

104TH CONGRESS  
2D SESSION

# H. R. 3953

To combat terrorism.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1996

Mr. SHUSTER (for himself, Mr. HYDE, Mr. DUNCAN, and Mr. MCCOLLUM) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To combat terrorism.

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 AND TABLE OF CONTENTS.**

4       (a) **SHORT TITLE.**—This Act may be cited as the  
5       “Aviation Security and Antiterrorism Act of 1996”.

6       (b) **TABLE OF CONTENTS.**—The table of contents for  
7       this Act is as follows:

Sec. 1. Short title.

#### TITLE I—AVIATION SECURITY

Sec. 101. Interim deployment of commercially available explosive detection equipment.

- Sec. 102. Authority for criminal history records checks.
- Sec. 103. Audit of performance of background checks for certain personnel.
- Sec. 104. Performance standards for airport security personnel.
- Sec. 105. Passenger profiling.
- Sec. 106. Authority to use certain funds for airport security programs and activities.
- Sec. 107. Assessment of cargo.
- Sec. 108. Assignment of FBI agents to high-risk airports.
- Sec. 109. Supplemental screening.
- Sec. 110. Supplemental explosive detection.
- Sec. 111. Enhanced security for small airplanes
- Sec. 112. Civil aviation security review commission.

## TITLE II—ANTITERRORISM

- Sec. 201. Addition of terrorist offenses as RICO predicates.
- Sec. 202. Enhanced Privacy Act and wiretap penalties.
- Sec. 203. Combatting international state terrorism.
- Sec. 204. Implementation of the Antiterrorism and Effective Death Penalty Act of 1996.
- Sec. 205. Taggants in black and smokeless powder.
- Sec. 206. National Commission on Terrorism.

# 1     **TITLE I—AVIATION SECURITY**

## 2     **SEC. 101. INTERIM DEPLOYMENT OF COMMERCIAL- 3                   AVAILABLE EXPLOSIVE DETECTION EQUIP- 4                   MENT.**

5       Section 44913(a) of title 49, United States Code, is  
6 amended—

7           (1) by redesignating paragraph (3) as para-  
8 graph (4); and

9           (2) by inserting after paragraph (2) the follow-  
10 ing new paragraph (3):

11           “(3) Until such time as the Administrator de-  
12 termines that equipment certified under paragraph  
13 (1) of this subsection is commercially available and  
14 has successfully completed operational testing as  
15 provided in 49 United States Code 44913(a)(1), the

1 Administrator shall facilitate the deployment of com-  
 2 mercially available explosive detection devices that  
 3 the Administrator approves and determines will en-  
 4 hance aviation security significantly. The Adminis-  
 5 trator shall require that equipment deployed under  
 6 this paragraph be replaced by equipment certified  
 7 under paragraph (1) when equipment certified under  
 8 paragraph (1) becomes commercially available.”.

9 **SEC. 102. AUTHORITY FOR CRIMINAL HISTORY RECORDS**

10 **CHECKS.**

11 Section 44936(a)(1) of title 49, United States Code.  
 12 is amended—

- 13 (1) by striking “(1)” and inserting “(1)(A)”;
- 14 (2) by redesignating subparagraphs (A) and
- 15 (B) as clauses (i) and (ii), respectively; and
- 16 (3) by adding at the end the following:

17 “(B) The Administrator shall require by regula-  
 18 tion that an employment investigation (including a  
 19 criminal history record check in cases in which the  
 20 employment investigation reveals a gap in employ-  
 21 ment of 12 months or more that the individual does  
 22 not satisfactorily account for) be conducted for indi-  
 23 viduals who will be responsible for screening pas-  
 24 sengers or property under this chapter and their su-  
 25 pervisors.”.

1 **SEC. 103. AUDIT OF PERFORMANCE OF BACKGROUND**  
2 **CHECKS FOR CERTAIN PERSONNEL.**

3 Section 44936(a) of title 49, United States Code, is  
4 amended by adding at the end the following:

5 “(3) The Administrator shall provide for the  
6 periodic audit of criminal history record checks con-  
7 ducted under paragraph (1) of this subsection.”.

8 **SEC. 104. PERFORMANCE STANDARDS FOR AIRPORT SECU-**  
9 **RITY PERSONNEL.**

10 Section 44935(a) of title 49, United States Code, is  
11 amended—

12 (1) by striking “and” at the end of paragraph  
13 (4); and

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

15 “(6) performance standards for airport and air-  
16 line security personnel, including counter personnel;  
17 and

18 “(7) guidelines for encouraging the retention of  
19 security personnel responsible for passengers and  
20 cargo.”

