

108TH CONGRESS
2D SESSION

H. R. 4312

To enhance aviation security.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2004

Mr. MARKEY (for himself, Mr. TURNER of Texas, Mr. ISRAEL, Ms. LORETTA SANCHEZ of California, Mr. DICKS, Ms. HARMAN, Mr. CARDIN, Ms. SLAUGHTER, Mrs. LOWEY, Ms. NORTON, Ms. LOFGREN, Ms. MCCARTHY of Missouri, Ms. JACKSON-LEE of Texas, Mrs. CHRISTENSEN, Mr. LUCAS of Kentucky, Mr. LANGEVIN, Mr. MEEK of Florida, Mr. ACEVEDO-VILÁ, Mr. STARK, and Mr. GREEN of Texas) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To enhance aviation security.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Passengers and
5 Lading in Aviation for the National Enhancement of Secu-
6 rity Act”.

1 **SEC. 2. PASSENGER AND BAGGAGE SCREENING OPER-**
2 **ATIONS.**

3 (a) STUDY.—The Secretary of Homeland Security
4 shall conduct a study on the workforce size needed to ade-
5 quately conduct passenger and baggage screening oper-
6 ations. The study shall include an analysis of the optimal
7 screener workforce for security purposes, taking into ac-
8 count the following: passenger demand for air travel, num-
9 ber of airports and screening checkpoints, number of
10 screeners required to operate each checkpoint, use of tech-
11 nology (including in-line explosive detection systems for
12 baggage screening), and any additional screening per-
13 sonnel and other resources that may be necessary to im-
14 plement section 14 of this Act. The study shall cover all
15 screeners, whether employed by the Transportation Secu-
16 rity Administration or private companies.

17 (b) REPORT.—Not later than December 31, 2004,
18 the Secretary shall transmit to Congress a report on the
19 results of the study, together with recommendations con-
20 cerning the appropriate screener staffing level, including
21 assessments of full time versus part time screeners, and
22 appropriate ratio of supervisors, lead screeners, and
23 screeners. The Secretary shall include in this report a de-
24 scription of the assumptions used for determining accept-
25 able passenger wait times at screening checkpoints, and

1 how different lengths of expected wait times would influ-
2 ence the analysis.

3 **SEC. 3. PROCEDURES FOR OPTING OUT OF FEDERALIZED**
4 **SCREENING.**

5 (a) REPORT.—If the Department of Homeland Secu-
6 rity authorizes an airport to opt out of federalized screen-
7 ing under section 44919 of title 49, United States Code,
8 the Secretary shall transmit to Congress on the date of
9 such authorization a report certifying that security will be
10 preserved at the airport.

11 (b) CONTENTS.—The report shall include, at a min-
12 imum, the following:

13 (1) The security and nonsecurity factors that
14 the Transportation Security Administration used to
15 evaluate the application to opt out of federalized
16 screening.

17 (2) A description of how the Administration will
18 ensure compliance of security regulations and stat-
19 utes at the airport on a regular and continuing
20 basis.

21 (3) All security functions for which the Admin-
22 istration will maintain direct responsibility at the
23 airport.

24 (4) The decisionmaking authority for screening
25 operations retained by the Administration, and those

1 authorities transferred to the airport or private
2 screening entity.

3 (5) The amount of Federal funds that will be
4 provided to the airport or private screening entity
5 for screening operations, for what purposes, and how
6 such funds will be provided.

7 **SEC. 4. EXPLOSIVE DETECTION EQUIPMENT.**

8 In entering into agreements with airports to install
9 electronic detection equipment or to alter airport struc-
10 tures to facilitate explosive detection equipment, the Sec-
11 retary of Homeland Security shall give priority to those
12 airports that have not met the requirement of section
13 44901(d) of title 49, United States Code, to screen all
14 checked baggage with explosive detection systems.

15 **SEC. 5. ELIMINATION OF BAG-MATCH PROGRAM AS AC-**
16 **CEPTABLE ALTERNATIVE FOR CHECKED**
17 **BAGGAGE.**

18 (a) IN GENERAL.—Section 44901(e) of title 49,
19 United States Code, is amended—

20 (1) by striking paragraph (1); and

21 (2) by redesignating paragraphs (2), (3), and
22 (4) as paragraphs (1), (2), and (3), respectively.

23 (b) LIMITATION ON STATUTORY CONSTRUCTION.—
24 Nothing in this section (including the amendments made
25 by subsection (a)) shall be construed to prevent the Trans-

1 portation Security Administration from using the bag-
2 match program as a supplemental means of securing
3 checked baggage.

