

107TH CONGRESS
2D SESSION

H. R. 4635

AN ACT

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

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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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Arming Pilots Against
3 Terrorism Act”.

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

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

8 **“§ 44921. Federal flight deck officer program**

9 “(a) ESTABLISHMENT.—The Under Secretary of
10 Transportation for Security shall establish a program to
11 deputize volunteer pilots of air carriers providing air
12 transportation or intrastate air transportation as Federal
13 law enforcement officers to defend the flight decks of air-
14 craft of such air carriers against acts of criminal violence
15 or air piracy. Such officers shall be known as ‘Federal
16 flight deck officers’.

17 “(b) PROCEDURAL REQUIREMENTS.—

18 “(1) IN GENERAL.—Not later than 2 months
19 after the date of enactment of this section, the
20 Under Secretary shall establish procedural require-
21 ments to carry out the program under this section.

22 “(2) COMMENCEMENT OF PROGRAM.—Begin-
23 ning 2 months after the date of enactment of this
24 section, the Under Secretary shall begin the process
25 of training and deputizing pilots who are qualified to

1 be Federal flight deck officers as Federal flight deck
2 officers under the program.

3 “(3) ISSUES TO BE ADDRESSED.—The proce-
4 dural requirements established under paragraph (1)
5 shall address the following issues:

6 “(A) The type of firearm to be used by a
7 Federal flight deck officer.

8 “(B) The type of ammunition to be used
9 by a Federal flight deck officer.

10 “(C) The standards and training needed to
11 qualify and requalify as a Federal flight deck
12 officer.

13 “(D) The placement of the firearm of a
14 Federal flight deck officer on board the aircraft
15 to ensure both its security and its ease of re-
16 trieval in an emergency.

17 “(E) An analysis of the risk of cata-
18 strophic failure of an aircraft as a result of the
19 discharge (including an accidental discharge) of
20 a firearm to be used in the program into the
21 avionics, electrical systems, or other sensitive
22 areas of the aircraft.

23 “(F) The division of responsibility between
24 pilots in the event of an act of criminal violence
25 or air piracy if only one pilot is a Federal flight

1 deck officer and if both pilots are Federal flight
2 deck officers.

3 “(G) Procedures for ensuring that the fire-
4 arm of a Federal flight deck officer does not
5 leave the cockpit if there is a disturbance in the
6 passenger cabin of the aircraft or if the pilot
7 leaves the cockpit for personal reasons.

8 “(H) Interaction between a Federal flight
9 deck officer and a Federal air marshal on board
10 the aircraft.

11 “(I) The process for selection of pilots to
12 participate in the program based on their fit-
13 ness to participate in the program, including
14 whether an additional background check should
15 be required beyond that required by section
16 44936(a)(1).

17 “(J) Storage and transportation of fire-
18 arms between flights, including international
19 flights, to ensure the security of the firearms,
20 focusing particularly on whether such security
21 would be enhanced by requiring storage of the
22 firearm at the airport when the pilot leaves the
23 airport to remain overnight away from the pi-
24 lot’s base airport.

1 “(K) Methods for ensuring that security
2 personnel will be able to identify whether a pilot
3 is authorized to carry a firearm under the pro-
4 gram.

5 “(L) Methods for ensuring that pilots (in-
6 cluding Federal flight deck officers) will be able
7 to identify whether a passenger is a law en-
8 forcement officer who is authorized to carry a
9 firearm aboard the aircraft.

10 “(M) Any other issues that the Under Sec-
11 retary considers necessary.

12 “(4) PREFERENCE.—In selecting pilots to par-
13 ticipate in the program, the Under Secretary shall
14 give preference to pilots who are former military or
15 law enforcement personnel.

16 “(5) CLASSIFIED INFORMATION.—Notwith-
17 standing section 552 of title 5 but subject to section
18 40119 of this title, information developed under
19 paragraph (3)(E) shall not be disclosed.

20 “(6) NOTICE TO CONGRESS.—The Under Sec-
21 retary shall provide notice to the Committee on
22 Transportation and Infrastructure of the House of
23 Representatives and the Committee on Commerce,
24 Science, and Transportation of the Senate after

1 completing the analysis required by paragraph
2 (3)(E).