21 **SEC. 105. PASSENGER PROFILING.**

22 The Federal Aviation Administration, the Secretary  
23 of Transportation, the intelligence community, and the law  
24 enforcement community should continue to assist air car-  
25 riers in developing computer-assisted passenger profiling  
26 programs.

1 **SEC. 106. AUTHORITY TO USE CERTAIN FUNDS FOR AIR-**  
2 **PORT SECURITY PROGRAMS AND ACTIVITIES.**

3 (a) **AUTHORITY TO USE FUNDS.**—Notwithstanding  
4 any other provision of law, funds referred to in subsection  
5 (b) may be used to expand and enhance air transportation  
6 security programs and other activities at airports (includ-  
7 ing the improvement of facilities and the purchase and de-  
8 ployment of equipment) to ensure the safety and security  
9 of passengers and other persons involved in air travel.

10 (b) **COVERED FUNDS.**—The following funds may be  
11 used under subsection (a):

12 (1) Project grants made under subchapter 1 of  
13 chapter 471 of title 49, United States Code.

14 (2) Passenger facility fees collected under sec-  
15 tion 40117 of title 49, United States Code.

16 **SEC. 107. ASSESSMENT OF CARGO.**

17 (a) **IN GENERAL.**— The Administrator of the Federal  
18 Aviation Administration shall, in consultation with the ap-  
19 propriate Federal agencies, review—

20 (1) the oversight by the Federal Aviation Ad-  
21 ministration of inspections of shipments of mail and  
22 cargo by domestic and foreign air carriers; and

23 (2) the need for additional security measures  
24 with respect to such inspections; and

25 (3) the adequacy of inspection and screening of  
26 cargo on passenger air carriers.

1 (b) LEGISLATIVE PROPOSALS.—The President shall  
 2 submit relevant legislative proposals to Congress, as may  
 3 be required.

4 **SEC. 108. ASSIGNMENT OF FBI AGENTS TO HIGH-RISK AIR-**  
 5 **PORTS.**

6 Section 44904 of title 49, United States Code, is  
 7 amended by adding at the end the following:

8 “(d) RESPONSIBILITY OF FBI AGENTS TO AREAS OF  
 9 HIGH-RISK AIRPORTS.—The Director of the Federal Bu-  
 10 reau of Investigation shall assure that agents of the Fed-  
 11 eral Bureau of Investigation who are assigned to an area  
 12 where there are airports that are determined to be high-  
 13 risk airports shall, jointly with the Federal Aviation Ad-  
 14 ministration, carry out periodic threat and vulnerability  
 15 assessments of security every 3 years, or more frequently,  
 16 as necessary, at such airports.”.

17 **SEC. 109. SUPPLEMENTAL SCREENING.**

18 Section 44903(c) of title 49, United States Code, is  
 19 amended by adding at the end of the following new para-  
 20 graph:

21 “(3) USE OF DOGS IN SCREENING.—

22 “(A) IN GENERAL.—The law enforcement  
 23 presence and capability required under para-  
 24 graph (1) shall include a requirement that the  
 25 operator of each major airport use dogs or

1 other appropriate animals to supplement exist-  
2 ing equipment used for screening passengers  
3 and cargo for plastic explosives and other de-  
4 vices or materials which may be used in aircraft  
5 piracy. If the Administrator determines that the  
6 requirements of the preceding sentence will not  
7 significantly enhance the safety and security of  
8 passengers and other persons involved in air  
9 travel, the Administrator may modify such re-  
10 quirements as appropriate. At the discretion of  
11 the Administrator, the use of dogs at an airport  
12 may be deemed as compliance with section  
13 449913(a)(3) of this title.

14 “(B) MAJOR AIRPORT DEFINED.—In this  
15 paragraph, the term ‘major airport’ means an  
16 airport that is one of the largest 50 airports in  
17 the United States, as determined by the num-  
18 ber of passenger enplanements in calendar year  
19 1995.”.

20 **SEC. 110. SUPPLEMENTAL EXPLOSIVE DETECTION.**

21 Section 44913(b) of title 49, United States Code, is  
22 amended to read as follows:

23 “(b) SUPPLEMENTAL EXPLOSIVE DETECTION.—

24 “(1) GRANTS.—The Secretary shall make  
25 grants for expenses of training and evaluation of

1 dogs for the explosive detection K–9 team training  
2 program for the purpose of detecting explosives at  
3 airports and aboard aircraft. Not later than 180  
4 days after the date of the enactment of the Aviation  
5 Security Improvement Act of 1996, the Secretary  
6 shall extend such program to the largest 50 airports  
7 in the United States, as determined by the number  
8 of passenger enplanements in calendar year 1995.

9 “(2) FUNDING.—There is authorized to be ap-  
10 propriated from the Trust Fund for carrying out  
11 paragraph (1) such sums as may be necessary for  
12 fiscal years beginning after September 30, 1996.  
13 Such funds shall remain available until expended.”.

