

[COMMITTEE PRINT]

108TH CONGRESS
2D SESSION

H. R. _____

To further protect the United States aviation system from terrorist attacks.

IN THE HOUSE OF REPRESENTATIVES

Mr. MICA introduced the following bill; which was referred to the Committee
on _____

A BILL

To further protect the United States aviation system from
terrorist attacks.

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. PROVISION FOR THE USE OF BIOMETRIC OR**
4 **OTHER TECHNOLOGY.**

5 (a) USE OF BIOMETRIC TECHNOLOGY.—Section
6 44903(h) of title 49, United States Code, is amended—

7 (1) in paragraph (4)(E) by striking “may pro-
8 vide for” and inserting “shall issue, not later than



1 120 days after the date of enactment of paragraph
2 (5), guidance for”; and

3 (2) by adding at the end the following:

4 “(5) USE OF BIOMETRIC TECHNOLOGY IN AIR-
5 PORT ACCESS CONTROL SYSTEMS.—In issuing guid-
6 ance under paragraph (4)(E), the Assistant Sec-
7 retary of Homeland Security (Transportation Secu-
8 rity Administration), in consultation with represent-
9 atives of the aviation industry, shall establish, at a
10 minimum—

11 “(A) comprehensive technical and oper-
12 ational system requirements and performance
13 standards for the use of biometrics in airport
14 access control systems (including airport perim-
15 eter access control systems) to ensure that the
16 biometric systems are effective, reliable, and se-
17 cure;

18 “(B) a list of products and vendors that
19 meet such requirements and standards;

20 “(C) procedures for implementing biomet-
21 ric systems—

22 “(i) to ensure that individuals do not
23 use an assumed identity to enroll in a bio-
24 metric system; and



1 “(ii) to resolve failures to enroll, false
2 matches, and false non-matches; and

3 “(D) best practices for incorporating bio-
4 metric technology into airport access control
5 systems in the most effective manner, including
6 a process to best utilize existing airport access
7 control systems, facilities, and equipment and
8 existing data networks connecting airports.

9 “(6) USE OF BIOMETRIC TECHNOLOGY FOR
10 LAW ENFORCEMENT OFFICER TRAVEL.—

11 “(A) IN GENERAL.—Not later than 120
12 days after the date of enactment of this para-
13 graph, the Assistant Secretary shall—

14 “(i) establish a law enforcement offi-
15 cer travel credential that incorporates bio-
16 metrics and is uniform across all Federal,
17 State, and local government law enforce-
18 ment agencies;

19 “(ii) establish a process by which the
20 travel credential will be used to verify the
21 identity of a Federal, State, or local gov-
22 ernment law enforcement officer seeking to
23 carry a weapon on board an aircraft, with-
24 out unnecessarily disclosing to the public



1 that the individual is a law enforcement of-
2 ficer;

3 “(iii) establish procedures—

4 “(I) to ensure that only Federal,
5 State, and local government law en-
6 forcement officers are issued the trav-
7 el credential;

8 “(II) to resolve failures to enroll,
9 false matches, and false non-matches
10 relating to use of the travel credential;
11 and

12 “(III) to invalidate any travel
13 credential that is lost, stolen, or no
14 longer authorized for use;

15 “(iv) begin issuance of the travel cre-
16 dential to each Federal, State, and local
17 government law enforcement officer au-
18 thorized by the Assistant Secretary to
19 carry a weapon on board an aircraft; and

20 “(v) take such other actions with re-
21 spect to the travel credential as the Sec-
22 retary considers appropriate.

23 “(B) FUNDING.—There is authorized to be
24 appropriated such sums as may be necessary to
25 carry out this paragraph.



1 “(7) DEFINITIONS.—In this subsection, the fol-
2 lowing definitions apply:

3 “(A) BIOMETRIC INFORMATION.—The
4 term ‘biometric information’ means the distinct
5 physical or behavioral characteristics that are
6 used for identification, or verification of the
7 identity, of an individual.

8 “(B) BIOMETRICS.—The term ‘biometrics’
9 means a technology that enables the automated
10 identification, or verification of the identity, of
11 an individual based on biometric information.

12 “(C) FAILURE TO ENROLL.—The term
13 ‘failure to enroll’ means the inability of an indi-
14 vidual to enroll in a biometric system due to an
15 insufficiently distinctive biometric sample, the
16 lack of a body part necessary to provide the bio-
17 metric sample, a system design that makes it
18 difficult to provide consistent biometric infor-
19 mation, or other factors.

20 “(D) FALSE MATCH.—The term ‘false
21 match’ means the incorrect matching of one in-
22 dividual’s biometric information to another indi-
23 vidual’s biometric information by a biometric
24 system.



1 “(E) FALSE NON-MATCH.—The term ‘false
2 non-match’ means the rejection of a valid iden-
3 tity by a biometric system.

4 “(F) SECURE AREA OF AN AIRPORT.—The
5 term ‘secure area of an airport’ means the ster-
6 ile area and the Secure Identification Display
7 Area of an airport, as such terms are defined
8 in section 1540.5 of title 49, Code of Federal
9 Regulations, or any successor regulation.”.

10 (b) FUNDING FOR USE OF BIOMETRIC TECHNOLOGY
11 IN AIRPORT ACCESS CONTROL SYSTEMS.—

12 (1) GRANT AUTHORITY.—Section 44923(a)(4)
13 of title 49, United States Code, is amended—

14 (A) by striking “and” at the end of para-
15 graph (3);

16 (B) by redesignating paragraph (4) as
17 paragraph (5); and

18 (C) by inserting after paragraph (3) the
19 following:

20 “(4) for projects to implement biometric tech-
21 nologies in accordance with guidance issued under
22 section 44903(h)(4)(E); and”.

