impose private-sector mandates as defined in UMRA on U.S. and foreign air carriers, all-cargo aircraft operators and their flight crews, and airline passengers. CBO expects that the aggregate direct costs to comply with those mandates would not exceed the annual threshold established by UMRA for private-sector mandates (\$120 million in 2004, adjusted annually for inflation).

Bereavement Fares

All air carriers would be required to offer bereavement fares to the public for air transportation in connection with the death of a relative at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested. According to industry and government representatives, bereavement fares are currently offered voluntarily by many of the major air carriers at fares determined by the air carrier. Air carriers would manage the bereavement fare requirement in the most cost-effective way possible. The bill would allow air carriers some flexibility in determining who would qualify for the fare, the appropriate documentation, and the lowest feasible fare. The direct cost to comply with the mandate would vary depending on the rules and regulations to be developed after enactment.

Passenger Air Carrier Security

The bill would require U.S. and foreign air carriers to at least double the volume of property that is screened or inspected within

one year of enactment. The bill defines property as mail, cargo, and other articles carried aboard a passenger aircraft. Based on information from TSA and industry representatives, CBO expects the direct cost for air carriers to comply with the mandate could be substantial but not large enough to make the aggregate costs of the mandates in the bill exceed the annual threshold.

The bill also would prohibit passengers from carrying butane lighters onboard passenger aircraft. CBO expects that the direct cost to comply with the mandate would be minimal, if any.

All-Cargo Aircraft Security

All-cargo aircraft operators would be required to:

- Maintain a barrier between the aircraft flight deck and the cargo compartment,
- Physically screen each person and their bags to be transported on an all-cargo aircraft,
- Physically search each aircraft prior to the first flight of the day for the aircraft, and
- Secure any aircraft that is unattended overnight.

In addition, the bill would prohibit the possession of a key to a flight deck door by any member of a flight crew who is not assigned to the flight deck. Based on information on current industry practices from TSA and industry representatives, CBO expects that the costs to comply with those mandates would be small.

Estimate prepared by: Federal Costs; Megan Carroll and Gregory Waring, Impact on State, Local, and Tribal Governments: Gregory Waring, Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following evaluation of the regulatory impact of the legislation as reported:

NUMBER OF PERSONS COVERED

The reported bill would take steps to strengthen aviation security in the U.S. by addressing areas in the existing security regime determined by Congressional review as weak. The bill affects DHS, TSA and other entities already subject to DHS rules and regulations, thus the individuals covered should be consistent with the current numbers of persons impacted under existing aviation security laws.

ECONOMIC IMPACT

S. 2393 is not expected to have a negative impact on the U.S. economy, and portions of the bill aimed at using improved technology to enhance current baggage and passenger screening practices may provide significant cost savings to the aviation industry.

PRIVACY

The reported bill would have minimal impact on the privacy rights of individuals, and under provisions that allow for airplane

lease and charter companies to receive background checks of potential customers against terrorist watch lists, privacy safeguards have been included.

PAPERWORK

It is not anticipated that there will be a major increase in paperwork burdens resulting from the enactment of S. 2393. In areas where the bill requires additional paperwork, such as reporting requirements, it is aimed at improving the security of the national air transportation system.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that the Act may be called the “Aviation Security Advancement Act.”

Section 2. Improved pilot licenses

Section 2 requires the FAA to establish a system to issue new pilot licenses within 180 days after enactment of the bill that are tamper resistant, have a photo of the pilot, and are capable of accommodating a biometric identifier.

Section 2 allows the FAA to use designees to minimize the burden on individual pilots, and authorizes \$50 million in fiscal year (FY) 2005 to establish this program.

Section 3. Aircraft charter customer screening

Section 3 directs the DHS to develop a procedure, within 90 days after enactment of the bill, by which aircraft charter operations may provide TSA the names of potential customers to be checked against the agency’s terrorist watchlists. Any individual identified as a flight security risk will be prohibited from boarding such aircraft.

Section 3 mandates that DHS incorporate privacy safeguards into the procedure that will prohibit sharing information about the individual being screened with the charter operation. Also, individuals identified as a security risk will have immediate access to TSA for the purpose of correcting any errors regarding the individuals identity.

Section 3 authorizes DHS such sums as necessary to carry out this section.

Section 4. Aircraft rental customer screening

Section 4 directs DHS to develop a procedure, within 90 days after enactment of the bill, by which aircraft rental operations may provide TSA the names of potential customers to have those individuals checked against the agency’s terrorist watchlists. Any individual identified as a flight security risk will be prohibited from boarding such aircraft.