14 **SEC. 111. ENHANCED SECURITY FOR SMALL AIRPLANES**

15 Not later than 60 days after the date of the enact-  
16 ment of this Act, the Administrator shall initiate a rule-  
17 making to revise section 108.5 and 108.7 of 14 C.F.R.  
18 with respect to airplanes having a passenger seating con-  
19 figuration of less than 61 to enhance the safety and secu-  
20 rity of air travel in such airplanes.

21 **SEC. 112. CIVIL AVIATION SECURITY REVIEW COMMISSION.**

22 (a) ESTABLISHMENT.—There is established a com-  
23 mission to be known as the Civil Aviation Security Review  
24 Commission (hereinafter in this section referred to as the  
25 “Commission”).



1 (b) FUNCTIONS.—The Commission shall conduct a  
2 comprehensive review of aviation security. Matters to be  
3 studied by the Commission shall include the following:

4 (1) A review of the advisability of transferring  
5 responsibilities of air carriers under Federal law for  
6 security activities conducted on-site at airports to  
7 airport operators or to appropriate entities inde-  
8 pendent of air carriers.

9 (2) A review of whether baggage match require-  
10 ments should be imposed on air carriers providing  
11 interstate air transportation and how baggage match  
12 can be accomplished to enhance the safety and secu-  
13 rity of domestic air travel.

14 (3) A review of the cost and advisability of re-  
15 quiring hardened cargo containers as a way to en-  
16 hance aviation security and reduce the required sen-  
17 sitivity of bomb detection equipment.

18 (c) MEMBERSHIP.—The Commission shall be com-  
19 posed of 13 members, appointed from persons knowledge-  
20 able about civil aviation in the United States and who are  
21 specifically qualified by training and experience to perform  
22 the duties of the Commission, as follows:

23 (1) 3 members appointed by the Secretary of  
24 Transportation, in consultation with the Secretary of  
25 the Treasury.

1           (2) 10 members appointed by Congress as fol-  
2       lows:

3           (A) 1 member appointed by each of the  
4       chairman and ranking minority member of the  
5       Committee on Transportation and Infrastruc-  
6       ture of the House of Representatives.

7           (B) 1 member appointed by each of the  
8       chairman and ranking minority member of the  
9       Committee on Appropriations of the House of  
10      Representatives.

11          (C) 1 member appointed by each of the  
12      chairman and ranking minority member of the  
13      Committee on Commerce, Science, and Trans-  
14      portation of the Senate.

15          (D) 1 member appointed by each of the  
16      chairman and ranking minority member of the  
17      Committee on Appropriations of the Senate.

18          (E) 1 member appointed by each of the  
19      chairman and ranking minority member of the  
20      Committee on Ways and Means of the House of  
21      Representatives.

22      (d) RESTRICTION ON APPOINTMENT OF CURRENT  
23      AVIATION EMPLOYEES.—A member appointed under sub-  
24      section (c)(1) may not be an employee of an airline, air-

1 port, aviation union, or aviation trade association at the  
2 time of appointment or while serving on the Commission.

3 (e) TIMING OF APPOINTMENTS.—The appointing au-  
4 thorities shall make their appointments to the Commission  
5 not later than 30 days after the date of the enactment  
6 of this Act.

7 (f) CHAIRMAN.—In consultation with the Secretary  
8 of Transportation, the Speaker of the House of Represent-  
9 atives and the majority leader of the Senate shall des-  
10 ignate a chairman and vice chairman from among the  
11 members of the Commission not later than 30 days after  
12 appointment of the last member to the Commission.

13 (g) PERIOD OF APPOINTMENT AND VACANCIES.—  
14 Members shall be appointed for the life of the Commission,  
15 and any vacancy on the Commission shall not affect its  
16 powers but shall be filled in the same manner, and by the  
17 same appointing authority, as the original appointment.

18 (h) QUORUM.—A majority of the members of the  
19 Commission shall constitute a quorum to conduct busi-  
20 ness, but the Commission may establish a lesser number  
21 for conducting hearings scheduled by the Commission.

22 (i) POWERS OF THE COMMISSION.—

23 (1) HEARINGS.—The Commission may hold  
24 such hearings, sit and act at such times and places,  
25 administer such oaths, take such testimony, and re-

1       ceive such evidence as the Commission considers ad-  
2       visable to carry out its duties.

3               (2) INFORMATION FROM FEDERAL AGENCIES.—

4       The Commission may secure directly from any Fed-  
5       eral department or agency such information or docu-  
6       ments as the Commission considers necessary to  
7       carry out its duties, unless the head of such depart-  
8       ment or agency advises the chairman of the Com-  
9       mission, in writing, that such information is con-  
10      fidential and that its release to the Commission  
11      would jeopardize aviation safety, the national secu-  
12      rity, or pending criminal investigations.