23 (2) AUTHORIZATION OF APPROPRIATIONS.—
24 Section 44923(i)(1) of such title is amended by
25 striking “\$250,000,000 for each of fiscal years 2004



1 through 2007” and inserting “\$250,000,000 for fis-
2 cal year 2004, \$345,000,000 for fiscal year 2005,
3 and \$250,000,000 for each of fiscal years 2006 and
4 2007”.

5 **SEC. 2. CHECKED BAGGAGE SECURITY SCREENING.**

6 (a) IN GENERAL.—Subchapter I of chapter 449 of
7 title 49 United States Code, is amended by adding at the
8 end the following:

9 **“§ 44925. Authority to enter into multi-year contracts**
10 **for the provision of electronic explosive**
11 **detection system images for checked bag-**
12 **gage and related items**

13 “(a) GENERAL AUTHORITY.—Not later than 60 days
14 after the date of enactment of this section, the Assistant
15 Secretary of Homeland Security (Transportation Security
16 Administration) shall establish a program to enter into
17 multi-year contracts of not more than 10 years with air-
18 port operators or other non-Federal entities to provide
19 electronic explosive detection system images of checked
20 baggage for screening purposes.

21 “(b) REQUIRED FINDINGS.—The Assistant Secretary
22 may enter into a contract for the provision of images
23 under this section at an airport only if the Assistant Sec-
24 retary finds that the average annual cost of the contract
25 is less than the total estimated average annual cost for



1 the Transportation Security Administration to acquire
2 such images through the operation of stand alone explosive
3 detection systems at that airport.

4 “(c) ENDING CONTRACT.—A contract made under
5 this section shall be contingent on the availability of an-
6 nual appropriations and shall be ended if amounts are not
7 made available to continue the contract in subsequent fis-
8 cal years. The Assistant Secretary may not terminate a
9 contract made under this section to the extent annual ap-
10 propriations are available, except when the Assistant Sec-
11 retary finds cause for termination.

12 “(d) CONTRACT PROVISIONS.—A contract made
13 under this section—

14 “(1) may include any cost associated with pro-
15 viding electronic explosive detection system images,
16 including—

17 “(A) maintenance;

18 “(B) financing;

19 “(C) reasonable management fees; and

20 “(D) other items or services the Assistant
21 Secretary deems necessary;

22 “(2) may specify the manner in which the elec-
23 tronic explosive detection system images may be ac-
24 quired and any other operational requirements the
25 Assistant Secretary deems necessary;



1 “(3) may specify ownership rights of the elec-
2 tronic explosive detection system images; and

3 “(4) may be made with multiple parties.

4 “(e) SYSTEM DESIGN.—Prior to entering into a con-
5 tract under this section with respect to an airport, the As-
6 sistant Secretary shall consult with the operator and users
7 of the airport to ensure that the provision of electronic
8 explosive detection system images under this section takes
9 into consideration the operational needs of the airport and
10 its users.

11 “(f) PRIORITY CONSIDERATION.—The Assistant Sec-
12 retary shall give priority under this section to entering into
13 contracts that will expedite the installation of integrated
14 in-line explosive detection systems at air carrier airports
15 (as defined in section 47102) that have approved plans
16 on the date of enactment of this section.

17 “(g) SCORING.—Notwithstanding any other provision
18 of law, any contract entered into under this section shall
19 be treated and scored as an operating lease as defined in
20 the Office of Management and Budget Circular A–11.”.

21 (b) CLERICAL AMENDMENT.—The analysis for such
22 chapter is amended by inserting after the item relating
23 to section 44924 the following:

 “44925. Authority to enter into multi-year contracts for the provision of elec-
 tronic explosive detection system images for checked baggage
 and related items.”.



1 **SEC. 3. AVIATION SECURITY CAPITAL FUND.**

2 (a) IN GENERAL.—Section 44923(h)(1) of title 49,
3 United States Code, is amended—

4 (1) by striking “in each of fiscal years 2004”
5 and inserting “in fiscal year 2004 and the first
6 \$500,000,000 derived from such fees in each of fis-
7 cal years 2005”; and

8 (2) by striking “in each of such fiscal years”
9 and inserting “in fiscal year 2004 and at least
10 \$500,000,000 in each of fiscal years 2005 through
11 2007”.

12 (b) DISCRETIONARY GRANTS.—Section 44923(h)(3)
13 of such title is amended by inserting after
14 “\$125,000,000” the following: “for fiscal year 2004 and
15 \$375,000,000 for each of fiscal years 2005 through
16 2007”.

17 **SEC. 4. TRANSPORTATION SECURITY STRATEGIC PLAN-**
18 **NING.**

19 Section 44904 of title 49, United States Code, is
20 amended—

21 (1) by redesignating subsection (c) as sub-
22 section (e); and

23 (2) by inserting after subsection (b) the fol-
24 lowing:

25 “(c) TRANSPORTATION SECURITY STRATEGIC PLAN-
26 NING.—



1 “(1) IN GENERAL.—The Secretary of Homeland
2 Security shall prepare and update, as needed, a
3 transportation sector specific plan and transpor-
4 tation modal security plans in accordance with this
5 section.

