

that providing aviation training to presents minimal risk to aviation or national security because of the aviation training already possessed by such class of individuals.

(e) TRAINING.—In subsection (a), the term “training” means training received from an instructor in an aircraft or aircraft simulator and does not include recurrent training, ground training, or demonstration flights for marketing purposes.

(f) NONAPPLICABILITY TO CERTAIN FOREIGN MILITARY PILOTS.—The procedures and processes required by subsections (a) through (d) shall not apply to a foreign military pilot endorsed by the Department of Defense for flight training in the United States and seeking training described in subsection (e) in the United States.

(g) FEE.—

(1) IN GENERAL.—The Secretary of Homeland Security may assess a fee for an investigation under this section, which may not exceed \$100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

(2) OFFSET.—Notwithstanding section 3302 of title 31, any fee collected under this section—

(A) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Secretary for those expenses; and

(B) shall remain available until expended.

(h) INTERAGENCY COOPERATION.—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Secretary in implementing this section.

(i) SECURITY AWARENESS TRAINING FOR EMPLOYEES.—The Secretary shall require flight schools to conduct a security awareness program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.

(Added Pub. L. 107–71, title I, §113(a), Nov. 19, 2001, 115 Stat. 622; amended Pub. L. 108–176, title VI, §612(a), Dec. 12, 2003, 117 Stat. 2572; Pub. L. 115–254, div. K, title I, §1991(d)(30), Oct. 5, 2018, 132 Stat. 3639.)

#### AMENDMENTS

2018—Subsec. (d). Pub. L. 115–254 substituted “The Secretary of Homeland Security” for “Not later than 60 days after the date of enactment of this section, the Secretary” in introductory provisions.

2003—Pub. L. 108–176 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d) relating to waiting period for training, interruption of training, covered training, and security awareness training for employees.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title VI, §612(c), Dec. 12, 2003, 117 Stat. 2574, provided that: “The amendment made by subsection (a) [amending this section] takes effect on the effective date of the interim final rule required by subsection (b)(1) [set out below] [rule effective Sept. 20, 2004, see 69 F.R. 56323].”

#### EFFECTIVE DATE

Pub. L. 107–71, title I, §113(d), Nov. 19, 2001, 115 Stat. 622, provided that: “The amendment made by subsection (a) [enacting this section] applies to applications for training received after the date of enactment of this Act [Nov. 19, 2001].”

#### IMPLEMENTATION

Pub. L. 108–176, title VI, §612(b), Dec. 12, 2003, 117 Stat. 2574, provided that:

“(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act [Dec. 12, 2003], the Secretary of Homeland Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

“(2) USE OF OVERSEAS FACILITIES.—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Secretary or other agency designated by the Secretary. The Attorney General and the Secretary of State shall cooperate with the Secretary of Homeland Security in carrying out this paragraph.

“(3) USE OF UNITED STATES FACILITIES.—If the Secretary of Homeland Security requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.”

#### REPORT

Pub. L. 108–176, title VI, §612(d), Dec. 12, 2003, 117 Stat. 2574, provided that: “Not later than 1 year after the date of enactment of this Act [Dec. 12, 2003], the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, in reducing risks to aviation security and national security.”

#### INTERNATIONAL COOPERATION

Pub. L. 107–71, title I, §113(c), Nov. 19, 2001, 115 Stat. 622, provided that: “The Secretary of Transportation, in consultation with the Secretary of State, shall work with the International Civil Aviation Organization and the civil aviation authorities of other countries to improve international aviation security through screening programs for flight instruction candidates.”

#### § 44940. Security service fee

(a) GENERAL AUTHORITY.—

(1) PASSENGER FEES.—The Administrator of the Transportation Security Administration shall impose a uniform fee, on passengers of air carriers and foreign air carriers in air transportation and intrastate air transportation originating at airports in the United States, to pay for the following costs of providing civil aviation security services:

(A) Salary, benefits, overtime, retirement and other costs of screening personnel, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations under section 44901.

(B) The costs of training personnel described in subparagraph (A), and the acquisition, operation, and maintenance of equipment used by such personnel.

(C) The costs of performing background investigations of personnel described in subparagraphs (A), (D), (F), and (G).

(D) The costs of the Federal air marshals program.