3 “(7) MINIMIZATION OF RISK.—If the Under
4 Secretary determines as a result of the analysis
5 under paragraph (3)(E) that there is a significant
6 risk of the catastrophic failure of an aircraft as a re-
7 sult of the discharge of a firearm, the Under Sec-
8 retary shall take such actions as may be necessary
9 to minimize that risk.

10 “(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

11 “(1) IN GENERAL.—The Under Secretary shall
12 provide the training, supervision, and equipment
13 necessary for a pilot to be a Federal flight deck offi-
14 cer under this section at no expense to the pilot or
15 the air carrier employing the pilot.

16 “(2) TRAINING.—

17 “(A) IN GENERAL.—The Under Secretary
18 shall base the requirements for the training of
19 Federal flight deck officers under subsection (b)
20 on the training standards applicable to Federal
21 air marshals; except that the Under Secretary
22 shall take into account the differing roles and
23 responsibilities of Federal flight deck officers
24 and Federal air marshals.

1 “(B) ELEMENTS.—The training of a Fed-
2 eral flight deck officer shall include, at a min-
3 imum, the following elements:

4 “(i) Training to ensure that the offi-
5 cer achieves the level of proficiency with a
6 firearm required under subparagraph
7 (C)(i).

8 “(ii) Training to ensure that the offi-
9 cer maintains exclusive control over the of-
10 ficer’s firearm at all times, including train-
11 ing in defensive maneuvers.

12 “(iii) Training to assist the officer in
13 determining when it is appropriate to use
14 the officer’s firearm and when it is appro-
15 priate to use less than lethal force.

16 “(C) TRAINING IN USE OF FIREARMS.—

17 “(i) STANDARD.—In order to be depu-
18 tized as a Federal flight deck officer, a
19 pilot must achieve a level of proficiency
20 with a firearm that is required by the
21 Under Secretary. Such level shall be com-
22 parable to the level of proficiency required
23 of Federal air marshals.

24 “(ii) CONDUCT OF TRAINING.—The
25 training of a Federal flight deck officer in

1 the use of a firearm may be conducted by
2 the Under Secretary or by a firearms
3 training facility approved by the Under
4 Secretary.

5 “(iii) REQUALIFICATION.—The Under
6 Secretary shall require a Federal flight
7 deck officer to requalify to carry a firearm
8 under the program. Such requalification
9 shall occur quarterly or at an interval re-
10 quired by a rule issued under subsection
11 (i).

12 “(d) DEPUTIZATION.—

13 “(1) IN GENERAL.—The Under Secretary may
14 deputize, as a Federal flight deck officer under this
15 section, a pilot who submits to the Under Secretary
16 a request to be such an officer and whom the Under
17 Secretary determines is qualified to be such an offi-
18 cer.

19 “(2) QUALIFICATION.—A pilot is qualified to be
20 a Federal flight deck officer under this section if—

21 “(A) the pilot is employed by an air car-
22 rier;

23 “(B) the Under Secretary determines that
24 the pilot meets the standards established by the
25 Under Secretary for being such an officer; and

1 “(C) the Under Secretary determines that
2 the pilot has completed the training required by
3 the Under Secretary.

4 “(3) DEPUTIZATION BY OTHER FEDERAL AGEN-
5 CIES.—The Under Secretary may request another
6 Federal agency to deputize, as Federal flight deck
7 officers under this section, those pilots that the
8 Under Secretary determines are qualified to be such
9 officers.

10 “(4) REVOCATION.—The Under Secretary may
11 revoke the deputization of a pilot as a Federal flight
12 deck officer if the Under Secretary finds that the
13 pilot is no longer qualified to be such an officer.

14 “(e) COMPENSATION.—Pilots participating in the
15 program under this section shall not be eligible for com-
16 pensation from the Federal Government for services pro-
17 vided as a Federal flight deck officer. The Federal Govern-
18 ment and air carriers shall not be obligated to compensate
19 a pilot for participating in the program or for the pilot’s
20 training or qualification and requalification to carry fire-
21 arms under the program.