4 **SEC. 6. AVIATION SECURITY TECHNOLOGIES.**

5 (a) REPORT.—As part of the Department of Home-
6 land Security’s budget request for fiscal year 2006, the
7 Secretary of Homeland Security shall transmit to Con-
8 gress a report on—

9 (1) the status and technical maturity of avia-
10 tion security technologies (including technologies for
11 detecting explosive, chemical, biological, or radio-
12 logical materials on or in passengers, carry-on or
13 checked baggage, or air cargo, improving resolution
14 and readability of x-ray-based baggage screening
15 systems, integrating the threat imaging projection
16 system into checked baggage detection systems, and
17 site access security for airport facilities);

18 (2) the planned schedule for deployment of such
19 technologies;

20 (3) the expected costs for development, testing,
21 evaluation, procurement, and installation, and pro-
22 jected annual costs for operation and maintenance,
23 of such technologies;

24 (4) potential deployment problems in an airport
25 setting; and

1 (5) the advisability of deploying security tech-
2 nologies to airports in a manner that maximizes the
3 number of technologies that Federal and airport se-
4 curity personnel can effectively operate.

5 (b) TECHNOLOGY SPECIFICATIONS AND CERTIFI-
6 CATION.—Not later than 6 months after the date of enact-
7 ment of this Act, the Secretary, acting through the head
8 of the Transportation Security Administration, the Under
9 Secretary for Science and Technology, and the Under Sec-
10 retary for Information Analysis and Infrastructure Protec-
11 tion, shall—

12 (1) issue updated technical specifications gov-
13 erning the use of explosive detection systems for
14 baggage screening based on the most recent assess-
15 ment of terrorist capabilities, potential impacts upon
16 aircraft and passengers of the use of various weap-
17 ons or dangerous materials, and the state of explo-
18 sive detection technology;

19 (2) determine the compliance with such speci-
20 fications of currently deployed baggage screening
21 equipment;

22 (3) use such specifications for future certifi-
23 cation of new technologies for use in baggage screen-
24 ing; and

1 (4) issue technical specifications governing the
2 use of technology for screening air cargo if the Sec-
3 retary determines that explosive detection tech-
4 nologies under paragraph (1) for passenger and bag-
5 gage screening do not meet the needs for screening
6 air cargo in accordance with the system established
7 under section 404 of the Homeland Security Act of
8 2002.

9 **SEC. 7. INSPECTION OF CARGO CARRIED ABOARD PAS-**
10 **SENGER AIRCRAFT.**

11 Subtitle A of title IV of the Homeland Security Act
12 of 2002 (6 U.S.C. 201–203) is amended by adding at the
13 end the following:

14 **“SEC. 404. AIR CARGO ON PASSENGER AIRCRAFT.**

15 “(a) IN GENERAL.—Not later than 180 days after
16 the date of enactment of this section, the Secretary shall
17 establish and begin to implement a system to screen or
18 inspect all cargo that is to be transported in passenger
19 aircraft operated by an air carrier or foreign air carrier
20 in air transportation or intrastate air transportation (as
21 such terms are defined in section 40102 of title 49, United
22 States Code). The system shall require the use of equip-
23 ment, technology, and personnel to screen and inspect
24 cargo that meet the same standards as those established

1 by the Secretary for equipment, technology, and personnel
2 used to screen passenger baggage.

3 “(b) REPORT.—Not later than 210 days after the
4 date of enactment of this section, the Secretary shall
5 transmit to Congress a report describing the system under
6 subsection (a).

7 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated such sums as may be
9 necessary to carry out this section.”.

10 **SEC. 8. DATABASE ON KNOWN SHIPPING COMPANIES.**

11 (a) IN GENERAL.—Not later than April 1, 2005, the
12 Secretary of Homeland Security shall complete, and make
13 available as appropriate to personnel of the Transpor-
14 tation Security Administration, freight forwarders, airport
15 authorities, air carriers, and other relevant entities a data-
16 base containing the names and other relevant information
17 of all known shipping companies. In making such database
18 available to nongovernmental entities, the Secretary shall
19 ensure that sensitive security information and company
20 proprietary information is adequately protected.