6 “(2) CONTENTS.—At a minimum, the modal se-
7 curity plan for aviation prepared under paragraph
8 (1) shall—

9 “(A) set risk-based priorities for defending
10 aviation assets;

11 “(B) select the most practical and cost-ef-
12 fective methods for defending aviation assets;

13 “(C) assign roles and missions to Federal,
14 State, regional, and local authorities and to
15 stakeholders;

16 “(D) establish a damage mitigation and re-
17 covery plan for the aviation system in the event
18 of a terrorist attack; and

19 “(E) include a threat matrix document
20 that outlines each threat to the United States
21 civil aviation system and the corresponding lay-
22 ers of security in place to address such threat.

23 “(3) REPORTS.—Not later than 180 days after
24 the date of enactment of the subsection and annually
25 thereafter, the Secretary shall submit to the Com-



1 mittee on Transportation and Infrastructure of the
2 House of Representatives and the Committee on
3 Commerce, Science, and Transportation of the Sen-
4 ate a report containing the plans prepared under
5 paragraph (1), including any updates to the plans.

6 The report may be submitted in a classified format.

7 “(d) OPERATIONAL CRITERIA.—Not later than 90
8 days after the date of submission of the report under sub-
9 section (c)(3), the Assistant Secretary of Homeland Secu-
10 rity (Transportation Security Administration) shall issue
11 operational criteria to protect airport infrastructure and
12 operations against the threat identified in the plans pre-
13 pared under subsection (c)(1) and shall approve best prac-
14 tices guidelines for airport assets.”.

15 **SEC. 5. NEXT GENERATION AIRLINE PASSENGER**
16 **PRESCREENING.**

17 (a) IN GENERAL.—Section 44903(j)(2) of title 49,
18 United States Code, is amended by adding at the end the
19 following:

20 “(C) NEXT GENERATION AIRLINE PAS-
21 SENER PRESREENING.—

22 “(i) COMMENCEMENT OF TESTING.—
23 Not later than November 1, 2004, the
24 Under Secretary, or the designee of the
25 Under Secretary, shall commence testing



1 of a next generation passenger
2 prescreening system that will allow the De-
3 partment of Homeland Security to assume
4 the performance of comparing passenger
5 name records to the automatic selectee and
6 no fly lists, utilizing all appropriate records
7 in the consolidated and integrated terrorist
8 watchlist maintained by the Federal Gov-
9 ernment.

10 “(ii) ASSUMPTION OF FUNCTION.—
11 Not later than 180 days after completion
12 of testing under clause (i), the Under Sec-
13 retary, or the designee of the Under Sec-
14 retary, shall assume the performance of
15 the passenger prescreening function of
16 comparing passenger name records to the
17 automatic selectee and no fly lists and uti-
18 lize all appropriate records in the consoli-
19 dated and integrated terrorist watchlist
20 maintained by the Federal Government in
21 performing that function.

22 “(iii) REQUIREMENTS.—In assuming
23 performance of the function under clause
24 (i), the Under Secretary shall—



1 “(I) establish a procedure to en-
2 able airline passengers, who are de-
3 layed or prohibited from boarding a
4 flight because the next generation
5 passenger prescreening system deter-
6 mined that they might pose a security
7 threat, to appeal such determination
8 and correct information contained in
9 the system;

10 “(II) ensure that Government
11 databases that will be used to estab-
12 lish the identity of a passenger under
13 the system will not produce a large
14 number of false positives;

15 “(III) establish an internal over-
16 sight board to oversee and monitor
17 the manner in which the system is
18 being implemented;

19 “(IV) establish sufficient oper-
20 ational safeguards to reduce the op-
21 portunities for abuse;

22 “(V) implement substantial secu-
23 rity measures to protect the system
24 from unauthorized access;



1 “(VI) adopt policies establishing
2 effective oversight of the use and op-
3 eration of the system; and

4 “(VII) ensure that there are no
5 specific privacy concerns with the
6 technological architecture of the sys-
7 tem.

8 “(iv) PASSENGER NAME RECORDS.—
9 Not later than 60 days after the comple-
10 tion of the testing of the next generation
11 passenger prescreening system, the Under
12 Secretary shall require air carriers to sup-
13 ply to the Under Secretary the passenger
14 name records needed to begin imple-
15 menting the next generation passenger
16 prescreening system.

17 “(D) SCREENING OF EMPLOYEES AGAINST
18 WATCHLIST.—The Assistant Secretary of
19 Homeland Security (Transportation Security
20 Administration), in coordination with the Sec-
21 retary of Transportation and the Administrator
22 of the Federal Aviation Administration, shall
23 ensure that individuals are screened against all
24 appropriate records in the consolidated and in-



1 tegrated terrorist watchlist maintained by the
2 Federal Government before—

3 “(i) being certificated by the Federal
4 Aviation Administration;

5 “(ii) being issued a credential for ac-
6 cess to the secure area of an airport; or

7 “(iii) being issued a credential for ac-
8 cess to the air operations area (as defined
9 in section 1540.5 of title 49, Code of Fed-
10 eral Regulations) of an airport, or any suc-
11 cessor regulation.

12 “(E) APPEAL PROCEDURES.—The Assist-
13 ant Secretary shall establish a timely and fair
14 process for individuals identified as a threat
15 under subparagraph (D) to appeal the deter-
16 mination and correct any erroneous informa-
17 tion.

18 “(F) DEFINITION.—In this paragraph, the
19 term ‘secure area of an airport’ means the ster-
20 ile area and the Secure Identification Display
21 Area of an airport, as such terms are defined
22 in section 1540.5 of title 49, Code of Federal
23 Regulations, or any successor regulation.”.

