

108TH CONGRESS
2D SESSION

H. R. 4056

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2004

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To encourage the establishment of both long-term and short-term programs to address the threat of man-portable air defense systems (MANPADSs) to commercial aviation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Commercial Aviation
3 MANPADS Defense Act of 2004”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) MANPADSs constitute a threat to military
7 and civilian aircraft.

8 (2) The threat posed by MANPADSs requires
9 the development of both short-term and long-term
10 plans.

11 (3) The threat posed by MANPADSs requires
12 an international as well as domestic response.

13 (4) There should be an international effort to
14 address the issues of MANPADSs proliferation and
15 defense.

16 (5) The Government is pursuing and should
17 continue to pursue diplomatic efforts to prevent the
18 proliferation of MANPADSs.

19 **SEC. 3. UNITED STATES POLICY ON NONPROLIFERATION**
20 **AND EXPORT CONTROL.**

21 (a) TO LIMIT AVAILABILITY AND TRANSFER OF
22 MANPADS.—The President shall pursue, on an urgent
23 basis, further strong international diplomatic and coopera-
24 tive efforts, including bilateral and multilateral treaties,
25 in the appropriate forum to limit the availability, transfer,
26 and proliferation of MANPADSs worldwide.

1 (b) TO LIMIT THE PROLIFERATION OF
2 MANPADS.—The President is encouraged to seek to
3 enter into agreements with the governments of foreign
4 countries that, at a minimum, would—

5 (1) prohibit the entry into force of a
6 MANPADS manufacturing license agreement and
7 MANPADS co-production agreement, other than the
8 entry into force of a manufacturing license or co-
9 production agreement with a country that is party to
10 such an agreement;

11 (2) prohibit, except pursuant to transfers be-
12 tween governments, the export of a MANPADS, in-
13 cluding any component, part, accessory, or attach-
14 ment thereof, without an individual validated license;
15 and

16 (3) prohibit the re-export or retransfer of a
17 MANPADS, including any component, part, acces-
18 sory, or attachment thereof, to a third person, orga-
19 nization, or government unless the written consent
20 of the government that approved the original export
21 or transfer is first obtained.

22 (c) TO ACHIEVE DESTRUCTION OF MANPADS.—
23 The President should continue to pursue further strong
24 international diplomatic and cooperative efforts, including
25 bilateral and multilateral treaties, in the appropriate

1 forum to assure the destruction of excess, obsolete, and
2 illicit stocks of MANPADSs worldwide.

3 (d) REPORTING AND BRIEFING REQUIREMENT.—

4 (1) PRESIDENT’S REPORT.—Not later than 180
5 days after the date of enactment of this Act, the
6 President shall transmit to the appropriate congres-
7 sional committees a report that contains a detailed
8 description of the status of diplomatic efforts under
9 subsections (a), (b), and (c) and of efforts by the ap-
10 propriate United States agencies to comply with the
11 recommendations of the General Accounting Office
12 set forth in its report GAO-04-519, entitled “Non-
13 proliferation: Further Improvements Needed in U.S.
14 Efforts to Counter Threats from Man-Portable Air
15 Defense Systems”.

16 (2) ANNUAL BRIEFINGS.—Annually after the
17 date of submission of the report under paragraph
18 (1) and until completion of the diplomatic and com-
19 pliance efforts referred to in paragraph (1), the Sec-
20 retary of State shall brief the appropriate congres-
21 sional committees on the status of such efforts.

1 **SEC. 4. FAA AIRWORTHINESS CERTIFICATION OF MISSILE**
2 **DEFENSE SYSTEMS FOR COMMERCIAL AIR-**
3 **CRAFT.**

4 (a) **IN GENERAL.**—As soon as practicable, but not
5 later than, the date of completion of Phase II of the De-
6 partment of Homeland Security’s counter-man-portable
7 air defense system (MANPADS) development and dem-
8 onstration program, the Administrator of the Federal
9 Aviation Administration shall establish a process for con-
10 ducting airworthiness and safety certification of missile
11 defense systems for commercial aircraft certified as effec-
12 tive and functional by the Department of Homeland Secu-
13 rity. The process shall require a certification by the Ad-
14 ministrator that such systems can be safely integrated into
15 aircraft systems and ensure airworthiness and aircraft
16 system integrity.