Section 4 mandates that DHS incorporate privacy safeguards into the procedure that will prohibit sharing information about the individual being screened with the rental operation, and that such individuals identified as a security risk will have immediate access to TSA for the purpose of correcting any errors regarding the individual’s identity.

Section 4 requires DHS to test the system through a pilot program before fully implementing the programs, and authorizes DHS such sums as necessary to carry out this section.

Section 5. Aviation security staffing

Section 5 requires DHS to work with the Department of Transportation (DOT) and individual Federal Security Directors (FSDs) to establish staffing standards for security screening checkpoints at every commercial airport in the U.S. within 90 days of enactment. The standards must be based on providing appropriate security while minimizing passenger delays at each checkpoint. The Government Accountability Office (GAO) is directed to perform an analysis of this initiative, and DHS and GAO must report to Congress on the standards that are developed, including recommendations to further improve screening within 120 days. DHS must also study the feasibility of combining the operations of Federal airport workers with other government employees performing aviation security functions to determine the impact of this workforce integration on air transportation security.

Section 6. Improved air cargo and airport security

Section 6 authorizes appropriations of \$200 million for FYs 2005 through 2007 to fund aviation cargo security.

Section 6 requires DHS to establish a next-generation cargo security grant program to facilitate the creation and use of improved air cargo security technology. \$100 million is authorized each year for FYs 2005 through 2007 to fund research, development and deployment of next-generation security technology. DHS is directed to provide an annual report to Congress on the status of this program.

Section 6 also authorizes \$150 million each year for FYs 2005 through 2007 to fund expiring and new LOIs to pay for capital infrastructure security improvements at commercial airports.

Section 7. Air cargo security measures

Section 7 requires DHS and DOT to implement an air cargo security plan based on recommendations of the Cargo Security Working Group of the Aviation Security Advisory Committee. In addition to planning, TSA must also establish regulations to strengthen the supply chain security of air cargo by evaluating indirect air carriers and ground handling agents, as well as, an evaluation of the use of canine detection teams.

Section 7 directs TSA to develop, within 180 days of enactment, a requirement for all-cargo aircraft to keep a barrier between the flight deck and the cargo compartment and to take further action to secure all-cargo aircraft. In addition, TSA is required to develop standards for screening of any passengers or service personnel going on-board all-cargo aircraft, and for screening individual aircraft each day within 1 year of enactment. TSA has the option of working with FAA to develop alternative means of compliance for any of the measures required by this section.

Section 7 also requires DHS to double the volume of cargo screened on commercial passenger aircraft within one year of enactment.

Section 8. Explosive detection systems

Section 8 mandates that DHS develop a schedule for replacing trace detection equipment (ETD) used for in-line baggage screening purposes with EDS within 180 days of enactment. This action must include a report to Congress on the schedule and estimated impact of this measure.

Section 8 authorizes \$100 million for next-generation EDS development with a mandate that DHS must develop planning guidelines to implement improved EDS equipment.

Section 8 authorizes \$250 million for portal detection system research and development for TSA to develop a pilot program at up to ten airports.

Section 8 also requires DHS to provide Congress an annual report on the next-generation EDS and portal detection system initiatives.

Section 9. Air marshal program

Section 9 requires DHS to report on the potential impact of cross-training the Federal Air Marshal (FAM) workforce for other Federal duties.

Section 9 also authorizes \$83 million in additional funding to increase FAM program support for FYs 2005 through 2007.

Section 10. TSA-related baggage claim issues study

Section 10 requires DHS to report to Congress on the current system for addressing missing or damaged baggage related to airport screening within 90 days after enactment. The report must include information on the current time needed to settle claims, the effect of ATSA on the system, and recommendations to include airlines in efforts to improve the process.

Section 11. Report on implementation of GAO homeland security information sharing recommendations

Section 11 requires DHS to report to Congress within 30 days of enactment on the implementation of recommendations contained in the GAO Report on "Homeland Security: Efforts To Improve Information Sharing Need To Be Strengthened."

Section 12. Aviation security research and development

Section 12 authorizes \$20 million for TSA to conduct biometric research and development to determine the applicability of such technology to aviation security.

Section 12 also authorizes \$1 million for DHS/TSA to establish a Biometrics Center of Excellence.

Section 13. Perimeter access technology

Section 13 authorizes \$100 million for airport perimeter security technology, perimeter fencing, contracts, vehicle tagging and other related security operations.