21 (b) REPORT.—Not later than the 30th day following
22 the date of the completion of the database under sub-
23 section (a), the Secretary shall transmit to Congress a re-
24 port on the number of known shipping companies in the
25 database, the number of known shipping companies for

1 whom the Administration has conducted physical inspec-
2 tions of facilities and paperwork of such companies to de-
3 termine compliance with security regulations that apply to
4 those companies, the number of companies that have ap-
5 plied to the Secretary for known shipping company status
6 and been denied, and the number of known shipping com-
7 panies that have been removed from the database as a
8 result of findings by the Administration that such compa-
9 nies have failed to comply with appropriate security regu-
10 lations

11 **SEC. 9. TRAINING PROGRAMS.**

12 (a) IN GENERAL.—For the purposes of deploying
13 Federal law enforcement officers not part of the Federal
14 Air Marshal Service as alternative security personnel on
15 commercial aircraft—

16 (1) the Secretary of Homeland Security, not
17 later than the 90th day following the date of enact-
18 ment of this Act, shall establish training standards
19 that all Federal law enforcement officers must meet
20 in order to serve as Federal air marshals; and

21 (2) the head of the Federal Air Marshal Serv-
22 ice, in determining on which flights to place one or
23 more Federal air marshals, shall—

24 (A) have access to information on whether
25 Federal law enforcement officials meeting the

1 training standards established under paragraph
2 (1) are scheduled to travel on commercial
3 flights; and

4 (B) not substitute Federal law enforcement
5 officials that have not met such training stand-
6 ards for Federal air marshal personnel.

7 (b) WAIVER.—The Secretary may waive the require-
8 ment of subsection (a)(2)(B) for not to exceed 6 months
9 after the 90th day referred to in subsection (a) if nec-
10 essary for security purposes.

11 (c) REPORT.—The Secretary shall transmit to Con-
12 gress a report on the timeline for providing training re-
13 quired to carry out subsection (a)(2) and any additional
14 resources needed to implement this section.

15 **SEC. 10. COORDINATION OF AIR MARSHAL ACTIVITIES.**

16 The Secretary of Homeland Security, in consultation
17 with the Secretary of State, shall collaborate with foreign
18 governments to coordinate air marshal activities, including
19 air marshal scheduling on international flights, weapons
20 training, use and protocols for nonlethal weapons, threat
21 recognition, communications, and other issues as deter-
22 mined appropriate by the Secretary.

1 **SEC. 11. FLIGHT DECK SECURITY FOR FOREIGN AIR CAR-**
2 **RIER OVERFLIGHTS.**

3 (a) IN GENERAL.—Not later than the 90th day fol-
4 lowing the date of enactment of this Act, the Secretary
5 of Homeland Security shall issue regulations to require
6 that overflying aircraft meet or exceed the level of flight
7 deck security for passenger and cargo as required under
8 part 129.28 of title 14, Code of Federal Regulations, as
9 in effect on the date of enactment of this Act.

10 (b) DEFINITION.—In this section, the term “over-
11 flying aircraft” means a flight of a passenger or cargo air-
12 craft by a foreign air carrier that departs from and arrives
13 at an airport outside the United States and enters United
14 States airspace during the flight.

15 **SEC. 12. DAILY PREFLIGHT SEARCHES OF AIRCRAFT.**

16 (a) REGULATIONS.—The Secretary of Homeland Se-
17 curity, in conjunction with the Administrator of the Fed-
18 eral Aviation Administration, shall issue, by October 1,
19 2004, regulations governing daily preflight searches of air-
20 craft for foreign materials that might be used in a ter-
21 rorist attack.

22 (b) REIMBURSEMENT.—

23 (1) IN GENERAL.—The Secretary shall reim-
24 burse air carriers for expenses incurred, during the
25 1-year period beginning on the date of enactment of
26 this Act, in training air carrier personnel as nec-

1 essary to implement the regulations issued under
2 this section.

3 (2) FUNDING.—There are authorized to be ap-
4 propriated such sums as may be necessary to carry
5 out this subsection for fiscal years 2005 and 2006.

6 (c) GUIDANCE.—The Secretary shall provide guid-
7 ance to air carriers on removing or otherwise securing
8 items commonly found on board aircraft that might be
9 used in an act of terrorism.

10 **SEC. 13. FLIGHT CREW COMMUNICATION SYSTEMS.**

11 (a) IN GENERAL.—Not later than one year after the
12 date of enactment of this Act, the Secretary of Homeland
13 Security shall require, to the greatest extent technically
14 feasible, air carriers (as defined in section 40102 of title
15 49, United States Code) to provide flight attendants with
16 a discreet and wireless method of communicating with pi-
17 lots that meet such standards as the Secretary may estab-
18 lish by regulation. Such a system must be accessible by
19 any Federal air marshal on a flight of an air carrier and
20 appropriate Government security officials and personnel of
21 the air carrier.

22 (b) DEADLINE FOR REGULATIONS.—The Secretary
23 shall issue regulations to carry out this section not later
24 than the 90th day following the date of enactment of this
25 Act.

