

# Calendar No. 764

106<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2440

[Report No. 106-388]

To amend title 49, United States Code, to improve airport security.

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## IN THE SENATE OF THE UNITED STATES

APRIL 13, 2000

Mrs. HUTCHISON (for herself, Mr. MCCAIN, Mr. GORTON, Mr. INOUE, Mr. ROCKEFELLER, Mr. BRYAN, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 25, 2000

Reported under authority of the order of the Senate of July 26, 2000, by Mr. MCCAIN, with an amendment in the nature of a substitute  
[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To amend title 49, United States Code, to improve airport 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 “Airport Security Im-  
5 ~~provement Act of 2000”.~~

1 **SEC. 2. CRIMINAL BACKGROUND CHECKS.**

2 (a) **EXPANSION OF COVERAGE.**—Section 44936(a)(1)  
3 of title 49, United States Code, is amended—

4 (1) by striking “check in any case described in  
5 subparagraph (C)” in subparagraph (B) and insert-  
6 ing “check”;

7 (2) by striking subparagraph (C);

8 (3) by striking “check under subparagraph  
9 (C),” in subparagraph (D) and inserting “check,”.

10 (b) **CHECKS TO BE MADE EXPEDITIOUSLY.**—Section  
11 44936(a) of that title is amended by adding at the end  
12 the following:

13 “(4) The Administrator shall provide by regula-  
14 tion that criminal background checks under this sub-  
15 section are to be done expeditiously.”.

16 **SEC. 3. IMPROVED TRAINING.**

17 (a) **COMPLETION OF UNIFORM PERFORMANCE**  
18 **STANDARDS FOR SCREENER TRAINING.**—The Adminis-  
19 trator of the Federal Aviation Administration shall com-  
20 plete the development of uniform performance standards  
21 for providing security screening services, required by sec-  
22 tion 302 of the Federal Aviation Reauthorization Act of  
23 1996, by September 30, 2000.

24 (b) **MINIMUM INSTRUCTIONAL STANDARDS FOR**  
25 **SCREENERS.**—Section 44935 of title 49, United States

1 Code, is amended by adding at the end thereof the fol-  
 2 lowing:

3       “(e) TRAINING STANDARDS FOR SCREENERS.—The  
 4 Administrator shall prescribe minimum standards for  
 5 training security screeners that include at least 40 hours  
 6 of classroom instruction and at least 40 hours of practical  
 7 training before an individual is qualified to provide secu-  
 8 rity screening services at an airport regulated under this  
 9 subchapter.”.

10       (e) COMPUTER-BASED TRAINING FACILITIES.—Sec-  
 11 tion 44935 of title 49, United States Code, as amended  
 12 by subsection (b) is further amended by adding at the end  
 13 thereof the following:

14       “(f) ACCESSIBILITY OF COMPUTER-BASED TRAINING  
 15 FACILITIES.—The Administrator shall by regulation re-  
 16 quire that computer-based training facilities intended for  
 17 use at a hub airport (as defined in section 41731) be con-  
 18 veniently located for that airport and easily accessible.”.

19 **SEC. 4. IMPROVING SECURED AREA ACCESS CONTROL.**

20       Section 44904 of title 49, United States Code, is  
 21 amended by adding at the end thereof the following:

22       “(d) IMPROVEMENT OF SECURED-AREA ACCESS CON-  
 23 TROL.—

1           ~~“(1) ENFORCEMENT.~~ The Administrator shall  
2 enforce compliance with airport access control re-  
3 quirements, including—

4           ~~“(A) suspending, or requiring the suspen-~~  
5 ~~sion of, employees who fail to comply with those~~  
6 ~~requirements, with or without pay, for such pe-~~  
7 ~~riods of time as the Administrator may deter-~~  
8 ~~mine appropriate; and~~

9           ~~“(B) the imposition of penalties provided~~  
10 ~~for by section 46301.~~

11           ~~“(2) IMPROVEMENTS.~~ The Administrator  
12 shall—

13           ~~“(A) work with airport operators and air~~  
14 ~~carriers to implement and strengthen existing~~  
15 ~~controls to eliminate access control weaknesses~~  
16 ~~by September 30, 2000;~~

17           ~~“(B) require airport operators and air ear-~~  
18 ~~riers to develop and implement comprehensive~~  
19 ~~and recurring training programs that teach em-~~  
20 ~~ployees their role in airport security, the impor-~~  
21 ~~tance of their participation, how their perform-~~  
22 ~~ance will be evaluated, and what action will be~~  
23 ~~taken if they fail to perform;~~