Section 14. Bereavement fares

Section 14 requires air carriers to offer bereavement fares to the public in connection with the death of a relative or other relationships as determined by the air carrier. The fares must be made

available, to the greatest extent practicable, at the lowest fare offered by the carrier for the flight requested.

Section 15. Review and revision of prohibited items list

Section 15 directs TSA to modify the prohibited items list, within 60 days of enactment, to prohibit air carrier passengers from carrying butane lighters onboard any aircraft.

Section 16. Report on protecting commercial aircraft from the threat of man-portable air defense systems

Section 16 requires DHS, in coordination with TSA, to prepare a report on protecting commercial aircraft from the threat of MANPADS. The report must include: an estimate of those organizations that have access to MANPADS and their potential risk; a description of the efforts of DHS to protect commercial aircraft from MANPADS; an assessment of the systems currently being considered by DHS to counter this threat; justification for the schedule DHS has developed to address the MANPADS threat; an assessment of other technology that could be employed on aircraft to address the threat; an assessment of alternate approaches to address the threat that are not aircraft-based; a review of contractor liability associated with the use of counter-MANPADS systems; a description of strategies that DHS may employ at the conclusion of the current demonstration project; consideration of a plan to expedite counter-MANPADS programs if the threat warrants it; information regarding DHS efforts to identify areas at domestic and foreign airports that are most vulnerable to MANPADS attack; and, a description of cooperation between DHS and FAA to certify the safety of counter-MANPADS systems and technology.

Section 16 requires that the MANPADS report be submitted to Congress in coordination with the fiscal year 2006 budget.

Section 17. Screening devices to detect chemical and plastic explosives

Section 17 directs DHS to provide Congress a report, within 90 days after enactment, on the status of current efforts and additional needs regarding the use of passenger checkpoint screening equipment to detect chemical and plastic explosives with a timetable and cost estimate for the installation of recommended equipment.

Section 18. Reports on the federal air marshals program

Section 18 directs DHS to provide Congress a classified report, within 90 days after enactment and every 90 days thereafter, on the number of individuals serving as FAMs. The report is required to include the number of FAMs who are women, minorities or non-DHS employees, the percentage of domestic and international flights they are stationed on, and the rate at which individuals are leaving the FAM program.

Section 19. Security of air marshal identity

Section 19 requires DHS to designate individuals and parties to whom FAMs will be required to identify themselves with the direction that no other law or policy shall expose the identity of a FAM to anyone other than those designated by DHS.

Section 20. Security monitoring cameras for airport baggage handling areas

Section 20 mandates DHS provide assistance to commercial airports with baggage handling areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of the baggage area to deter theft and promote timely resolution of liability claims against TSA.

Section 20 authorizes such sums as may be necessary in FY 2005 to carry out this section.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

TITLE 49, UNITED STATES CODE

CHAPTER 415. PRICING

§41512. Bereavement fares

Air carriers shall offer, with appropriate documentation, bereavement fares to the public for air transportation in connection with the death of a relative or other relationship (as determined by the air carrier) and shall make such fares available, to the greatest extent practicable, at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested.

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CHAPTER 449. SECURITY

SUBCHAPTER I. REQUIREMENTS

§44925. All-cargo aircraft security

(a) *ACCESS TO FLIGHT DECK.*—Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall—

(1) issue an order (without regard to the provisions of chapter 5 of title 5)—

(A) requiring, to the extent consistent with engineering and safety standards, that all-cargo aircraft operators engaged in air transportation or intrastate air transportation maintain a barrier, which may include the use of a hardened cockpit door, between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access to the flight deck from the cargo compartment, in accordance with the terms of a plan presented to and accepted by the Administrator of the Transportation Security Administration in consultation with the Federal Aviation Administrator; and

- (B) prohibiting the possession of a key to a 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 flight deck.
- (b) *SCREENING AND OTHER MEASURES.*—Within 1 year after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall issue an order (without regard to the provisions of chapter 5 of title 5) requiring—
- (1) all-cargo aircraft operators engaged in air transportation or intrastate air transportation to physically screen each person, and that person's baggage and personal effects, to be transported on an all-cargo aircraft engaged in air transportation or intrastate air transportation;
- (2) each such aircraft to be physically searched before the first leg of the first flight of the aircraft each day, or, for inbound international operations, at aircraft operator's option prior to the departure of any such flight for a point in the United States; and
- (3) each such aircraft that is unattended overnight to be secured or sealed or to have access stairs, if any, removed from the aircraft.
- (c) *ALTERNATIVE MEASURES.*—The Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, may authorize alternative means of compliance with any requirement imposed under this section.