1 **SEC. 14. AIRPORT SITE ACCESS AND PERIMETER SECU-**
2 **RITY.**

3 (a) REPORT.—Not later than the 90th day following
4 the date of enactment of this Act, the head of the Trans-
5 portation Security Administration shall transmit to Con-
6 gress a report that addresses the Administration’s imple-
7 mentation of sections 106, 136, and 138 of the Aviation
8 and Transportation Security Act (Public Law 107–71).
9 Such report shall include, at a minimum, the following:

10 (1) How and on what date the Administration
11 complied with each provision of such sections.

12 (2) For each provision of such sections that has
13 not been complied with, the actions the Administra-
14 tion has taken as of the date the report is trans-
15 mitted to Congress and the estimated completion
16 date and costs for actions that the Administration
17 must take in order to comply with that provision.

18 (b) ACCESS TO STERILE AREAS.—All personnel ac-
19 cessing airport sterile areas from unrestricted areas shall
20 undergo security screening in accordance with section
21 44901(a) of title 49, United States Code.

22 (c) ACCESS TO SECURE AREAS.—The Transportation
23 Security Administration shall ensure that all personnel ac-
24 cessing airport secure areas have successfully undergone
25 a background check, conducted by the Transportation Se-
26 curity Administration, consisting of all measures required

1 of passenger screener personnel of the Administration
2 under section 44936 of title 49, United States Code.

3 (d) LIMITATION ON STATUTORY CONSTRUCTION.—
4 Nothing in this section shall be construed to provide pas-
5 sengers, airport workers, or other personnel not granted
6 regular access to secure areas before the date of enact-
7 ment of this Act authority to do so, regardless of whether
8 such person has undergone security screening.

9 (e) DEFINITIONS.—In this section, the following defi-
10 nitions apply:

11 (1) STERILE AREAS.—The term “sterile areas”
12 means any part of an airport that is regularly acces-
13 sible to passengers after having cleared a passenger
14 security screening checkpoint.

15 (2) SECURE AREAS.—The term “secure areas”
16 means parts of an airport complex not typically ac-
17 cessible to passengers, including areas outside of ter-
18 minal buildings, baggage handling and loading
19 areas, parked aircraft, runways, air control towers,
20 and similar areas.

21 (f) EFFECTIVE DATE.—Subsections (b) and (c) take
22 effect on the 120th day following the date of enactment
23 of this Act.

1 **SEC. 15. MANPADS.**

2 (a) REPORT.—Not later than one year after the date
3 of enactment of this Act, the Secretary of Homeland Secu-
4 rity, acting through the head of the Transportation Secu-
5 rity Administration and the Under Secretary for Science
6 and Technology of the Department of Homeland Security,
7 shall transmit to Congress a report on defending against
8 the threat from MANPADS attacks on commercial air-
9 craft.

10 (b) CONTENTS.—The report shall include, at a min-
11 imum, the following:

12 (1) An evaluation of the current and projected
13 future threats to commercial aircraft from
14 MANPADS, including an assessment of the likeli-
15 hood that terrorist groups will obtain MANPADS of
16 various levels of sophistication, the ability of ter-
17 rorist groups to use such systems, and the relative
18 effectiveness of such systems against commercial
19 aviation.

20 (2) A technical assessment of the adequacy and
21 maturity of current aircraft-based countermeasures
22 to current and projected threats from shoulder-
23 launched missiles.

24 (3) To the extent that any countermeasures
25 under paragraph (2) are assessed to be sufficiently

1 technically mature for deployment on commercial
2 aircraft, a determination of—

3 (A) the technical ability of such counter-
4 measures to prevent MANPADS from impact-
5 ing an aircraft;

6 (B) any operational difficulties with de-
7 ploying, maintaining, or using such counter-
8 measures; and

9 (C) the cost of deploying and maintaining
10 such countermeasures on all or part of the com-
11 mercial aircraft fleet.

12 (4) An assessment of alternate technological ap-
13 proaches for MANPADS countermeasures, including
14 estimates of timelines for development, testing, and
15 evaluation.

16 (5) A description of the need for additional
17 mid-term and long-term research and development
18 to advance technologies to meet current and future
19 threats, including a cost-benefit analysis of alter-
20 native technologies.

21 (6) The criteria and plans for selecting tech-
22 nologies for additional research and development de-
23 scribed in paragraph (5).

24 (7) The status and plans for programs of the
25 Department of Homeland Security to decrease the

1 risk of MANPADS attacks on commercial aircraft
2 through airport perimeter security, improved identi-
3 fication of MANPADS by the Bureau of Customs
4 and Border Protection, and international efforts to
5 counter proliferation and otherwise reduce avail-
6 ability of MANPADS to terrorist groups or individ-
7 uals.

8 (c) MANPADS DEFINED.—In this section, the term
9 “MANPADS” means man-portable air defense systems,
10 which are shoulder-fired, surface-to-air missile systems
11 that can be carried and transported by a person.

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