13              (3) DETAIL OF GOVERNMENT EMPLOYEES.—

14      Any Federal Government employee may be detailed  
15      to the Commission without reimbursement, and such  
16      detail shall be without interruption or loss of civil  
17      service status or privilege.

18              (4) TRAVEL AND PER DIEM.—Members and  
19      staff of the Commission shall be paid travel ex-  
20      penses, including per diem in lieu of subsistence,  
21      when away from his or her usual place of residence,  
22      in accordance with section 5703 of title 5, United  
23      States Code.

24              (j) FINAL REPORT.—Not later than 1 year after the  
25      date of the appointment of the last member to the Com-

1 mission under subsection (c), the Commission shall submit  
 2 to Congress and the Administrator a final report on the  
 3 findings of the Commission with corresponding rec-  
 4 ommendations. Included with this report shall be the inde-  
 5 pendent audit required under subsection (j).

6 (k) AUTHORIZATION OF APPROPRIATIONS.—There is  
 7 hereby authorized to be appropriated \$2,400,000 for ac-  
 8 tivities of the Commission to remain available until ex-  
 9 pended.

## 10 **TITLE II—ANTITERRORISM**

### 11 **SEC. 201. ADDITION OF TERRORIST OFFENSES AS RICO** 12 **PREDICATES.**

13 (a) TITLE 18 OFFENSES.—Section 1961(1)(B) of  
 14 title 18 of the United States Code is amended by—

15 (1) inserting “32 (relating to the destruction of  
 16 aircraft), section 37 (relating to violence at inter-  
 17 national airports), section 115 (relating to influenc-  
 18 ing, impeding, or retaliating against a Federal offi-  
 19 cial by threatening or injuring a family member),  
 20 section” after “Section”;

21 (2) inserting “section 351 (relating to Congres-  
 22 sional or Cabinet officer assassination,” after “sec-  
 23 tion 224 (relating to sports bribery),”;

24 (3) inserting “section 831 (relating to prohib-  
 25 ited transactions involving nuclear materials), sec-

1       tion 844(f) or (i) (relating to destruction by explo-  
2       sives or fire of government property or property af-  
3       fecting interstate or foreign commerce),” after “sec-  
4       tion 664 (relating to embezzlement from pension and  
5       welfare funds),”;

6           (4) inserting “section 930(c) (relating to violent  
7       attacks against Federal buildings), section 956 (re-  
8       lating to conspiracy to kill, kidnap, maim, or injure  
9       certain property in a foreign country),” after “sec-  
10      tions 891–894 (relating to extortionate credit trans-  
11      actions),”;

12          (5) inserting “section 1111 (relating to mur-  
13      der), section 1114 (relating to murder of United  
14      States law enforcement officials), section 1116 (re-  
15      lating to murder of foreign officials, official guests,  
16      or internationally protected persons), section 1203  
17      (relating to hostage taking),” after “section 1084  
18      (relating to the transmission of gambling informa-  
19      tion),”;

20          (6) inserting “section 1361 (relating to willful  
21      injury of government property), section 1363 (relat-  
22      ing to destruction of property within the special  
23      maritime and territorial jurisdiction),” after “section  
24      1344 (relating to financial institution fraud),”;

1           (7) inserting “section 1751 (relating to Presi-  
2       dential assassination),” after “sections 1581–1588  
3       (relating to peonage and slavery),”;

4           (8) inserting “section 1992 (relating to train  
5       wrecking), section 2280 (relating to violence against  
6       maritime navigation), section 2281 (relating to vio-  
7       lence against maritime fixed platforms),” after “sec-  
8       tion 1958 (relating to use of interstate commerce fa-  
9       cilities in the commission of murder-for-hire),”; and

10          (9) inserting “section 2332 (relating to terrorist  
11       acts abroad against United States nationals), section  
12       2332a (relating to use of weapons of mass destruc-  
13       tion), section 2332b (relating to acts of terrorism  
14       transcending national boundaries), section 2332c  
15       (relating to use of chemical weapon), section 2339A  
16       (relating to providing material support to terror-  
17       ists),” after “2321 (relating to trafficking in certain  
18       motor vehicles or motor vehicle parts),”.

19       (b) NON-TITLE 18 OFFENSE.—Section 1961(1) of  
20 title 18 of the United States Code is amended—

21           (1) by striking “or” before “(E)”;

22           (2) by striking “or” before “(F); and

23           (3) by inserting at the end the following: “or

24       (G) section 46502 of title 49, United States Code;”.