(E) The costs of performing civil aviation security research and development under this title.

(F) The costs of Federal Security Managers under section 44903.

(G) The costs of deploying Federal law enforcement personnel pursuant to section 44903(h).

(H) The costs of security-related capital improvements at airports.

(I) The costs of training pilots and flight attendants under sections 44918 and 44921.

(2) DETERMINATION OF COSTS.—

(A) IN GENERAL.—The amount of the costs under paragraph (1) shall be determined by the Administrator of the Transportation Security Administration and shall not be subject to judicial review.

(B) DEFINITION OF FEDERAL LAW ENFORCEMENT PERSONNEL.—For purposes of paragraph (1)(A), the term “Federal law enforcement personnel” includes State and local law enforcement officers who are deputized under section 44922.

(b) SCHEDULE OF FEES.—In imposing fees under subsection (a), the Administrator of the Transportation Security Administration shall ensure that the fees are reasonably related to the Transportation Security Administration’s costs of providing services rendered.

(c) LIMITATION ON FEE.—

(1) AMOUNT.—Fees imposed under subsection (a)(1) shall be \$5.60 per one-way trip in air transportation or intrastate air transportation that originates at an airport in the United States, except that the fee imposed per round trip shall not exceed \$11.20.

(2) DEFINITION OF ROUND TRIP.—In this subsection, the term “round trip” means a trip on an air travel itinerary that terminates or has a stopover at the origin point (or co-terminal).

(3) OFFSETTING COLLECTIONS.—Beginning on October 1, 2027, fees collected under subsection (a)(1) for any fiscal year shall be credited as offsetting collections to appropriations made for aviation security measures carried out by the Transportation Security Administration, to remain available until expended.

(d) IMPOSITION OF FEE.—

(1) IN GENERAL.—Notwithstanding section 9701 of title 31 and the procedural requirements of section 553 of title 5, the Administrator of the Transportation Security Administration shall impose the fee under subsection (a)(1) through the publication of notice of such fee in the Federal Register and begin collection of the fee as soon as possible.

(2) SPECIAL RULES PASSENGER FEES.—A fee imposed under subsection (a)(1) through the procedures under paragraph (1) of this subsection shall apply only to tickets sold after the date on which such fee is imposed. If a fee imposed under subsection (a)(1) through the procedures under paragraph (1) of this subsection on transportation of a passenger of a

carrier described in subsection (a)(1) is not collected from the passenger, the amount of the fee shall be paid by the carrier.

(3) SUBSEQUENT MODIFICATION OF FEE.—After imposing a fee in accordance with paragraph (1), the Administrator of the Transportation Security Administration may modify, from time to time through publication of notice in the Federal Register, the imposition or collection of such fee, or both.

(4) LIMITATION ON COLLECTION.—No fee may be collected under this section, other than subsection (i), except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed is provided for in advance in an appropriations Act or in section 44923.

(e) ADMINISTRATION OF FEES.—

(1) FEES PAYABLE TO ADMINISTRATOR.—All fees imposed and amounts collected under this section are payable to the Administrator of the Transportation Security Administration.

(2) FEES COLLECTED BY AIR CARRIER.—A fee imposed under subsection (a)(1) shall be collected by the air carrier or foreign air carrier that sells a ticket for transportation described in subsection (a)(1).

(3) DUE DATE FOR REMITTANCE.—A fee collected under this section shall be remitted on the last day of each calendar month by the carrier collecting the fee. The amount to be remitted shall be for the calendar month preceding the calendar month in which the remittance is made.

(4) INFORMATION.—The Administrator of the Transportation Security Administration may require the provision of such information as the Administrator of the Transportation Security Administration decides is necessary to verify that fees have been collected and remitted at the proper times and in the proper amounts.

(5) FEE NOT SUBJECT TO TAX.—For purposes of section 4261 of the Internal Revenue Code of 1986 (26 U.S.C. 4261), a fee imposed under this section shall not be considered to be part of the amount paid for taxable transportation.

(6) COST OF COLLECTING FEE.—No portion of the fee collected under this section may be retained by the air carrier or foreign air carrier for the costs of collecting, handling, or remitting the fee except for interest accruing to the carrier after collection and before remittance.

(f) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—Notwithstanding section 3302 of title 31, any fee collected under this section—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

(3) shall remain available until expended.