22 “(f) AUTHORITY TO CARRY FIREARMS.—

23 “(1) IN GENERAL.—The Under Secretary shall
24 authorize a Federal flight deck officer to carry a
25 firearm while engaged in providing air transpor-

1 tation or intrastate air transportation. Notwith-
2 standing subsection (c)(1), the officer may purchase
3 a firearm and carry that firearm aboard an aircraft
4 of which the officer is the pilot in accordance with
5 this section if the firearm is of a type that may be
6 used under the program.

7 “(2) PREEMPTION.—Notwithstanding any other
8 provision of Federal or State law, a Federal flight
9 deck officer, whenever necessary to participate in the
10 program, may carry a firearm in any State and from
11 one State to another State.

12 “(3) CARRYING FIREARMS OUTSIDE UNITED
13 STATES.—In consultation with the Secretary of
14 State, the Under Secretary may take such action as
15 may be necessary to ensure that a Federal flight
16 deck officer may carry a firearm in a foreign country
17 whenever necessary to participate in the program.

18 “(g) AUTHORITY TO USE FORCE.—Notwithstanding
19 section 44903(d), the Under Secretary shall prescribe the
20 standards and circumstances under which a Federal flight
21 deck officer may use, while the program under this section
22 is in effect, force (including lethal force) against an indi-
23 vidual in the defense of the flight deck of an aircraft in
24 air transportation or intrastate air transportation.

25 “(h) LIMITATION ON LIABILITY.—

1 “(1) LIABILITY OF AIR CARRIERS.—An air car-
2 rier shall not be liable for damages in any action
3 brought in a Federal or State court arising out of
4 a Federal flight deck officer’s use of or failure to use
5 a firearm.

6 “(2) LIABILITY OF FEDERAL FLIGHT DECK OF-
7 FICERS.—A Federal flight deck officer shall not be
8 liable for damages in any action brought in a Fed-
9 eral or State court arising out of the acts or omis-
10 sions of the officer in defending the flight deck of an
11 aircraft against acts of criminal violence or air pi-
12 racy unless the officer is guilty of gross negligence
13 or willful misconduct.

14 “(3) LIABILITY OF FEDERAL GOVERNMENT.—
15 For purposes of an action against the United States
16 with respect to an act or omission of a Federal flight
17 deck officer, the officer shall be treated as an em-
18 ployee of the Federal Government under chapter
19 171 of title 28, relating to tort claims procedure.

20 “(i) PROCEDURES FOLLOWING ACCIDENTAL DIS-
21 CHARGES.—

22 “(1) IN GENERAL.—If an accidental discharge
23 of a firearm under the pilot program results in the
24 injury or death of a passenger or crew member on
25 an aircraft, the Under Secretary—

1 “(A) shall revoke the deputization of the
2 Federal flight deck officer responsible for that
3 firearm if the Under Secretary determines that
4 the discharge was attributable to the negligence
5 of the officer; and

6 “(B) if the Under Secretary determines
7 that a shortcoming in standards, training, or
8 procedures was responsible for the accidental
9 discharge, the Under Secretary may temporarily
10 suspend the program until the shortcoming is
11 corrected.

12 “(2) AFFECT OF SUSPENSION.—A temporary
13 suspension of the pilot program under paragraph (1)
14 suspends the running of the 2-year period for the
15 pilot program until the suspension is terminated.

16 “(j) LIMITATION ON AUTHORITY OF AIR CAR-
17 RIERS.—No air carrier shall prohibit or threaten any
18 retalitory action against a pilot employed by the air carrier
19 from becoming a Federal flight deck officer under this sec-
20 tion. No air carrier shall—

21 “(1) prohibit a Federal flight deck officer from
22 piloting an aircraft operated by the air carrier, or

23 “(2) terminate the employment of a Federal
24 flight deck officer, solely on the basis of his or her

1 volunteering for or participating in the program
2 under this section.

3 “(k) APPLICABILITY.—

4 “(1) EXEMPTION.—This section shall not apply
5 to air carriers operating under part 135 of title 14,
6 Code of Federal Regulations, and to pilots employed
7 by such carriers to the extent that such carriers and
8 pilots are covered by section 135.119 of such title or
9 any successor to such section.