1 (c) LIMITATION TO CIVIL RICO.—The amendments  
2 made by this section shall not apply with respect to section  
3 1964(c) of title 18, United States Code.

4 **SEC. 202. ENHANCED PRIVACY ACT AND WIRETAP PEN-**  
5 **ALTIES.**

6 (a) ENHANCEMENT OF PRIVACY ACT CRIMINAL PEN-  
7 ALTIES.—Paragraphs (1) and (3) of section 552a(i) of  
8 title 5, United States Code, are each amended by striking  
9 “shall be guilty of a misdemeanor” and all that follows  
10 through the end of the paragraph and inserting “shall be  
11 fined under title 18, imprisoned not more than 5 years,  
12 or both.”.

13 (b) ENHANCEMENT OF PRIVACY ACT CIVIL DAM-  
14 AGES.—Section 552a(g)(4)(A) of title 5, United States  
15 Code, is amended by striking “\$1,000” and inserting  
16 “\$5,000”.

17 (c) ENHANCEMENT OF WIRETAP DISCLOSURE  
18 CRIMINAL PENALTY.—Section 2511 of title 18, United  
19 States Code, is amended—

- 20 (1) in subsection (4)(a), by striking “paragraph  
21 (b)” and all that follows through “(5)” and inserting  
22 “this section”; and  
23 (2) by adding after paragraph (c) the following:



1 “(d) If the offense is an offense under paragraph (c)  
2 or (e) of subsection (1), the offender shall be fined under  
3 this title or imprisoned not more than 10 years, or both.”.

4 **SEC. 203. COMBATING INTERNATIONAL STATE TERRORISM.**

5 (a) SANCTIONS AGAINST SPONSORS OF INTER-  
6 NATIONAL TERRORISM.—The Congress urges the Presi-  
7 dent to commence immediately diplomatic efforts, both in  
8 appropriate international fora including the United Na-  
9 tions, and bilaterally with allies of the United States, to  
10 establish a multilateral sanctions regime against each of  
11 those nations certified under section 6(j) of the Export  
12 Administration Act of 1979 as having repeatedly provided  
13 support for acts of international terrorism. The President  
14 shall report to Congress, not later than 30 days after the  
15 date of the enactment of this Act, and annually thereafter,  
16 on the extent to which these diplomatic efforts have been  
17 successful.

18 (b) ACTION PLANS FOR DESIGNATED TERRORIST  
19 NATIONS.—The President shall provide to the Congress  
20 within 30 days after the date of the enactment of this Act  
21 an Action Plan for inducing each of those nations certified  
22 under section 6(j) of the Export Administration Act of  
23 1979 as having repeatedly provided support for acts of  
24 international terrorism to cease their support for acts of  
25 international terrorism.

1       (c) REPORT ON UNITED STATES COUNTERTERROR  
2 AND ANTITERROR INTELLIGENCE CAPABILITIES.—Not  
3 later than 60 days after the date of the enactment of this  
4 Act, the President shall provide to the Permanent Select  
5 Committees on Intelligence of the Senate and the House  
6 of Representatives a report on the capability of the United  
7 States intelligence community to detect, assess, and elimi-  
8 nate international terrorist activities, including an assess-  
9 ment of intelligence collection policies and practices which  
10 affect the counterterrorism and antiterrorism activities of  
11 the United States intelligence community and of the re-  
12 sources provided the intelligence community for such ac-  
13 tivities, together with a plan to ensure enhanced human  
14 intelligence capabilities. To the extent feasible, such report  
15 shall be unclassified and made available to the public.  
16 Such report shall be supplemented as necessary by a clas-  
17 sified report or annex, which shall be transmitted and  
18 maintained under appropriate security procedures.

19 **SEC. 204. IMPLEMENTATION OF THE ANTITERRORISM AND**  
20 **EFFECTIVE DEATH PENALTY ACT OF 1996.**

21       The Secretary of State is hereby directed, before Oc-  
22 tober 1, 1996, to designate foreign terrorist organizations  
23 pursuant to the amendment made by section 302 (relating  
24 to international terrorism prohibitions) of the  
25 Antiterrorism and Effective Death Penalty Act of 1996,

1 and, if possible, justified by the evidence, and consistent  
2 with the needs of law enforcement and intelligence, the  
3 Secretary of the Treasury shall freeze assets and the At-  
4 torney General shall initiate the removal of known alien  
5 terrorists and criminals.