24           ~~“(C) require airport operators and air~~  
25 ~~carriers—~~

1           “(i) to develop and implement pro-  
2           grams that foster and reward compliance  
3           with access control requirements; and dis-  
4           courage and penalize noncompliance in ac-  
5           cordance with guidelines issued by the Ad-  
6           ministrator to measure employee compli-  
7           ance; and

8           “(ii) to enforce individual compliance  
9           requirements under Administration over-  
10          sight;

11          “(D) assess and test for compliance with  
12          access control requirements; report findings;  
13          and assess penalties or take other appropriate  
14          enforcement actions when noncompliance is  
15          found;

16          “(E) improve and better administer the  
17          Administration security database to ensure its  
18          efficiency; reliability; and usefulness for identi-  
19          fication of systemic problems and allocation of  
20          resources;

21          “(F) improve the execution of the Adminis-  
22          tration’s quality control program by September  
23          30, 2000; and

24          “(G) require airport operators and air ear-  
25          riers to strengthen access control points in se-

1           eured areas (including air traffic control oper-  
 2           ations areas) to ensure the security of pas-  
 3           sengers and aircraft by September 30, 2000.”.

4 **SECTION 1. SHORT TITLE.**

5           *This Act may be cited as the “Airport Security Im-*  
 6 *provement Act of 2000”.*

7 **SEC. 2. CRIMINAL HISTORY RECORD CHECKS.**

8           (a) *EXPANSION OF FAA ELECTRONIC PILOT PRO-*  
 9 *GRAM.—Within 12 months after the date of enactment of*  
 10 *this Act, the Administrator of the Federal Aviation Admin-*  
 11 *istration shall, in consultation with the Office of Personnel*  
 12 *Management and the Federal Bureau of Investigation, de-*  
 13 *velop the pilot program for individual criminal history*  
 14 *record checks, known as the electronic fingerprint trans-*  
 15 *mission pilot project, into an aviation industry-wide pro-*  
 16 *gram.*

17           (b) *APPLICATION OF EXPANDED PROGRAM.—Begin-*  
 18 *ning 1 year after the date of enactment of this Act, the Ad-*  
 19 *ministrator shall utilize the program described in sub-*  
 20 *section (a) to carry out section 44936 of title 49, United*  
 21 *States Code, for individuals described in subsection*  
 22 *(a)(1)(A), (a)(1)(B)(i), or (a)(1)(B)(ii) of that section. If*  
 23 *the Administrator determines that the program is not suffi-*  
 24 *ciently operational 1 year after the date of enactment of*  
 25 *this Act to permit its utilization in accordance with sub-*

1 *section (a), the Administrator shall notify the Senate Com-*  
 2 *mittee on Commerce, Science, and Transportation and the*  
 3 *House of Representatives Committee on Transportation and*  
 4 *Infrastructure of the determination.*

5 *(c) CHANGES IN EXISTING REQUIREMENTS.—Section*  
 6 *44936(a)(1) of title 49, United States Code is amended—*

7 *(1) by striking “conducted, as the Administrator*  
 8 *decides is necessary to ensure air transportation secu-*  
 9 *rity, of” in subparagraph (A) and inserting “con-*  
 10 *ducted of”; and*

11 *(2) by striking “subparagraph (C))” in subpara-*  
 12 *graph (B) and inserting “subparagraph (D))”;*

13 *(3) by redesignating subparagraphs (C) and (D)*  
 14 *as subparagraphs (D) and (E);*

15 *(4) by inserting after subparagraph (B) the fol-*  
 16 *lowing:*

17 *“(C) A criminal history record check shall*  
 18 *be conducted for every individual who applies for*  
 19 *a position described in subparagraph (A) or in*  
 20 *subparagraph (B)(i) or (ii) after the date of en-*  
 21 *actment of the Airport Security Improvement*  
 22 *Act of 2000. For the 12-month period beginning*  
 23 *on the date of enactment of that Act, an indi-*  
 24 *vidual described in the preceding sentence may*  
 25 *be employed in such a position before the check*

1           is completed if the individual is subject to super-  
 2           vision except in a case described in clause (i),  
 3           (ii), (iii), (iv), or (v) of subparagraph (D). After  
 4           that 12-month period, such an individual may  
 5           not be so employed until the check is completed.”;

6           (5) by striking “subparagraph (C),” in subpara-  
 7           graph (E), as redesignated, and inserting “subpara-  
 8           graph (D),”; and

9           (6) by striking “as a screener” in subparagraph  
 10          (E), as redesignated, and inserting “in the position  
 11          for which the individual applied”.