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

22 (c) **EXPEDITIOUS CERTIFICATION.**—Under the proc-
23 ess, the Administrator shall expedite the airworthiness and
24 safety certification of missile defense systems for commer-
25 cial aircraft certified by the Department of Homeland Se-
26 curity.

1 (d) REPORTS.—Not later than 90 days after the first
2 airworthiness and safety certification for a missile defense
3 system for commercial aircraft is issued by the Adminis-
4 trator, and annually thereafter until December 31, 2008,
5 the Federal Aviation Administration shall transmit to the
6 Committee on Transportation and Infrastructure of the
7 House of Representatives and the Committee on Com-
8 merce, Science, and Transportation of the Senate a report
9 that contains a detailed description of each airworthiness
10 and safety certification issued for a missile defense system
11 for commercial aircraft.

12 **SEC. 5. PROGRAMS TO REDUCE MANPADS.**

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

17 (b) REPORTING AND BRIEFING REQUIREMENTS.—
18 Not later than 180 days after the date of enactment of
19 this Act, the President shall transmit to the appropriate
20 congressional committees a report that contains a detailed
21 description of the status of the programs being pursued
22 under subsection (a). Annually thereafter until the pro-
23 grams are no longer needed, the Secretary of State shall
24 brief the appropriate congressional committees on the sta-
25 tus of programs.

1 (c) FUNDING.—There is authorized to be appro-
2 priated such sums as may be necessary to carry out this
3 section.

4 **SEC. 6. MANPADS VULNERABILITY ASSESSMENTS REPORT.**

5 (a) IN GENERAL.—Not later than one year after the
6 date of enactment of this Act, the Secretary of Homeland
7 Security shall transmit to the Committee on Transpor-
8 tation and Infrastructure of the House of Representatives
9 and the Committee on Commerce, Science, and Transpor-
10 tation of the Senate a report describing the Department
11 of Homeland Security’s plans to secure airports and the
12 aircraft arriving and departing from airports against
13 MANPADSs attacks.

14 (b) MATTERS TO BE ADDRESSED.—The Secretary’s
15 report shall address, at a minimum, the following:

16 (1) The status of the Department’s efforts to
17 conduct MANPADSs vulnerability assessments at
18 United States airports at which the Department is
19 conducting assessments.

20 (2) How intelligence is shared between the
21 United States intelligence agencies and Federal,
22 State, and local law enforcement to address the
23 MANPADS threat and potential ways to improve
24 such intelligence sharing.

1 (3) Contingency plans that the Department has
2 developed in the event that it receives intelligence in-
3 dicating a high threat of a MANPADS attack on
4 aircraft at or near United States airports.

5 (4) The feasibility and effectiveness of imple-
6 menting public education and neighborhood watch
7 programs in areas surrounding United States air-
8 ports in cases in which intelligence reports indicate
9 there is a high risk of MANPADS attacks on air-
10 craft.

11 (5) Any other issues that the Secretary deems
12 relevant.

13 (c) **FORMAT.**—The report required by this section
14 may be submitted in a classified format.

15 **SEC. 7. DEFINITIONS.**

16 In this Act, the following definitions apply:

17 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
18 **TEES.**—The term “appropriate congressional com-
19 mittees” means—

20 (A) the Committee on Armed Services, the
21 Committee on International Relations, and the
22 Committee on Transportation and Infrastruc-
23 ture of the House of Representatives; and

24 (B) the Committee on Armed Services, the
25 Committee on Foreign Relations, and the Com-

