

107TH CONGRESS
2^D SESSION

S. 2554

To amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23, 2002

Mr. SMITH of New Hampshire (for himself, Mr. MILLER, Mr. MURKOWSKI, Mr. BURNS, Mr. BUNNING, and Mr. THURMOND) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 49, United States Code, to establish a program for Federal flight deck officers, and for other purposes.

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 “Arming Pilots Against
5 Terrorism and Cabin Defense Act of 2002”.

6 **SEC. 2. FEDERAL FLIGHT DECK OFFICER PROGRAM.**

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

1 **“§ 44921. Federal flight deck officer program**

2 “(a) ESTABLISHMENT.—Not later than 90 days after
3 the date of enactment of the Arming Pilots Against Ter-
4 rorism and Cabin Defense Act of 2002, the Under Sec-
5 retary of Transportation for Security shall establish a pro-
6 gram to deputize qualified pilots of commercial cargo or
7 passenger aircraft who volunteer for the program as Fed-
8 eral law enforcement officers to defend the flight decks
9 of commercial aircraft of air carriers engaged in air trans-
10 portation or intrastate air transportation against acts of
11 criminal violence or air piracy. Such officers shall be
12 known as ‘Federal flight deck officers’. The program shall
13 be administered in connection with the Federal air mar-
14 shal program.

15 “(b) QUALIFIED PILOT.—Under the program de-
16 scribed in subsection (a), a qualified pilot is a pilot of an
17 aircraft engaged in air transportation or intrastate air
18 transportation who—

19 “(1) is employed by an air carrier;

20 “(2) has demonstrated fitness to be a Federal
21 flight deck officer in accordance with regulations
22 promulgated pursuant to this title; and

23 “(3) has been the subject of an employment in-
24 vestigation (including a criminal history record
25 check) under section 44936(a)(1).

1 “(c) TRAINING, SUPERVISION, AND EQUIPMENT.—
2 The Under Secretary of Transportation for Security shall
3 provide or make arrangements for training, supervision,
4 and equipment necessary for a qualified pilot to be a Fed-
5 eral flight deck officer under this section at no expense
6 to the pilot or the air carrier employing the pilot. The
7 Under Secretary may approve private training programs
8 which meet the Under Secretary’s specifications and
9 guidelines. Air carriers shall make accommodations to fa-
10 cilitate the training of their pilots as Federal flight deck
11 officers and shall facilitate Federal flight deck officers in
12 the conduct of their duties under this program.

13 “(d) DEPUTIZATION.—

14 “(1) IN GENERAL.—The Under Secretary of
15 Transportation for Security shall train and deputize,
16 as a Federal flight deck officer under this section,
17 any qualified pilot who submits to the Under Sec-
18 retary a request to be such an officer.

19 “(2) INITIAL DEPUTIZATION.—Not later than
20 120 days after the date of enactment of this section,
21 the Under Secretary shall deputize not fewer than
22 500 qualified pilots who are former military or law
23 enforcement personnel as Federal flight deck officers
24 under this section.

1 “(3) FULL IMPLEMENTATION.—Not later than
2 24 months after the date of enactment of this sec-
3 tion, the Under Secretary shall deputize any quali-
4 fied pilot as a Federal flight deck officer under this
5 section.

6 “(e) COMPENSATION.—Pilots participating in the
7 program under this section shall not be eligible for com-
8 pensation from the Federal Government for services pro-
9 vided as a Federal flight deck officer.

10 “(f) AUTHORITY TO CARRY FIREARMS.—The Under
11 Secretary of Transportation for Security shall authorize
12 a Federal flight deck officer under this section to carry
13 a firearm to defend the flight deck of a commercial pas-
14 senger or cargo aircraft while engaged in providing air
15 transportation or intrastate air transportation. No air car-
16 rier may prohibit a Federal flight deck officer from car-
17 rying a firearm in accordance with the provisions of the
18 Arming Pilots Against Terrorism and Cabin Defense Act
19 of 2002.

20 “(g) AUTHORITY TO USE FORCE.—Notwithstanding
21 section 44903(d), a Federal flight deck officer may use
22 force (including lethal force) against an individual in the
23 defense of a commercial aircraft in air transportation or
24 intrastate air transportation if the officer reasonably be-
25 lieves that the security of the aircraft is at risk.

1 “(h) LIMITATION ON LIABILITY.—

2 “(1) LIABILITY OF AIR CARRIERS.—An air car-
3 rier shall not be liable for damages in any action
4 brought in a Federal or State court arising out of
5 the air carrier employing a pilot of an aircraft who
6 is a Federal flight deck officer under this section or
7 out of the acts or omissions of the pilot in defending
8 an aircraft of the air carrier against acts of criminal
9 violence or air piracy.

10 “(2) LIABILITY OF FEDERAL FLIGHT DECK OF-
11 FICERS.—A Federal flight deck officer shall not be
12 liable for damages in any action brought in a Fed-
13 eral or State court arising out of the acts or omis-
14 sions of the officer in defending an aircraft against
15 acts of criminal violence or air piracy unless the offi-
16 cer is guilty of gross negligence or willful mis-
17 conduct.