6 **SEC. 205. TAGGANTS IN BLACK AND SMOKELESS POWDER.**

7 (a) AMENDMENT TO 1996 ACT TO INCLUDE BLACK  
8 AND SMOKELESS POWDER.—Notwithstanding the provi-  
9 sions to the contrary of section 732 of the Antiterrorism  
10 and Effective Death Penalty Act of 1996, (concerning the  
11 exclusion of black and smokeless powder from the study  
12 described thereunder), the Director of the National Insti-  
13 tute of Justice shall contract for an independent study of  
14 the feasibility, safety, and law enforcement effectiveness  
15 of including taggants in black and smokeless powder. The  
16 contract shall require the completion of the study within  
17 one year after the date of the enactment of this Act. The  
18 entity that conducts the study shall be outside the execu-  
19 tive branch of the Government and possess the requisite  
20 expertise in explosives technology. The study shall, in ad-  
21 dition, draw upon expertise and science from consultants  
22 in the areas of mining and other industries that rely upon  
23 such explosives.

24 (b) REPORT TO CONGRESS.—Not later than 30 days  
25 after the completion of the study conducted under sub-

1 section (a), the Director shall submit the study to the Con-  
2 gress. If the results of the study conducted under sub-  
3 section (a) indicate that the taggants—

4 (1) will not pose a risk to human life or safety;

5 (2) will substantially assist law enforcement of-  
6 ficers in their investigative efforts;

7 (3) will not substantially impair the quality of  
8 the explosive materials for their intended lawful use;

9 (4) will not have a substantially adverse effect  
10 on the environment; and

11 (5) the costs associated with the addition of the  
12 taggants will not outweigh the benefits of their in-  
13 clusion;

14 then the Director may submit to Congress recommenda-  
15 tions for legislation for the addition of taggants to black  
16 and smokeless powder manufactured in or imported into  
17 the United States, of such character and in such quantity  
18 as the proposed legislation may authorize or require.

19 **SEC. 206. NATIONAL COMMISSION ON TERRORISM.**

20 (a) **ESTABLISHMENT.**—There is established a com-  
21 mission to be known as the National Commission on Ter-  
22 rorism (in this title referred to as the “Commission”).

23 (b) **MEMBERSHIP.**—

24 (1) **NUMBER AND APPOINTMENT.**—

1 (A) GENERALLY.—The Commission shall  
2 be composed of 9 members, appointed from per-  
3 sons specially qualified by training and experi-  
4 ence to perform the duties of the Commission,  
5 as follows:

6 (i) 2 appointed by the Speaker of the  
7 House of Representatives, and 1 appointed  
8 by the minority leader of the House of  
9 Representatives;

10 (ii) 2 appointed by the majority leader  
11 of the Senate, and 1 appointed by the mi-  
12 nority leader of the Senate; and

13 (iii) three appointed by the President  
14 of the United States.

15 (B) TIMING OF APPOINTMENTS.—the ap-  
16 pointing authorities shall make their appoint-  
17 ments to the Commission not later than 45  
18 days after the date of enactment of this Title.

19 (C) DESIGNATION OF THE CHAIRMAN.—  
20 The President of the United States shall des-  
21 ignate a chairman from the members of the  
22 Commission. The Speaker of the House of Rep-  
23 resentatives and the majority leader of the Sen-  
24 ate shall jointly designate a vice chairman from  
25 the members of the Commission.

1 (D) PERIOD OF APPOINTMENT; VACAN-  
2 CIES.—Members shall be appointed for the life  
3 of the Commission. Any vacancy in Commission  
4 membership shall not affect the exercise of the  
5 Commission’s powers, and shall be filled in the  
6 same manner as the original appointment.

7 (c) MEETINGS.—

8 (1) IN GENERAL.—In Not later than 60 days  
9 after the date on which all members of the Commis-  
10 sion have been appointed, the Commission shall hold  
11 its first meeting. Subsequent meetings shall be held  
12 at the call of the Chairman.

13 (2) QUORUM.—A majority of the members of  
14 the Commission shall constitute a quorum, but a  
15 lesser number of members may hold hearings.

16 (d) SECURITY CLEARANCES.—Appropriate security  
17 clearances shall be required for members of the Commis-  
18 sion who are private United States citizens. Such clear-  
19 ances shall be processed and completed on an expedited  
20 basis by appropriate elements of the executive branch of  
21 Government and shall, in any case, be completed within  
22 90 days of the date such members are appointed.

23 (e) APPLICATION OF CERTAIN PROVISIONS OF  
24 LAW.—In light of the extraordinary and sensitive nature  
25 of its deliberations, the provisions of the Federal Advisory

1 Committee Act (5 U.S.C. App.), and the regulations pre-  
2 scribed by the Administrator of General Services pursuant  
3 to that Act, shall not apply to the Commission. Further,  
4 the provisions of section 552 of title 5, United States Code  
5 (commonly known as the “Freedom of Information Act”),  
6 shall not apply to the Commission; however, records of the  
7 Commission shall be subject to the Federal Records Act  
8 and, when transferred to the National Archives and  
9 Records Agency, shall no longer be exempt from the provi-  
10 sions of such section 552.