24 (b) GAO REPORT.—



1 (1) IN GENERAL.—Not later than 90 days after
2 the date on which the Under Secretary for Border
3 and Transportation Security of the Department of
4 Homeland Security assumes performance of the pas-
5 senger prescreening function under section
6 44903(j)(2)(C)(ii) of title 49, United States Code,
7 the Comptroller General shall submit to the appro-
8 priate congressional committees a report on the as-
9 sumption of such function. The report may be sub-
10 mitted in a classified format.

11 (2) CONTENTS.—The report under paragraph
12 (1) shall address—

13 (A) whether a system exists in the next
14 generation passenger prescreening system
15 whereby aviation passengers determined to pose
16 a threat, and either delayed or prohibited from
17 boarding their scheduled flights by the Trans-
18 portation Security Administration, may appeal
19 such a decision and correct erroneous informa-
20 tion;

21 (B) the sufficiency of identifying informa-
22 tion contained in passenger name records and
23 any government databases for ensuring that a
24 large number of false positives will not result
25 under the next generation passenger



1 prescreening system in a significant number of
2 passengers being treated as a threat mistakenly
3 or in security resources being diverted;

4 (C) whether the Transportation Security
5 Administration stress tested the next generation
6 passenger prescreening system;

7 (D) whether an internal oversight board
8 has been established in the Department of
9 Homeland Security to monitor the next genera-
10 tion passenger prescreening system;

11 (E) whether sufficient operational safe-
12 guards have been established to prevent the op-
13 portunities for abuse of the system;

14 (F) whether substantial security measures
15 are in place to protect the passenger
16 prescreening database from unauthorized ac-
17 cess;

18 (G) whether policies have been adopted for
19 the effective oversight of the use and operation
20 of the system;

21 (H) whether specific privacy concerns still
22 exist with the system; and

23 (I) whether appropriate life cycle cost esti-
24 mates have been developed, and a benefit and



1 cost analysis has been performed, for the sys-
2 tem.

3 **SEC. 6. DEPLOYMENT AND USE OF EXPLOSIVE DETECTION**
4 **EQUIPMENT AT AIRPORT SCREENING CHECK-**
5 **POINTS.**

6 (a) **NONMETALLIC WEAPONS AND EXPLOSIVES.**—In
7 order to improve security, the Assistant Secretary of
8 Homeland Security (Transportation Security Administra-
9 tion) shall give priority to developing, testing, improving,
10 and deploying technology at screening checkpoints at air-
11 ports that will detect nonmetallic weapons and explosives
12 on the person of individuals, in their clothing, or in their
13 carry-on baggage or personal property and shall ensure
14 that the equipment alone, or as part of an integrated sys-
15 tem, can detect under realistic operating conditions the
16 types of nonmetallic weapons and explosives that terrorists
17 would likely try to smuggle aboard an air carrier aircraft.

18 (b) **STRATEGIC PLAN FOR DEPLOYMENT AND USE**
19 **OF EXPLOSIVE DETECTION EQUIPMENT AT AIRPORT**
20 **SCREENING CHECKPOINTS.**—

21 (1) **IN GENERAL.**—Not later than 90 days after
22 the date of enactment of this Act, the Assistant Sec-
23 retary shall transmit to the appropriate congress-
24 sional committees a strategic plan to promote the
25 optimal utilization and deployment of explosive de-



1 tection systems at airports to screen individuals and
2 their carry-on baggage or personal property, includ-
3 ing walk-through explosive detection portals, docu-
4 ment scanners, shoe scanners and any other explo-
5 sive detection equipment for use at a screening
6 checkpoint. The plan may be transmitted in a classi-
7 fied format.

8 (2) CONTENTS.—The strategic plan shall in-
9 clude descriptions of the operational applications of
10 explosive detection equipment at airport screening
11 checkpoints, a deployment schedule and quantities of
12 equipment needed to implement the plan, funding
13 needs for implementation of the plan, including a fi-
14 nancing plan that provides for leveraging non-Fed-
15 eral funding.

16 **SEC. 7. PILOT PROGRAM TO EVALUATE USE OF BLAST-RE-**
17 **SISTANT CARGO AND BAGGAGE CONTAINERS.**

18 (a) IN GENERAL.—Beginning not later than 180
19 days after the date of enactment of this Act, the Assistant
20 Secretary of Homeland Security (Transportation Security
21 Administration) shall carry out a pilot program to evalu-
22 ate the use of blast-resistant containers for cargo and bag-
23 gage on passenger aircraft to minimize the potential ef-
24 fects of detonation of an explosive device.



1 (b) INCENTIVES FOR PARTICIPATION IN PILOT PRO-
2 GRAM.—

3 (1) IN GENERAL.—As part of the pilot pro-
4 gram, the Assistant Secretary shall provide incen-
5 tives to air carriers to volunteer to test the use of
6 blast-resistant containers for cargo and baggage on
7 passenger aircraft.

8 (2) APPLICATIONS.—To volunteer to participate
9 in the incentive program, an air carrier shall submit
10 to the Assistant Secretary an application that is in
11 such form and contains such information as the As-
12 sistant Secretary requires.

13 (3) TYPES OF ASSISTANCE.—Assistance pro-
14 vided by the Assistant Secretary to air carriers that
15 volunteer to participate in the pilot program shall in-
16 clude the use of blast-resistant containers and finan-
17 cial assistance to cover increased costs to the car-
18 riers associated with the use and maintenance of the
19 containers, including increased fuel costs.