(g) REFUNDS.—The Administrator of the Transportation Security Administration may refund any fee paid by mistake or any amount paid in excess of that required.

(h) EXEMPTIONS.—The Administrator of the Transportation Security Administration may exempt from the passenger fee imposed under

subsection (a)(1) any passenger enplaning at an airport in the United States that does not receive screening services under section 44901 for that segment of the trip for which the passenger does not receive screening.

(i) DEPOSIT OF RECEIPTS IN GENERAL FUND.—

(1) IN GENERAL.—Beginning in fiscal year 2014, out of fees received in a fiscal year under subsection (a)(1), after amounts are made available in the fiscal year under section 44923(h), the next funds derived from such fees in the fiscal year, in the amount specified for the fiscal year in paragraph (4), shall be credited as offsetting receipts and deposited in the general fund of the Treasury.

(2) FEE LEVELS.—The Secretary of Homeland Security shall impose the fee authorized by subsection (a)(1) so as to collect in a fiscal year at least the amount specified in paragraph (4) for the fiscal year for making deposits under paragraph (1).

(3) RELATIONSHIP TO OTHER PROVISIONS.—Subsections (b) and (f) shall not apply to amounts to be used for making deposits under this subsection.

(4) FISCAL YEAR AMOUNTS.—For purposes of paragraphs (1) and (2), the fiscal year amounts are as follows:

- (A) \$1,320,000,000 for fiscal year 2018.
- (B) \$1,360,000,000 for fiscal year 2019.
- (C) \$1,400,000,000 for fiscal year 2020.
- (D) \$1,440,000,000 for fiscal year 2021.
- (E) \$1,480,000,000 for fiscal year 2022.
- (F) \$1,520,000,000 for fiscal year 2023.
- (G) \$1,560,000,000 for fiscal year 2024.
- (H) \$1,600,000,000 for fiscal year 2025.
- (M)<sup>1</sup> \$1,640,000,000 for fiscal year 2026.
- (N)<sup>1</sup> \$1,680,000,000 for fiscal year 2027.

(Added Pub. L. 107–71, title I, §118(a), Nov. 19, 2001, 115 Stat. 625; amended Pub. L. 108–7, div. I, title III, §351(b), Feb. 20, 2003, 117 Stat. 420; Pub. L. 108–176, title VI, §605(b)(1), (2), Dec. 12, 2003, 117 Stat. 2568; Pub. L. 110–53, title XVI, §1601, Aug. 3, 2007, 121 Stat. 477; Pub. L. 110–161, div. E, title V, §540, Dec. 26, 2007, 121 Stat. 2079; Pub. L. 113–67, div. A, title VI, §601(a)(1), (2), (b), (c), Dec. 26, 2013, 127 Stat. 1187; Pub. L. 113–294, §1(a), Dec. 19, 2014, 128 Stat. 4009; Pub. L. 114–41, title III, §3001, July 31, 2015, 129 Stat. 460; Pub. L. 115–123, div. C, title II, §30202, Feb. 9, 2018, 132 Stat. 126; Pub. L. 115–254, div. K, title I, §§1940, 1991(d)(31), Oct. 5, 2018, 132 Stat. 3582, 3639.)

CODIFICATION

Pub. L. 107–71, title I, §118(a), Nov. 19, 2001, 115 Stat. 625, which directed the addition of section 44940 at end of subchapter II of chapter 449 without specifying the Code title to be amended, was executed by adding this section at the end of this subchapter, to reflect the probable intent of Congress.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115–254, §1991(d)(31)(A)(i)(II), struck out concluding provisions which read as follows: “The amount of such costs shall be determined by the Under Secretary and shall not be subject to judicial review. For purposes of subparagraph (A), the term ‘Federal law enforcement personnel’ includes State and local law enforcement officers who are deputized under section 44922.”

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

Pub. L. 115–254, §1991(d)(31)(A)(i)(I), substituted “Administrator of the Transportation Security Administration” for “Under Secretary of Transportation for Security” in introductory provisions.

Subsec. (a)(2). Pub. L. 115–254, §1991(d)(31)(A)(ii), added par. (2).

Subsec. (b). Pub. L. 115–254, §1991(d)(31)(B), substituted “Administrator of the Transportation Security Administration” for “Under Secretary”.