11 (f) DUTIES OF THE COMMISSION.

12 (1) IN GENERAL.—It shall be the duty of the  
13 Commission—

14 (A) to prepare and transmit the reports  
15 described in paragraph (2);

16 (B) to examine the long-term strategy of  
17 the United States in addressing the threat of  
18 international terrorism, including intelligence  
19 capabilities, international cooperation, military  
20 responses, and technological capabilities;

21 (C) to examine the efficacy and appro-  
22 priateness of Federal efforts to prevent, detect,  
23 investigate, and prosecute acts of terrorism, in-  
24 cluding—

1 (i) the coordination of  
2 counterterrorism efforts among Federal de-  
3 partments and agencies, and Federal co-  
4 ordination of law enforcement with State  
5 and local law enforcement in responding to  
6 terrorist threats and acts;

7 (ii) the ability and utilization of coun-  
8 terintelligence efforts to infiltrate and dis-  
9 able or disrupt international terrorist orga-  
10 nizations and their activities;

11 (iii) the impact of Federal immigra-  
12 tion laws and policies on acts of terrorism  
13 transcending national boundaries;

14 (iv) the effectiveness of present regu-  
15 lations and practices relating to civil avia-  
16 tion safety and security to prevent acts of  
17 terrorism, to include a study of the desir-  
18 ability of assigning, on a permanent basis,  
19 personnel of the Federal Bureau of Inves-  
20 tigation at high-risk airports, and a study  
21 of the practicality and desirability of trans-  
22 ferring authority for U.S. airport and secu-  
23 rity to an entity other than the Federal  
24 Aviation Administration;



1 (v) the extent and effectiveness of  
2 present cooperatives efforts with foreign  
3 nations to prevent, detect, investigate and  
4 prosecute acts of terrorism; and

5 (vi) the impact on present  
6 counterterrorism efforts due to the failure  
7 to expend and utilize resources and author-  
8 ity previously provided by Congress for the  
9 implementation and enhanced  
10 counterterrorism activities and the reasons  
11 why these resources have not been ex-  
12 pended in a timely way;

13 (D) to examine the capability of the United  
14 States intelligence community to detect, assess,  
15 infiltrate, disrupt, and eliminate international  
16 terrorist organizations and activities, including  
17 an assessment of intelligence collection policies  
18 and practices which affect the counterterrorism  
19 and antiterrorism activities of the United States  
20 intelligence community and of the resources  
21 provided the intelligence community for such  
22 activities, together with a plan to ensure en-  
23 hanced human intelligence capabilities; and

24 (E) to examine all present laws relating to  
25 the collection and dissemination of personal in-

1 formation on individuals by law enforcement or  
2 other governmental entities, and the necessity  
3 for additional protections to prevent and deter  
4 the inappropriate collection and dissemination  
5 of such information.

6 (2) REPORTS.—

7 (A) INITIAL REPORT.—Not later than 2  
8 months after the first meeting of the Commis-  
9 sion, the Commission shall transmit to the  
10 Committees on the Judiciary of the Senate and  
11 the House of Representatives a report setting  
12 forth its plan for the work of the Commission.

13 (B) INTERIM REPORTS.—Prior to the sub-  
14 mission of the report required by subparagraph  
15 (C), the Commission may issue such interim re-  
16 ports as it finds necessary and desirable.

17 (C) FINAL REPORT.—No later than 6  
18 months after the first meeting of the Commis-  
19 sion, the Commission shall submit to the Presi-  
20 dent and to the Committees on the Judiciary of  
21 the Senate and the House of Representatives a  
22 report setting forth the activities, findings, and  
23 recommendations of the Commission, including  
24 any recommendations for the enactment of leg-  
25 islation that the Commission considers advis-

1           able. To the extent feasible, such report shall be  
2           unclassified and made available to the public.  
3           Such report shall be supplemented as necessary  
4           by a classified report or annex, which shall be  
5           provided separately to the President and the  
6           Committees on the Judiciary of the Senate and  
7           the House of Representatives.

8           (g) POWERS.—

9           (1) HEARINGS.—The Commission or, at its di-  
10          rection, any panel or member of the Commission,  
11          may, for the purpose of carrying out the provisions  
12          of this title, hold hearings, sit and act at times and  
13          places, take testimony, receive evidence, and admin-  
14          ister oaths to the extent that the Commission or any  
15          panel or member considers advisable.