10 “(2) PILOT DEFINED.—The term ‘pilot’ means
11 an individual who has final authority and responsi-
12 bility for the operation and safety of the flight or,
13 if more than 1 pilot is required for the operation of
14 the aircraft or by the regulations under which the
15 flight is being conducted, the individual designated
16 as second in command.”.

17 (b) CONFORMING AMENDMENTS.—

18 (1) CHAPTER ANALYSIS.—The analysis for such
19 chapter is amended by inserting after the item relat-
20 ing to section 44920 the following:

“44921. Federal flight deck officer program.”.

21 (2) FLIGHT DECK SECURITY.—Section 128 of
22 the Aviation and Transportation Security Act (Pub-
23 lic Law 107–71) is repealed.

24 (c) FEDERAL AIR MARSHAL PROGRAM.—

1 (1) SENSE OF CONGRESS.—It is the sense of
2 Congress that the Federal air marshal program is
3 critical to aviation security.

4 (2) LIMITATION ON STATUTORY CONSTRU-
5 TION.—Nothing in this Act, including any amend-
6 ment made by this Act, shall be construed as pre-
7 venting the Under Secretary of Transportation for
8 Security from implementing and training Federal air
9 marshals.

10 **SEC. 3. CREW TRAINING.**

11 (a) IN GENERAL.—Section 44918(e) of title 49,
12 United States Code, is amended—

13 (1) by striking “The Administrator” and insert-
14 ing the following:

15 “ (1) IN GENERAL.—The Under Secretary”;

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

17 “ (2) ADDITIONAL REQUIREMENTS.—In updat-
18 ing the training guidance, the Under Secretary, in
19 consultation with the Administrator, shall issue a
20 rule to—

21 “ (A) require both classroom and effective
22 hands-on situational training in the following
23 elements of self defense:

1 “(i) recognizing suspicious activities
2 and determining the seriousness of an oc-
3 currence;

4 “(ii) deterring a passenger who might
5 present a problem;

6 “(iii) crew communication and coordi-
7 nation;

8 “(iv) the proper commands to give to
9 passengers and attackers;

10 “(v) methods to subdue and restrain
11 an attacker;

12 “(vi) use of available items aboard the
13 aircraft for self-defense;

14 “(vii) appropriate and effective re-
15 sponses to defend oneself, including the
16 use of force against an attacker;

17 “(viii) use of protective devices as-
18 signed to crew members (to the extent
19 such devices are approved by the Adminis-
20 trator or Under Secretary);

21 “(ix) the psychology of terrorists to
22 cope with their behavior and passenger re-
23 sponses to that behavior;

24 “(x) how to respond to aircraft ma-
25 neuvers that may be authorized to defend

1 against an act of criminal violence or air
2 piracy;

3 “(B) require training in the proper con-
4 duct of a cabin search, including the duty time
5 required to conduct the search;

6 “(C) establish the required number of
7 hours of training and the qualifications for the
8 training instructors;

9 “(D) establish the intervals, number of
10 hours, and elements of recurrent training; and

11 “(E) ensure that air carriers provide the
12 initial training required by this paragraph with-
13 in 24 months of the date of enactment of this
14 subparagraph.

15 “(3) RESPONSIBILITY OF UNDER SEC-
16 RETARY.—(A) CONSULTATION.—In developing the
17 rule under paragraph (2), the Under Secretary shall
18 consult with law enforcement personnel and security
19 experts who have expertise in self-defense training,
20 terrorism experts, and representatives of air carriers,
21 the provider of self-defense training for Federal air
22 marshals, flight attendants, labor organizations rep-
23 resenting flight attendants, and educational institu-
24 tions offering law enforcement training programs.

1 “(B) DESIGNATION OF OFFICIAL.—The
2 Under Secretary shall designate an official in
3 the Transportation Security Administration to
4 be responsible for overseeing the implementa-
5 tion of the training program under this sub-
6 section.

7 “(C) NECESSARY RESOURCES AND KNOWL-
8 EDGE.—The Under Secretary shall ensure that
9 employees of the Administration responsible for
10 monitoring the training program have the nec-
11 essary resources and knowledge.”; and

12 (3) by aligning the remainder of the text of
13 paragraph (1) (as designated by paragraph (1) of
14 this section) with paragraphs (2) and (3) (as added
15 by paragraph (2) of this section).