Subsec. (c)(3). Pub. L. 115–254, §1940, added par. (3).

Subsec. (d)(1). Pub. L. 115–254, §1991(d)(31)(C)(i), struck out “within 60 days of the date of enactment of this Act, or” after “of the fee” and “thereafter” before period at end.

Pub. L. 115–254, §1991(d)(31)(B), substituted “Administrator of the Transportation Security Administration” for “Under Secretary”.

Subsec. (d)(2). Pub. L. 115–254, §1991(d)(31)(C)(ii), substituted “paragraph (1) of this subsection” for “subsection (d)” in two places.

Subsec. (d)(3). Pub. L. 115–254, §1991(d)(31)(B), substituted “Administrator of the Transportation Security Administration” for “Under Secretary”.

Subsec. (e)(1). Pub. L. 115–254, §1991(d)(31)(D), substituted “Fees payable to Administrator” for “Fees payable to Under Secretary” in heading.

Pub. L. 115–254, §1991(d)(31)(B), substituted “Administrator of the Transportation Security Administration” for “Under Secretary”.

Subsec. (e)(4). Pub. L. 115–254, §1991(d)(31)(B), substituted “Administrator of the Transportation Security Administration” for “Under Secretary” in two places.

Subsecs. (g), (h). Pub. L. 115–254, §1991(d)(31)(B), substituted “Administrator of the Transportation Security Administration” for “Under Secretary”.

Subsec. (i)(4)(A) to (L). Pub. L. 115–254, §1991(d)(31)(E), redesignated subpars. (E) to (L) as (A) to (H), respectively, and struck out former subpars. (A) to (D) which read as follows:

- “(A) \$390,000,000 for fiscal year 2014.
- “(B) \$1,190,000,000 for fiscal year 2015.
- “(C) \$1,250,000,000 for fiscal year 2016.
- “(D) \$1,280,000,000 for fiscal year 2017.”

Subsec. (i)(4)(M), (N). Pub. L. 115–123 added subpars. (M) and (N).

2015—Subsec. (i)(4)(K), (L). Pub. L. 114–41 added subpars. (K) and (L).

2014—Subsec. (c). Pub. L. 113–294 amended subsec. (c) generally. Prior to amendment, text read as follows: “Fees imposed under subsection (a)(1) shall be \$5.60 per one-way trip in air transportation or intrastate air transportation that originates at an airport in the United States.”

2013—Subsec. (a)(2). Pub. L. 113–67, §601(a)(1), struck out par. (2) which related to fees on air carriers and foreign air carriers engaged in air transportation and intrastate air transportation.

Subsec. (c). Pub. L. 113–67, §601(b), amended subsec. (c) generally. Prior to amendment, text read as follows: “Fees imposed under subsection (a)(1) may not exceed \$2.50 per enplanement in air transportation or intrastate air transportation that originates at an airport in the United States, except that the total amount of such fees may not exceed \$5.00 per one-way trip.”

Subsec. (d)(1). Pub. L. 113–67, §601(a)(2), struck out “, and may impose a fee under subsection (a)(2),” after “under subsection (a)(1)”.

Subsec. (i). Pub. L. 113–67, §601(c), amended subsec. (i) generally. Prior to amendment, subsec. (i) related to the Checkpoint Screening Security Fund.

2007—Subsec. (a)(2)(A), (B)(iv). Pub. L. 110–161, which directed amendment of subsec. (a)(2) “by striking the period in the last sentence of subparagraph (A) and the clause (iv) of subparagraph B and adding the following, ‘except for estimates and additional collections made pursuant to the appropriation for Aviation Security in Public Law 108–334: *Provided*, That such judicial review shall be pursuant to section 46110 of title 49, United States Code: *Provided further*, That such judicial review

shall be limited only to additional amounts collected by the Secretary before October 1, 2007.”, was executed by substituting the quoted language directed to be added for the period at the end of last sentence of subpar. (A) and for the period at the end of cl. (iv) of subpar. (B), to reflect the probable intent of Congress.

Subsec. (d)(4). Pub. L. 110–53, §1601(1), inserted “, other than subsection (i),” before “except to”.