12          (d) *LIST OF OFFENSES BARRING EMPLOYMENT.*—Sec-  
 13          tion 44936(b)(1)(B) of title 49, United States Code, is  
 14          amended—

15               (1) by inserting “(or found not guilty by reason  
 16               of insanity)” after “convicted”;

17               (2) by inserting “or felony unarmed” after  
 18               “armed” in clause (xi);

19               (3) by striking “or” after the semicolon in clause  
 20               (xii);

21               (4) by redesignating clause (xiii) as clause (xv)  
 22               and inserting after clause (xii) the following:

23                               “(xiii) felony involving a threat;

24                               “(xiv) a felony involving—



1                   “(I) willful destruction of prop-  
2                   erty;

3                   “(II) importation or manufacture  
4                   of a controlled substance;

5                   “(III) burglary;

6                   “(IV) theft;

7                   “(V) dishonesty, fraud, or mis-  
8                   representation;

9                   “(VI) possession or distribution of  
10                  stolen property;

11                  “(VII) aggravated assault; or

12                  “(VIII) bribery; or”; and

13                  (5) by striking “clauses (i)–(xii) of this para-  
14                  graph.” in clause (xv), as redesignated, and inserting  
15                  “clauses (i) through (xiv) of this subparagraph.”.

16 **SEC. 3. IMPROVED TRAINING.**

17                  (a) **COMPLETION OF RULEMAKING ON CERTIFICATION**  
18 **OF AVIATION SCREENING COMPANIES.**—

19                   (1) **INTERIM RULE.**—No later than 30 days after  
20                   the date of enactment of this Act, the Administrator  
21                   of the Federal Aviation Administration shall issue as  
22                   an interim final rule the proposed rule on Certifi-  
23                   cation of Screening Companies published in the Fed-  
24                   eral Register for January 5, 2000. For purposes of the  
25                   interim final rule, the analyses and documentation

1       prepared for the proposed rules are deemed to meet  
2       the requirements of chapter 5 of title 5, United States  
3       Code, applicable to rulemaking and any other proce-  
4       dural requirement imposed by law on rulemaking.

5               (2) *FINAL RULE.*—No later than May 31, 2001,  
6       the Administrator shall issue a final rule on the Cer-  
7       tification of Screening Companies, after taking into  
8       account any comments received on the proposed rule  
9       issued as an interim final rule under paragraph (1).

10       (b) *MINIMUM INSTRUCTIONAL STANDARDS FOR*  
11 *SCREENERS.*—Section 44935 of title 49, United States  
12 Code, is amended by adding at the end thereof the following:

13       “(e) *TRAINING STANDARDS FOR SCREENERS.*—

14               “(1) *IN GENERAL.*—The Administrator shall pre-  
15       scribe minimum standards for training security  
16       screeners that include at least 40 hours of classroom  
17       instruction before an individual is qualified to pro-  
18       vide security screening services under section 44901 of  
19       this title.

20               “(2) *CLASSROOM EQUIVALENCY.*—The successful  
21       completion of a program certified by the Adminis-  
22       trator as a program that will train individuals to a  
23       level of proficiency meets the classroom instruction re-  
24       quirement of paragraph (1).

1           “(3) *ON-THE-JOB TRAINING.*—*In addition to the*  
2           *requirements of paragraph (1), before an individual*  
3           *may exercise independent judgment as a security*  
4           *screener under section 44901 of this title the indi-*  
5           *vidual shall—*

6                     “(A) *complete 40 hours of on-the-job train-*  
7                     *ing; and*

8                     “(B) *successfully complete an on-the-job*  
9                     *training examination prescribed by the Adminis-*  
10                    *trator.”.*

11           (c) *COMPUTER-BASED TRAINING FACILITIES.*—*Sec-*  
12           *tion 4935 of title 49, United States Code, as amended by*  
13           *subsection (b) is further amended by adding at the end*  
14           *thereof the following:*

15                   “(f) *ACCESSIBILITY OF COMPUTER-BASED TRAINING*  
16                   *FACILITIES.*—*The Administrator shall work with air car-*  
17                   *riers and airports to ensure that computer-based training*  
18                   *facilities intended for use by security screeners at an air-*  
19                   *port regularly serving an air carrier holding a certificate*  
20                   *issued by the Secretary be conveniently located for that air-*  
21                   *port and easily accessible.”.*

22           **SEC. 4. IMPROVING SECURED-AREA ACCESS CONTROL.**

23           *Section 44903 of title 49, United States Code, is*  
24           *amended—*

1           (1) *by redesignating subsections (e) and (f) as*  
2           *subsections (f) and (g); and*