16          (2) INFORMATION FROM FEDERAL AGENCIES.—  
17          The Commission may secure directly from any intel-  
18          ligence agency or from any other Federal depart-  
19          ment or agency any information that the Commis-  
20          sion considers necessary to enable the Commission  
21          to carry out its responsibilities under this section.  
22          Upon request of the Chairman of the Commission,  
23          the head of any such department or agency shall  
24          furnish such information expeditiously to the Com-  
25          mission, unless the head of the department or agen-

1 cy determines that doing so would threaten national  
2 security, the health or safety of any individual, or  
3 the integrity of an ongoing investigation or prosecu-  
4 tion.

5 (3) POSTAL, PRINTING AND BINDING SERV-  
6 ICES.—The Commission may use the United States  
7 mails and obtain printing and binding services in the  
8 same manner and under the same conditions as  
9 other departments and agencies of the Federal Gov-  
10 ernment.

11 (4) SUBCOMMITTEES.—The Commission may  
12 establish panels composed of less than the full mem-  
13 bership of the Commission for the purpose of carry-  
14 ing out the Commission's duties. The actions of each  
15 such panel shall be subject to the review and control  
16 of the Commission. Any findings and determinations  
17 made by such a panel shall not be considered the  
18 findings and determinations of the Commission un-  
19 less approved by the Commission.

20 (5) AUTHORITY OF INDIVIDUALS TO ACT FOR  
21 COMMISSION.—Any member or agent of the Com-  
22 mission may, if authorized by the Commission, take  
23 any action which the Commission is authorized to  
24 take under this title.

25 (h) PERSONNEL MATTERS.

1           (1) COMPENSATION OF MEMBERS.—Each mem-  
2       ber of the Commission who is a private United  
3       States citizen shall be paid, if requested, at a rate  
4       equal to the daily equivalent of the annual rate of  
5       basic pay payable for level V of the Executive Sched-  
6       ule under section 5316 of title 5, United States  
7       Code, for each day (including travel time) during  
8       which the member is engaged in the performance of  
9       the duties of the Commission. All members of the  
10      Commission who are Members of Congress shall  
11      serve without compensation in addition to that re-  
12      ceived for their services as Members of Congress.

13           (2) TRAVEL EXPENSES.—Each member of the  
14      Commission shall be allowed travel expenses, includ-  
15      ing per diem in lieu of subsistence, at rates author-  
16      ized for employees of agencies under subchapter I of  
17      chapter 57 of title 5, United States Code, while  
18      away from their homes or regular places of business  
19      in the performance of services for the Commission.

20           (3) STAFF.—

21           (A) IN GENERAL.—The chairman of the  
22      Commission may, without regard to the provi-  
23      sions of title 5, United States Code, governing  
24      appointments in the competitive service, appoint  
25      a staff director and such additional personnel

1 as may be necessary to enable the Commission  
2 to perform its duties. The staff director of the  
3 Commission shall be appointed from private  
4 life, and such appointment shall be subject to  
5 the approval of the Commission as a whole.

6 (B) COMPENSATION.—The chairman of  
7 the Commission may fix the pay of the staff di-  
8 rector and other personnel without regard to  
9 the provisions of chapter 51 and subchapter III  
10 of chapter 53 of title 5, United States Code, re-  
11 lating to classification or positions and General  
12 Schedule pay rates, except that the rate of pay  
13 fixed under this paragraph for the staff director  
14 may not exceed the rate payable for level V of  
15 the Executive Schedule under section 5316 of  
16 such title and the rate of pay for other person-  
17 nel may not exceed the maximum rate payable  
18 for grade GS–15 of the General Schedule.

19 (4) DETAIL OF GOVERNMENT EMPLOYEES.—  
20 Upon request of the chairman of the Commission,  
21 the head of any Federal department or agency may  
22 detail, on a nonreimbursable basis, any personnel of  
23 that department or agency to the Commission to as-  
24 sist it in carrying out its administrative and clerical  
25 functions.

1           (5) PROCUREMENT OF TEMPORARY AND INTER-  
2           MITTENT SERVICES.—The chairman of the Commis-  
3           sion may procure temporary and intermittent serv-  
4           ices under section 3109(b) of title 5, United States  
5           Code, at rates for individuals which do not exceed  
6           the daily equivalent to the annual rate of basic pay  
7           payable for level V of the Executive Schedule under  
8           section 5316 of such title.

9           (i) PAYMENT OF COMMISSION EXPENSES.—The com-  
10          pensation, travel expenses, per diem allowances of mem-  
11          bers and employees of the Commission, and other expenses  
12          of the Commission shall be paid out of funds available to  
13          the Attorney General for the payment of compensation,  
14          travel allowances, and per diem allowances, respectively,  
15          of employees of the Department of Justice.

16          (j) TERMINATION OF THE COMMISSION.—The Com-  
17          mission shall terminate 1 month after the date of the sub-  
18          mission of the report required by subsection (f)(2)(C).

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