Subsec. (i). Pub. L. 110–53, §1601(2), added subsec. (i). 2003—Subsec. (a)(1). Pub. L. 108–7 inserted at end of concluding provisions “For purposes of subparagraph (A), the term ‘Federal law enforcement personnel’ includes State and local law enforcement officers who are deputized under section 44922.”

Subsec. (a)(1)(H), (I). Pub. L. 108–176, §605(b)(1), added subpars. (H) and (I).

Subsec. (d)(4). Pub. L. 108–176, §605(b)(2), substituted “appropriations Act or in section 44923” for “appropriations Act”.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–294, §1(b), Dec. 19, 2014, 128 Stat. 4009, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to a trip in air transportation or intrastate air transportation that is purchased on or after the date of the enactment of this Act [Dec. 19, 2014].”

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–67, div. A, title VI, §601(a)(3), Dec. 26, 2013, 127 Stat. 1187, provided that: “The repeal made by paragraph (1) [amending this section] and the amendment made by paragraph (2) [amending this section] shall each take effect on October 1, 2014.”

#### 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.

#### DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.

#### IMPOSITION OF FEE INCREASE

Pub. L. 113–67, div. A, title VI, §601(d), Dec. 26, 2013, 127 Stat. 1188, provided that: “The Secretary of Homeland Security shall implement the fee increase authorized by the amendment made by subsection (b) [amending this section]—

“(1) beginning on July 1, 2014; and

“(2) through the publication of notice of such fee in the Federal Register, notwithstanding section 9701 of title 31, United States Code, and the procedural requirements of section 553 of title 5, United States Code.”

#### CONTINUED AVAILABILITY OF EXISTING BALANCES

Pub. L. 113–67, div. A, title VI, §601(e), Dec. 26, 2013, 127 Stat. 1188, provided that: “The amendments made by this section [amending this section] shall not affect the availability of funds made available under section 44940(i) of title 49, United States Code, before the date of enactment of this Act [Dec. 26, 2013].”

### § 44941. Immunity for reporting suspicious activities

(a) IN GENERAL.—Any air carrier or foreign air carrier or any employee of an air carrier or foreign air carrier who makes a voluntary disclosure of any suspicious transaction relevant to a possible violation of law or regulation, relating

to air piracy, a threat to aircraft or passenger safety, or terrorism, as defined by section 3077 of title 18, United States Code, to any employee or agent of the Department of Transportation, the Department of Homeland Security, the Department of Justice, any Federal, State, or local law enforcement officer, or any airport or airline security officer shall not be civilly liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, for such disclosure.

(b) APPLICATION.—Subsection (a) shall not apply to—

(1) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

(2) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

(Added Pub. L. 107–71, title I, §125(a), Nov. 19, 2001, 115 Stat. 631; amended Pub. L. 115–254, div. K, title I, §1991(d)(32), Oct. 5, 2018, 132 Stat. 3640.)

#### AMENDMENTS

2018—Subsec. (a). Pub. L. 115–254 inserted “the Department of Homeland Security,” after “Department of Transportation.”

### § 44942. Performance goals and objectives

(a) SHORT TERM TRANSITION.—

(1) IN GENERAL.—The Administrator of the Transportation Security Administration may, in consultation with other relevant Federal agencies and Congress—

(A) establish acceptable levels of performance for aviation security, including screening operations and access control; and

(B) provide Congress with an action plan, containing measurable goals and milestones, that outlines how those levels of performance will be achieved.

(2) BASICS OF ACTION PLAN.—The action plan shall clarify the responsibilities of the Transportation Security Administration, the Federal Aviation Administration, and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.

(b) LONG-TERM RESULTS-BASED MANAGEMENT.—

(1) PERFORMANCE PLAN.—

(A) Each year, consistent with the requirements of the Government Performance and Results Act of 1993 (GPRA), the Secretary of Homeland Security and the Administrator of the Transportation Security Administration shall agree on a performance plan for the succeeding 5 years that establishes measurable goals and objectives for aviation security. The plan shall identify action steps necessary to achieve such goals.

(B) In addition to meeting the requirements of GPRA, the performance plan should clarify the responsibilities of the Secretary of Homeland Security, the Administrator of the Transportation Security Administration, and any other agency or organization that may have a role in ensuring the safety and security of the civil air transportation system.