16 (b) ENHANCE SECURITY MEASURES.—Section
17 109(a) of the Aviation and Transportation Security Act
18 (49 U.S.C. 114 note; 115 Stat. 613–614) is amended by
19 adding at the end the following:

20 “(9) Require that air carriers provide flight at-
21 tendants with a discreet, hands-free, wireless method
22 of communicating with the pilots.”.

23 (c) BENEFITS AND RISKS OF PROVIDING FLIGHT AT-
24 TENDANTS WITH NONLETHAL WEAPONS.—

1 (1) STUDY.—The Under Secretary of Transpor-
2 tation for Security shall conduct a study to evaluate
3 the benefits and risks of providing flight attendants
4 with nonlethal weapons to aide in combating air pi-
5 racy and criminal violence on commercial airlines.

6 (2) REPORT.—Not later than 6 months after
7 the date of enactment of this Act, the Under Sec-
8 retary shall transmit to Congress a report on the re-
9 sults of the study.

10 **SEC. 4. COMMERCIAL AIRLINE SECURITY STUDY.**

11 (a) STUDY.—The Secretary of Transportation shall
12 conduct a study of the following:

13 (1) The number of armed Federal law enforce-
14 ment officers (other than Federal air marshals), who
15 travel on commercial airliners annually and the fre-
16 quency of their travel.

17 (2) The cost and resources necessary to provide
18 such officers with supplemental training in aircraft
19 anti-terrorism training that is comparable to the
20 training that Federal air marshals are provided.

21 (3) The cost of establishing a program at a
22 Federal law enforcement training center for the pur-
23 pose of providing new Federal law enforcement re-
24 cruits with standardized training comparable to the
25 training that Federal air marshals are provided.

1 (4) The feasibility of implementing a certifi-
2 cation program designed for the purpose of ensuring
3 Federal law enforcement officers have completed the
4 training described in paragraph (2) and track their
5 travel over a 6-month period.

6 (5) The feasibility of staggering the flights of
7 such officers to ensure the maximum amount of
8 flights have a certified trained Federal officer on
9 board.

10 (b) REPORT.—Not later than 6 months after the date
11 of enactment of this Act, the Secretary shall transmit to
12 Congress a report on the results of the study. The report
13 may be submitted in classified and redacted form.

14 **SEC. 5. AUTHORITY TO ARM FLIGHT DECK CREW WITH**
15 **LESS-THAN-LETHAL WEAPONS.**

16 (a) IN GENERAL.—Section 44903(i) of title 49,
17 United States Code (as redesignated by section 6 of this
18 Act) is amended by adding at the end the following:

19 “(3) REQUEST OF AIR CARRIERS TO USE LESS-
20 THAN-LETHAL WEAPONS.—If, after the date of en-
21 actment of this paragraph, the Under Secretary re-
22 ceives a request from an air carrier for authorization
23 to allow pilots of the air carrier to carry less-than-
24 lethal weapons, the Under Secretary shall respond to
25 that request within 90 days.”.

1 (b) CONFORMING AMENDMENTS.—Such section is
2 further amended—

3 (1) in paragraph (1) by striking “Secretary”
4 the first and third places it appears and inserting
5 “Under Secretary”; and

6 (2) in paragraph (2) by striking “Secretary”
7 each place it appears and inserting “Under Sec-
8 retary”.

9 **SEC. 6. TECHNICAL AMENDMENTS.**

10 Section 44903 of title 49, United States Code, is
11 amended—

12 (1) by redesignating subsection (i) (relating to
13 short-term assessment and deployment of emerging
14 security technologies and procedures) as subsection
15 (j);

16 (2) by redesignating the second subsection (h)
17 (relating to authority to arm flight deck crew with
18 less-than-lethal weapons) as subsection (i); and

19 (3) by redesignating the third subsection (h)
20 (relating to limitation on liability for acts to thwart

1 criminal violence for aircraft piracy) as subsection
2 (k).

Passed the House of Representatives July 10, 2002.

Attest:

Clerk.