20 (c) REPORT.—Not later than one year after the date
21 of enactment of this Act, the Assistant Secretary shall
22 submit to appropriate congressional committees a report
23 on the results of the pilot program.

24 (d) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to carry out this section



1 \$2,000,000. Such sums shall remain available until ex-
2 pended.

3 **SEC. 8. AIR CARGO SCREENING TECHNOLOGY.**

4 The Transportation Security Administration shall de-
5 velop technology to better identify, track, and screen air
6 cargo.

7 **SEC. 9. AIRPORT CHECKPOINT SCREENING EXPLOSIVE DE-**
8 **TECTION.**

9 Section 44940 of title 49, United States Code, is
10 amended by adding at the end the following:

11 “(i) CHECKPOINT SCREENING SECURITY FUND.—

12 “(1) ESTABLISHMENT.—There is established in
13 the Department of Homeland Security a fund to be
14 known as the ‘Checkpoint Screening Security Fund’.

15 “(2) DEPOSITS.—In each of fiscal years 2005
16 and 2006, after amounts are made available under
17 section 44923(h), the next \$30,000,000 derived from
18 fees received under subsection (a)(1) shall be avail-
19 able to be deposited in the Fund.

20 “(3) FEES.—The Secretary of Homeland Secu-
21 rity shall impose the fee authorized by subsection
22 (a)(1) so as to collect at least \$30,000,000 in each
23 of fiscal years 2005 and 2006 for deposit into the
24 Fund.



1 “(4) AVAILABILITY OF AMOUNTS.—Amounts in
2 the Fund shall be available for the purchase, deploy-
3 ment, and installation of equipment to improve the
4 ability of security screening personnel at screening
5 checkpoints to detect explosives.”.

6 **SEC. 10. NEXT GENERATION SECURITY CHECKPOINT.**

7 (a) PILOT PROGRAM.—The Transportation Security
8 Administration shall develop, not later than 120 days after
9 the date of enactment of this Act, and conduct a pilot pro-
10 gram to test, integrate, and deploy next generation secu-
11 rity checkpoint screening technology at not less than 5 air-
12 ports in the United States.

13 (b) HUMAN FACTOR STUDIES.— The Administration
14 shall conduct human factors studies to improve screener
15 performance as part of the pilot program under subsection
16 (a).

17 **SEC. 11. PENALTY FOR FAILURE TO SECURE COCKPIT**
18 **DOOR.**

19 (a) CIVIL PENALTY.—Section 46301(a) of title 49,
20 United States Code, is amended by adding at the end the
21 following:

22 “(6) PENALTY FOR FAILURE TO SECURE
23 FLIGHT DECK DOOR.—Any person holding a part
24 119 certificate under part of title 14, Code of Fed-
25 eral Regulations, is liable to the Government for a



1 civil penalty of not more than \$25,000 for each vio-
2 lation, by the pilot in command of an aircraft owned
3 or operated by such person, of any Federal regula-
4 tion that requires that the flight deck door be closed
5 and locked when the aircraft is being operated.”.

6 (b) TECHNICAL CORRECTIONS.—

7 (1) COMPROMISE AND SETOFF FOR FALSE IN-
8 FORMATION.—Section 46302(b) of such title is
9 amended by striking “Secretary of Transportation”
10 and inserting “Secretary of the Department of
11 Homeland Security and, for a violation relating to
12 section 46504, the Secretary of Transportation,”.

13 (2) CARRYING A WEAPON.—Section 46303 of
14 such title is amended—

15 (A) in subsection (b) by striking “Sec-
16 retary of Transportation” and inserting “Sec-
17 retary of Homeland Security”; and

18 (B) in subsection (c)(2) by striking
19 “Under Secretary of Transportation for Secu-
20 rity” and inserting “Secretary of Homeland Se-
21 curity”.

22 (3) ADMINISTRATIVE IMPOSITION OF PEN-
23 ALTIES.—Section 46301(d) of such title is
24 amended—



1 (A) in the first sentence of paragraph (2)
2 by striking “46302, 46303,” and inserting
3 “46302 (for a violation relating to section
4 46504),”; and

5 (B) in the second sentence of paragraph
6 (2)—

7 (i) by striking “Under Secretary of
8 Transportation for Security” and inserting
9 “Secretary of Homeland Security”; and

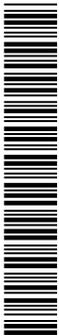
10 (ii) by striking “44909)” and insert-
11 ing “44909), 46302 (except for a violation
12 relating to section 46504), 46303,”;

13 (C) in each of paragraphs (2), (3), and (4)
14 by striking “Under Secretary or” and inserting
15 “Secretary of Homeland Security”; and

16 (D) in paragraph (4)(A) by moving clauses
17 (i), (ii), and (iii) 2 ems to the left.

18 **SEC. 12. FEDERAL AIR MARSHAL ANONYMITY.**

19 Not later than November 1, 2004, the Director of the
20 Federal Air Marshal Service of the Department of Home-
21 land Security shall continue to develop operational proce-
22 dures that ensure the anonymity of Federal air marshals.



1 **SEC. 13. FEDERAL LAW ENFORCEMENT IN-FLIGHT**
2 **COUNTERTERRORISM TRAINING.**

3 The Assistant Secretary for Immigration and Cus-
4 toms Enforcement and the Director of Federal Air Mar-
5 shal Service of the Department of Homeland Security, in
6 coordination with the Assistant Secretary of Homeland
7 Security (Transportation Security Administration), shall
8 make available appropriate in-flight counterterrorism pro-
9 cedures and tactics training to Federal law enforcement
10 officers who fly while on duty.