3           (2) *by inserting after subsection (d) thereof the*  
4           *following:*

5           “(e) *IMPROVEMENT OF SECURED-AREA ACCESS CON-*  
6           *TROL.—*

7           “(1) *ENFORCEMENT.—*

8                   “(A) *ADMINISTRATOR TO PUBLISH SANC-*  
9                   *TIONS.—The Administrator shall publish in the*  
10                   *Federal Register a list of sanctions for use as*  
11                   *guidelines in the discipline of employees for in-*  
12                   *fractions of airport access control requirements.*  
13                   *The guidelines shall incorporate a progressive*  
14                   *disciplinary approach that relates proposed*  
15                   *sanctions to the severity or recurring nature of*  
16                   *the infraction, and shall include, but are not*  
17                   *limited to, measures such as remedial training,*  
18                   *suspension from security-related duties, suspen-*  
19                   *sion from all duties without pay, and termi-*  
20                   *nation of employment.*

21                   “(B) *USE OF SANCTIONS.—Each airport,*  
22                   *air carrier, and security screening company*  
23                   *shall include the list of sanctions published by*  
24                   *the Administrator in its security program. The*  
25                   *security program shall include a process for tak-*

1            *ing prompt disciplinary action against an em-*  
2            *ployee who commits an infraction of airport ac-*  
3            *cess control requirements.*

4            “(2)    *IMPROVEMENTS.—The Administrator*  
5            *shall—*

6                    *“(A) work with airport operators and air*  
7                    *carriers to implement and strengthen existing*  
8                    *controls to eliminate access control weaknesses by*  
9                    *September 30, 2000;*

10                    *“(B) require airport operators and air car-*  
11                    *riers to develop and implement comprehensive*  
12                    *and recurring training programs that teach em-*  
13                    *ployees their role in airport security, the impor-*  
14                    *tance of their participation, how their perform-*  
15                    *ance will be evaluated, and what action will be*  
16                    *taken if they fail to perform;*

17                    *“(C) require airport operators and air*  
18                    *carriers—*

19                            *“(i) to develop and implement pro-*  
20                            *grams that foster and reward compliance*  
21                            *with access control requirements, and dis-*  
22                            *courage and penalize noncompliance in ac-*  
23                            *cordance with guidelines issued by the Ad-*  
24                            *ministrator to measure employee compli-*  
25                            *ance; and*

1                   (ii) to enforce individual compliance  
2 requirements under Administration over-  
3 sight;

4                   “(D) assess and test for compliance with ac-  
5 cess control requirements, report findings, and  
6 assess penalties or take other appropriate en-  
7 forcement actions when noncompliance is found;

8                   “(E) improve and better administer the Ad-  
9 ministration security database to ensure its effi-  
10 ciency, reliability, and usefulness for identifica-  
11 tion of systemic problems and allocation of re-  
12 sources;

13                   “(F) improve the execution of the Adminis-  
14 tration’s quality control program by September  
15 30, 2000; and

16                   “(G) require airport operators and air car-  
17 riers to strengthen access control points in se-  
18 cured areas (including air traffic control oper-  
19 ations areas) to ensure the security of passengers  
20 and aircraft by September 30, 2000.”.

21 **SEC. 5. PHYSICAL SECURITY FOR ATC FACILITIES.**

22                   In order to ensure physical security at Federal Avia-  
23 tion Administration facilities that house air traffic control  
24 systems, the Administrator shall—

1           (1) *correct identified physical security*  
2           *weaknesses at inspected facilities so these air*  
3           *traffic control facilities can be granted physical*  
4           *security accreditation as expeditiously as pos-*  
5           *sible, but no later than April 30, 2001; and*

6           (2) *ensure that annual or triennial follow-*  
7           *up inspections are conducted, deficiencies are*  
8           *promptly corrected, and accreditation is kept*  
9           *current for all air traffic control facilities.*

10 **SEC. 6. EXPLOSIVES DETECTION EQUIPMENT.**

11           *The Administrator of the Federal Aviation Adminis-*  
12           *tration shall immediately begin to increase gradually the*  
13           *random selection factor embedded in the Administration's*  
14           *Commuter-Assisted Passenger Prescreening System at air-*  
15           *ports where bulk explosive detection equipment is being*  
16           *used.*

17 **SEC. 7. TECHNICAL AMENDMENT TO TITLE 49.**

18           *Section 106(p)(2) is amended by striking "15" and in-*  
19           *serting "18".*

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**A BILL**

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AUGUST 25, 2000

Reported with an amendment in the nature of a  
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