

108TH CONGRESS  
2D SESSION

# H. R. 4312

To enhance aviation security.

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## 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

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## 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        necessary 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 SECUR-**  
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.

○