11 **SEC. 14. FEDERAL FLIGHT DECK OFFICER WEAPON CAR-**
12 **RIAGE PILOT PROGRAM.**

13 (a) IN GENERAL.—Not later than 90 days after the
14 date of enactment of this Act, the Assistant Secretary of
15 Homeland Security (Transportation Security Administra-
16 tion) shall implement a pilot program to allow pilots par-
17 ticipating in the Federal flight deck officer program to
18 transport their firearms on their persons. The Assistant
19 Secretary may prescribe any training, equipment, or pro-
20 cedures that the Assistant Secretary determines necessary
21 to ensure safety and maximize weapon retention.

22 (b) REVIEW.—Not later than 1 year after the date
23 of initiation of the pilot program, the Assistant Secretary
24 shall conduct a review of the safety record of the pilot
25 program and transmit a report on the results of the review
26 to the appropriate congressional committees.



1 (c) OPTION.—If the Assistant Secretary as part of
2 the review under subsection (b) determines that the safety
3 level obtained under the pilot program is comparable to
4 the safety level determined under existing methods of pi-
5 lots carrying firearms on aircraft, the Assistant Secretary
6 shall allow all pilots participating in the Federal flight
7 deck officer program the option of carrying their firearm
8 on their person subject to such requirements as the Assist-
9 ant Secretary determines appropriate.

10 **SEC. 15. INTERNATIONAL AGREEMENTS TO ALLOW MAX-**
11 **IMUM DEPLOYMENT OF FEDERAL FLIGHT**
12 **DECK OFFICERS.**

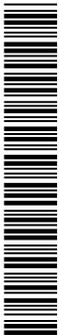
13 The President is encouraged to pursue aggressively
14 international agreements with foreign governments to
15 allow the maximum deployment of Federal air marshals
16 and Federal flight deck officers on international flights.

17 **SEC. 16. REGISTERED TRAVELER PROGRAM.**

18 The Transportation Security Administration shall ex-
19 pedite implementation of the registered traveler program.

20 **SEC. 17. WIRELESS COMMUNICATION.**

21 (a) STUDY.—The Transportation Security Adminis-
22 tration, in consultation with the Federal Aviation Admin-
23 istration, shall conduct a study to determine the viability
24 of providing devices or methods, including wireless meth-
25 ods, to enable a flight crew to discreetly notify the pilot



1 in the case of a security breach or safety issue occurring
2 in the cabin.

3 (b) MATTERS TO BE CONSIDERED.—In conducting
4 the study, the Transportation Security Administration
5 and the Federal Aviation Administration shall consider
6 technology that is readily available and can be quickly in-
7 tegrated and customized for use aboard aircraft for flight
8 crew communication.

9 (c) REPORT.—Not later than 180 days after the date
10 of enactment of this Act, the Transportation Security Ad-
11 ministration shall submit to the appropriate congressional
12 committees a report on the results of the study.

13 **SEC. 18. SECONDARY FLIGHT DECK BARRIERS.**

14 Not later than 6 months after the date of enactment
15 of this Act, the Assistant Secretary of Homeland Security
16 (Transportation Security Administration) shall transmit
17 to the appropriate congressional committees a report on
18 the costs and benefits associated with the use of secondary
19 flight deck barriers and whether the use of such barriers
20 should be mandated for all air carriers. The Assistant Sec-
21 retary may transmit the report in a classified format.

22 **SEC. 19. EXTENSION.**

23 Section 48301(a) of title 49, United States Code, is
24 amended by striking “and 2005” and inserting “2005,
25 and 2006”.



1 **SEC. 20. UNDER SECRETARY FOR LOCAL GOVERNMENT**
2 **AND TOURISM OF THE DEPARTMENT OF**
3 **HOMELAND SECURITY.**

4 (a) ESTABLISHMENT OF UNDER SECRETARY FOR
5 LOCAL GOVERNMENT AND TOURISM.—Section 103(a) of
6 the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is
7 amended—

8 (1) by redesignating paragraphs (6) through
9 (9) as paragraphs (7) through (10), respectively;
10 and

11 (2) by inserting after paragraph (5) the fol-
12 lowing:

13 “(6) An Under Secretary for Local Government
14 and Tourism.”.

15 (b) FUNCTIONS.—Such Act is further amended—

16 (1) in section 102(e) (6 U.S.C. 112(e)) by strik-
17 ing “through the Office of State and Local Coordi-
18 nation (established under section 801)” and insert-
19 ing “through the Under Secretary for Local Govern-
20 ment and Tourism”;

21 (2) in section 102(f) (6 U.S.C. 112(f)) by strik-
22 ing the subsection designator and all that precedes
23 paragraph (1) and inserting the following:

24 “(f) UNDER SECRETARY FOR LOCAL GOVERNMENT
25 AND TOURISM.—The Under Secretary for Local Govern-
26 ment and Tourism shall be responsible for”;



1 (3) in section 801(a) (6 U.S.C. 361(a))—

2 (A) by striking “in the Office of the Sec-
3 retary”

4 (B) by adding at the end the following:

5 “The Under Secretary for Local Government
6 and Tourism shall be the head of the Office.”;

7 and

8 (4) in section 801(b) by striking “The Office
9 established under this section” and inserting “The
10 Under Secretary for Local Government and Tour-
11 ism, acting through the Office,”.