18 “(3) EMPLOYEE STATUS OF FEDERAL FLIGHT
19 DECK OFFICERS.—A Federal flight deck officer shall
20 be considered an ‘employee of the Government while
21 acting within the scope of his office or employment’
22 with respect to any act or omission of the officer in
23 defending an aircraft against acts of criminal vio-
24 lence or air piracy, for purposes of sections 1346(b),

1 2401(b), and 2671 through 2680 of title 28 United
2 States Code.

3 “(i) REGULATIONS.—Not later than 90 days after the
4 date of enactment of this section, the Under Secretary of
5 Transportation for Security, in consultation with the Fire-
6 arms Training Unit of the Federal Bureau of Investiga-
7 tion, shall issue regulations to carry out this section.

8 “(j) PILOT DEFINED.—In this section, the term
9 ‘pilot’ means an individual who is responsible for the oper-
10 ation of an aircraft, and includes a co-pilot or other mem-
11 ber of the flight deck crew.”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) CHAPTER ANALYSIS.—The analysis for such
14 chapter 449 is amended by inserting after the item
15 relating to section 44920 the following new item:

 “44921. Federal flight deck officer program.”.

16 (2) EMPLOYMENT INVESTIGATIONS.—Section
17 44936(a)(1)(B) is amended—

18 (A) by aligning clause (iii) with clause (ii);

19 (B) by striking “and” at the end of clause
20 (iii);

21 (C) by striking the period at the end of
22 clause (iv) and inserting “; and”; and

23 (D) by adding at the end the following:

1 “(v) qualified pilots who are deputized
2 as Federal flight deck officers under sec-
3 tion 44921.”.

4 (3) FLIGHT DECK SECURITY.—Section 128 of
5 the Aviation and Transportation Security Act (49
6 U.S.C. 44903 note) is repealed.

7 **SEC. 3. CABIN SECURITY.**

8 (a) TECHNICAL AMENDMENTS.—Section 44903, of
9 title 49, United States Code, is amended—

10 (1) by redesignating subsection (h) (relating to
11 authority to arm flight deck crew with less-than-le-
12 thal weapons, as added by section 126(b) of public
13 law 107–71) as subsection (j); and

14 (2) by redesignating subsection (h) (relating to
15 limitation on liability for acts to thwart criminal vio-
16 lence or aircraft piracy, as added by section 144 of
17 public law 107–71) as subsection (k).

18 (b) AVIATION CREWMEMBER SELF-DEFENSE DIVI-
19 SION.—Section 44918 of title 49, United States Code, is
20 amended—

21 (1) by striking subsection (a) and inserting the
22 following new subsection:

23 “(a) IN GENERAL.—

24 “(1) REQUIREMENT FOR AIR CARRIERS.—Not
25 later than 60 days after the date of enactment of

1 the Arming Pilots Against Terrorism and Cabin De-
2 fense Act of 2002, the Under Secretary of Transpor-
3 tation for Security, shall prescribe detailed require-
4 ments for an air carrier cabin crew training pro-
5 gram, and for the instructors of that program as de-
6 scribed in subsection (b) to prepare crew members
7 for potential threat conditions. In developing the re-
8 quirements, the Under Secretary shall consult with
9 appropriate law enforcement personnel who have ex-
10 pertise in self-defense training, security experts, and
11 terrorism experts, and representatives of air carriers
12 and labor organizations representing individuals em-
13 ployed in commercial aviation.

14 “(2) AVIATION CREWMEMBER SELF-DEFENSE
15 DIVISION.—Not later than 60 days after the date of
16 enactment of the Arming Pilots Against Terrorism
17 and Cabin Defense Act of 2002, the Under Sec-
18 retary of Transportation for Security shall establish
19 an Aviation Crew Self-Defense Division within the
20 Transportation Security Administration. The Divi-
21 sion shall develop and administer the implementa-
22 tion of the requirements described in this section.
23 The Under Secretary shall appoint a Director of the
24 Aviation Crew Self-Defense Division who shall be
25 the head of the Division. The Director shall report

1 to the Under Secretary. In the selection of the Di-
2 rector, the Under Secretary shall solicit rec-
3 ommendations from law enforcement, air carriers,
4 and labor organizations representing individuals em-
5 ployed in commercial aviation. The Director shall
6 have a background in self-defense training, including
7 military or law enforcement training with an empha-
8 sis in teaching self-defense and the appropriate use
9 of force. Regional training supervisors shall be under
10 the control of the Director and shall have appro-
11 priate training and experience in teaching self-de-
12 fense and the appropriate use of force.”;

13 (2) by striking subsection (b), and inserting the
14 following new subsection:

15 “(b) PROGRAM ELEMENTS.—

16 “(1) IN GENERAL.—The requirements pre-
17 scribed under subsection (a) shall include, at a min-
18 imum, 28 hours of self-defense training that incor-
19 porates classroom and situational training that con-
20 tains the following elements:

21 “(A) Determination of the seriousness of
22 any occurrence.

