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S1447

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Introduced:

Sept. 21, 2001

Official Title:

A bill to improve aviation security, and for other purposes.

Brief Title:

Aviation and Transportation Security Act

CQ BillWatch Brief:

By Rich Daly, Joseph J. Schatz, Eryn Gable and David Clarke, CQ Staff

As signed into law by the president on Nov. 19, 2001.

Synopsis

S1447 -- PL 107-71 federalizes airport security workers, mandates random deployment of armed guards on commercial flights and requires physical security improvements in planes and airports.

Highlights

The new law creates a Transportation Security Administration (TSA) within the Department of Transportation (DOT) with jurisdiction over airport security.

Airport security.

Within a year of enactment, the federal government will begin taking over security at the nation's airports. Security screeners must be federal employees employed by the TSA. The DOT will assume existing security contracts.

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Chronology

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The legislation permits government-employed screeners to unionize but not to strike. A new undersecretary of Transportation for security will have the power to hire, fire and determine any condition of employment of screeners. However, the law stipulates that screeners be English-speaking U.S. citizens and requires that all employees with access to secured areas undergo a background check.

The measure requires airports to use government employed screeners initially. Two years after the TSA certifies that all federal screeners are in place, airports may petition the DOT for permission to hire private security workers or a combination of private and public employees.

A year after enactment, a pilot program will be started through which five airports of different sizes will be allowed to use non-federal security workers. The DOT can award contracts only to U.S.-owned companies. If those companies violate hiring, training and background standards, or if DOT undercover investigators find repeated security failures, they will be barred from the program.

S1447 requires that all baggage, checked or carry-on, be screened. This includes the use of explosive detection systems, which must be installed at all airports by Dec. 31, 2002. Until then, all baggage must go through existing screening technology and is subject to manual and canine searches.

It also mandates development of a system to allow passenger lists to be referenced against law enforcement "watch lists."

In-flight security.

The new law requires the random deployment of armed federal "sky marshals" on domestic commercial flights and international flights entering or leaving the United States. Law enforcement personnel from other agencies can, with TSA agreement, carry weapons on flights.

The measure also:

- allows pilots to carry guns with the permission of their airline and the TSA after they had gone through specialized training;

- requires mandatory training for flight crews on

how to deal with hijacking attempts; and

-- mandates strengthened cockpit doors, which would have to remain locked during flight and could be accessed only by authorized personnel.

Video cameras can be used to alert pilots to problems in the passenger cabin. In addition, the report recommends that cockpits be redesigned with double doors and bathroom facilities so the crew would not have to leave the flight deck. Another recommendation is to install a switch that flight attendants could use to alert the cockpit that terrorists were on board.

General provisions.

To offset costs, S1447 -- PL 107-71 assesses a \$2.50 charge on passengers for each flight they board, with a maximum of \$5.00 per one-way trip. For fiscal 2002 through 2004, the airlines must pay the government the equivalent of what they spent annually on passenger screening services before Sept. 11, 2001 -- an estimated \$700 million to \$1 billion. After that, the undersecretary will determine what each airline should pay.

The legislation authorizes \$1.5 billion total for fiscal 2002 and 2003 to reimburse airports, vendors and parking lots for the costs of complying with its provisions.

The language expands on the liability protections for damages resulting from the Sept. 11 terrorist attacks already given to American Airlines and United Airlines in the \$15 billion airline bailout (HR 2926 -- PL 107-42). S1447 -- PL 107-71 covers Boeing, which manufactured the hijacked airliners; New York's Port Authority, owner of the World Trade Center; and Boston's Logan Airport, where the flights that crashed into the towers originated. It would not extend liability protection to security screening companies.

It requires the attorney general to conduct background checks on foreigners applying for flight training in large aircraft. Flight schools must train their employees on how to recognize suspicious behavior.

American and foreign airlines, which already generally provide information to the U.S. government about their passengers and crew on international flights before they land in the United States, will be required to do so.

The new law creates a Transportation Security Oversight Board to review emergency security regulations and other actions of the TSA.

The language encourages airlines to honor the tickets of bankrupt airlines as long as a passenger requested to use his or her ticket within 60 days of the flight cancellation. This provision is applicable only for the first 18 months after enactment.

Background

Both the House and Senate passed aviation security bills in the wake of the Sept. 11, 2001, terrorist attacks on New York and Washington, in which hijackers flew commercial airliners into the World Trade Center towers and the Pentagon. A fourth hijacked jetliner crashed in western Pennsylvania

The key difference between the House bill (HR3150) and the Senate-passed version of S1447 was whether to make the nation's security screeners federal employees or to put aviation security under federal oversight with the president choosing among federalizing the workers, using private contractors or a combination of both.

Republicans asserted that the countries with the safest aviation security systems have studied federalizing their airport security personnel but always rejected it after finding that it would not provide as much security as private contractors overseen by police or military security.

Republicans also said that Democrats were attempting to add tens of thousands to the government's unionized work force.

Democrats pointed to existing private contractors' sometimes-spotty record, including companies that have knowingly hired felons as security screeners. They contended that aviation security was a law enforcement issue, so workers therefore should be government employees.

At one point it appeared the House was ready to pass the Senate language, but, led by Majority Whip Tom DeLay, Texas, the House GOP narrowly defeated the Senate plan and then passed its own.

Pressure grew for a compromise the president could

sign before Thanksgiving after incidents of security breaches at airports were reported. A Chicago man carrying a bag with seven knives, a stun gun and a can of Mace made it past a security checkpoint in early November 2001.

In the end, the compromise on federalizing the screeners with the opt-out after three years and the private-security pilot program cinched the deal. Another key compromise involved which department would be in charge of aviation security. Negotiators agreed to follow the House plan and place this responsibility in the hands of the DOT. The Senate bill would have given control of aviation security to the Justice Department.

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