12 **SEC. 21. FEDERAL AIR MARSHAL TRAINING.**

13 Section 44917 of title 49, United States Code, is
14 amended by adding at the end the following:

15 “(d) TRAINING FOR FOREIGN LAW ENFORCEMENT
16 PERSONNEL.—

17 “(1) IN GENERAL.—The Assistant Secretary for
18 Immigration and Customs Enforcement of the De-
19 partment of Homeland Security, after consultation
20 with the Department of State, may direct the Fed-
21 eral Air Marshal Service to provide appropriate air
22 marshal training to law enforcement personnel of
23 foreign countries.

24 “(2) WATCHLIST SCREENING.—The Federal
25 Air Marshal Service shall only provide appropriate



1 air marshal training to law enforcement personnel of
2 foreign countries after comparing the identifying in-
3 formation and records of law enforcement personnel
4 of foreign countries against appropriate records in
5 the consolidated and integrated terrorist watchlists
6 of the Federal Government.

7 “(3) FEES.—The Assistant Secretary shall es-
8 tablish reasonable fees and charges to pay expenses
9 incurred in carrying out this subsection. Funds col-
10 lected under this subsection shall be credited to the
11 account in the Treasury from which the expenses
12 were incurred and shall be available to the Assistant
13 Secretary for purposes for which amounts in such
14 account are available.”

15 **SEC. 22. PERIMETER SECURITY.**

16 (a) REPORT.—Not later than 180 days after the date
17 of enactment of this Act, the Assistant Secretary of Home-
18 land Security (Transportation Security Administration),
19 in consultation with airport operators and law enforce-
20 ment authorities, shall develop and submit to the appro-
21 priate congressional committee a report on airport perim-
22 eter security. The report may be submitted in a classified
23 format.

24 (b) CONTENTS.—The report shall include—



1 (1) an examination of the feasibility of access
2 control technologies and procedures, including the
3 use of biometrics and other methods of positively
4 identifying individuals prior to entry into secure
5 areas of airports, and provide best practices for en-
6 hanced perimeter access control techniques; and

7 (2) an assessment of the feasibility of physically
8 screening all individuals prior to entry into secure
9 areas of an airport and additional methods for
10 strengthening the background vetting process for all
11 individuals credentialed to gain access to secure
12 areas of airports.

13 **SEC. 23. MAN-PORTABLE AIR DEFENSE SYSTEMS**
14 **(MANPADS).**

15 (a) UNITED STATES POLICY ON NONPROLIFERATION
16 AND EXPORT CONTROL.—

17 (1) TO LIMIT AVAILABILITY AND TRANSFER OF
18 MANPADS.—The President shall pursue, on an ur-
19 gent basis, further strong international diplomatic
20 and cooperative efforts, including bilateral and mul-
21 tilateral treaties, in the appropriate forum to limit
22 the availability, transfer, and proliferation of
23 MANPADSs worldwide.

24 (2) TO LIMIT THE PROLIFERATION OF
25 MANPADS.—The President is encouraged to seek to



1 enter into agreements with the governments of for-
2 eign countries that, at a minimum, would—

3 (A) prohibit the entry into force of a
4 MANPADS manufacturing license agreement
5 and MANPADS co-production agreement, other
6 than the entry into force of a manufacturing li-
7 cense or co-production agreement with a coun-
8 try that is party to such an agreement;

9 (B) prohibit, except pursuant to transfers
10 between governments, the export of a
11 MANPADS, including any component, part, ac-
12 cessory, or attachment thereof, without an indi-
13 vidual validated license; and

14 (C) prohibit the reexport or retransfer of a
15 MANPADS, including any component, part, ac-
16 cessory, or attachment thereof, to a third per-
17 son, organization, or government unless the
18 written consent of the government that ap-
19 proved the original export or transfer is first
20 obtained.

21 (3) TO ACHIEVE DESTRUCTION OF MANPADS.—

22 The President should continue to pursue further
23 strong international diplomatic and cooperative ef-
24 forts, including bilateral and multilateral treaties, in
25 the appropriate forum to assure the destruction of



1 excess, obsolete, and illicit stocks of MANPADSs
2 worldwide.

3 (4) REPORTING AND BRIEFING REQUIRE-
4 MENT.—

5 (A) PRESIDENT'S REPORT.—Not later
6 than 180 days after the date of enactment of
7 this Act, the President shall transmit to the ap-
8 propriate congressional committees a report
9 that contains a detailed description of the sta-
10 tus of diplomatic efforts under paragraphs (1),
11 (2), and (3) and of efforts by the appropriate
12 United States agencies to comply with the rec-
13 ommendations of the General Accounting Office
14 set forth in its report GAO-04-519, entitled
15 “Nonproliferation: Further Improvements
16 Needed in U.S. Efforts to Counter Threats
17 from Man-Portable Air Defense Systems”.

18 (B) ANNUAL BRIEFINGS.—Annually after
19 the date of submission of the report under sub-
20 paragraph (A) and until completion of the dip-
21 lomatic and compliance efforts referred to in
22 subparagraph (A), the Secretary of State shall
23 brief the appropriate congressional committees
24 on the status of such efforts.

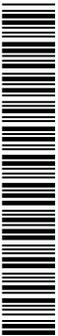


1 (b) FAA AIRWORTHINESS CERTIFICATION OF MIS-
2 SILE DEFENSE SYSTEMS FOR COMMERCIAL AIRCRAFT.—

3 (1) IN GENERAL.—As soon as practicable, but
4 not later than the date of completion of Phase II of
5 the Department of Homeland Security's counter-
6 man-portable air defense system (MANPADS) devel-
7 opment and demonstration program, the Adminis-
8 trator of the Federal Aviation Administration shall
9 establish a process for conducting airworthiness and
10 safety certification of missile defense systems for
11 commercial aircraft certified as effective and func-
12 tional by the Department of Homeland Security.
13 The process shall require a certification by the Ad-
14 ministrator that such systems can be safely inte-
15 grated into aircraft systems and ensure airworthi-
16 ness and aircraft system integrity.