23 “(B) Crew communication and coordina-
24 tion.

1 “(C) Appropriate responses to defend one-
2 self, including a minimum of 16 hours of
3 hands-on training, with reasonable and effective
4 requirements on time allotment over a 4 week
5 period, in the following levels of self-defense:

6 “(i) awareness, deterrence, and avoid-
7 ance;

8 “(ii) verbalization;

9 “(iii) empty hand control;

10 “(iv) intermediate weapons and self-
11 defense techniques; and

12 “(v) deadly force.

13 “(D) Use of protective devices assigned to
14 crewmembers (to the extent such devices are
15 approved by the Administrator or Under Sec-
16 retary).

17 “(E) Psychology of terrorists to cope with
18 hijacker behavior and passenger responses.

19 “(F) Live situational simulation joint
20 training exercises regarding various threat con-
21 ditions, including all of the elements required
22 by this section.

23 “(G) Flight deck procedures or aircraft
24 maneuvers to defend the aircraft.

1 “(2) PROGRAM ELEMENTS FOR INSTRUC-
2 TORS.—The requirements prescribed under sub-
3 section (a) shall contain program elements for in-
4 structors that include, at a minimum, the following:

5 “(A) A certification program for the in-
6 structors who will provide the training described
7 in paragraph (1).

8 “(B) A requirement that no training ses-
9 sion shall have fewer than 1 instructor for every
10 12 students.

11 “(C) A requirement that air carriers pro-
12 vide certain instructor information, including
13 names and qualifications, to the Aviation Crew
14 Member Self-Defense Division within 30 days
15 after receiving the requirements described in
16 subsection (a).

17 “(D) Training course curriculum lesson
18 plans and performance objectives to be used by
19 instructors.

20 “(E) Written training bulletins to reinforce
21 course lessons and provide necessary progres-
22 sive updates to instructors.

23 “(3) RECURRENT TRAINING.—Each air carrier
24 shall provide the training under the program every
25 6 months after the completion of the initial training.

1 “(4) INITIAL TRAINING.—Air carriers shall pro-
2 vide the initial training under the program within 24
3 months of the date of enactment of the Arming Pi-
4 lots Against Terrorism and Cabin Defense Act of
5 2002.

6 “(5) COMMUNICATION DEVICES.—The require-
7 ments described in subsection (a) shall include a
8 provision mandating that air carriers provide flight
9 and cabin crew with a discreet, hands-free, wireless
10 method of communicating with the flight deck.”; and

11 (3) by adding at the end the following new sub-
12 sections:

13 “(f) RULEMAKING AUTHORITY.—Notwithstanding
14 subsection (j) (relating to authority to arm flight deck
15 crew with less than-lethal weapons) of section 44903, of
16 this title, within 180 days after the date of enactment of
17 the Arming Pilots Against Terrorism and Cabin Defense
18 Act of 2002, the Under Secretary of Transportation for
19 Security, in consultation with persons described in sub-
20 section (a)(1), shall prescribe regulations requiring air
21 carriers to—

22 “(1) provide adequate training in the proper
23 conduct of a cabin search and allow adequate duty
24 time to perform such a search; and

1 “(2) conduct a preflight security briefing with
2 flight deck and cabin crew and, when available, Fed-
3 eral air marshals or other authorized law enforce-
4 ment officials.

5 “(g) LIMITATION ON LIABILITY.—

6 “(1) AIR CARRIERS.—An air carrier shall not
7 be liable for damages in any action brought in a
8 Federal or State court arising out of the acts or
9 omissions of the air carrier’s training instructors or
10 cabin crew using reasonable and necessary force in
11 defending an aircraft of the air carrier against acts
12 of criminal violence or air piracy.

13 “(2) TRAINING INSTRUCTORS AND CABIN
14 CREW.—An air carrier’s training instructors or
15 cabin crew shall not be liable for damages in any ac-
16 tion brought in a Federal or State court arising out
17 of an act or omission of a training instructor or a
18 member of the cabin crew regarding the defense of
19 an aircraft against acts of criminal violence or air
20 piracy unless the crew member is guilty of gross
21 negligence or willful misconduct.”.

22 “(c) NONLETHAL WEAPONS FOR FLIGHT ATTEND-
23 ANTS.—

24 “(1) STUDY.—The Under Secretary of Transpor-
25 tation for Security shall conduct a study to deter-

1 mine whether possession of a nonlethal weapon by a
2 member of an air carrier's cabin crew would aid the
3 flight deck crew in combating air piracy and crimi-
4 nal violence on commercial airlines.

5 (2) REPORT.—Not later than 6 months after
6 the date of enactment of this Act, the Under Sec-
7 retary of Transportation for Security shall prepare
8 and submit to Congress a report on the study con-
9 ducted under paragraph (1).

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