17 (2) CERTIFICATION ACCEPTANCE.—Under the
18 process, the Administrator shall accept the certifi-
19 cation of the Department of Homeland Security that
20 a missile defense system is effective and functional
21 to defend commercial aircraft against MANPADSs.

22 (3) EXPEDITIOUS CERTIFICATION.—Under the
23 process, the Administrator shall expedite the air-
24 worthiness and safety certification of missile defense



1 systems for commercial aircraft certified by the De-
2 partment of Homeland Security.

3 (4) REPORTS.—Not later than 90 days after
4 the first airworthiness and safety certification for a
5 missile defense system for commercial aircraft is
6 issued by the Administrator, and annually thereafter
7 until December 31, 2008, the Federal Aviation Ad-
8 ministration shall transmit to the Committee on
9 Transportation and Infrastructure of the House of
10 Representatives and the Committee on Commerce,
11 Science, and Transportation of the Senate a report
12 that contains a detailed description of each air-
13 worthiness and safety certification issued for a mis-
14 sile defense system for commercial aircraft.

15 (c) PROGRAMS TO REDUCE MANPADS.—

16 (1) IN GENERAL.—The President is encouraged
17 to pursue strong programs to reduce the number of
18 MANPADSs worldwide so that fewer MANPADSs
19 will be available for trade, proliferation, and sale.

20 (2) REPORTING AND BRIEFING REQUIRE-
21 MENTS.—Not later than 180 days after the date of
22 enactment of this Act, the President shall transmit
23 to the appropriate congressional committees a report
24 that contains a detailed description of the status of
25 the programs being pursued under subsection (a).



1 Annually thereafter until the programs are no longer
2 needed, the Secretary of State shall brief the appro-
3 priate congressional committees on the status of pro-
4 grams.

5 (3) FUNDING.—There is authorized to be ap-
6 propriated such sums as may be necessary to carry
7 out this section.

8 (d) MANPADS VULNERABILITY ASSESSMENTS RE-
9 PORT.—

10 (1) IN GENERAL.—Not later than one year
11 after the date of enactment of this Act, the Sec-
12 retary of Homeland Security shall transmit to the
13 Committee on Transportation and Infrastructure of
14 the House of Representatives and the Committee on
15 Commerce, Science, and Transportation of the Sen-
16 ate a report describing the Department of Homeland
17 Security's plans to secure airports and the aircraft
18 arriving and departing from airports against
19 MANPADSs attacks.

20 (2) MATTERS TO BE ADDRESSED.—The Sec-
21 retary's report shall address, at a minimum, the fol-
22 lowing:

23 (A) The status of the Department's efforts
24 to conduct MANPADSs vulnerability assess-



1 ments at United States airports at which the
2 Department is conducting assessments.

3 (B) How intelligence is shared between the
4 United States intelligence agencies and Federal,
5 State, and local law enforcement to address the
6 MANPADS threat and potential ways to im-
7 prove such intelligence sharing.

8 (C) Contingency plans that the Depart-
9 ment has developed in the event that it receives
10 intelligence indicating a high threat of a
11 MANPADS attack on aircraft at or near
12 United States airports.

13 (D) The feasibility and effectiveness of im-
14 plementing public education and neighborhood
15 watch programs in areas surrounding United
16 States airports in cases in which intelligence re-
17 ports indicate there is a high risk of
18 MANPADS attacks on aircraft.

19 (E) Any other issues that the Secretary
20 deems relevant.

21 (3) **FORMAT.**—The report required by this sub-
22 section may be submitted in a classified format.

23 (e) **DEFINITIONS.**—In this section, the following defi-
24 nitions apply:



1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Armed Services, the
5 Committee on International Relations, and the
6 Committee on Transportation and Infrastruc-
7 ture of the House of Representatives; and

8 (B) the Committee on Armed Services, the
9 Committee on Foreign Relations, and the Com-
10 mittee on Commerce, Science, and Transpor-
11 tation of the Senate.

12 (2) MANPADS.—The term “MANPADS”
13 means—

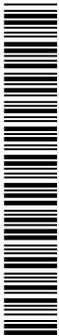
14 (A) a surface-to-air missile system de-
15 signed to be man-portable and carried and fired
16 by a single individual; and

17 (B) any other surface-to-air missile system
18 designed to be operated and fired by more than
19 one individual acting as a crew and portable by
20 several individuals.

21 **SEC. 24. DEFINITIONS.**

22 In this Act (other than section 23), the following defi-
23 nitions apply:

24 (1) APPROPRIATE CONGRESSIONAL COM-
25 MITTEE.—The term “appropriate congressional com-



1 mittees” means the Committee on Transportation
2 and Infrastructure of the House of Representatives
3 and the Committee on Commerce, Science, and
4 Transportation of the Senate.

5 (2) AIR CARRIER.—The term “air carrier” has
6 the meaning such term has under section 40102 of
7 title 49, United States Code.

8 (3) SECURE AREA OF AN AIRPORT.—The term
9 “secure area of an airport” means the sterile area
10 and the Secure Identification Display Area of an air-
11 port, as such terms are defined in section 1540.5 of
12 title 49, Code of Federal Regulations, or any suc-
13 cessor regulation.

