

Editorial Notes

AMENDMENTS

2018—Pub. L. 115-254, §1991(d)(29)(B), substituted “Administrator of the Transportation Security Administration” for “Under Secretary” wherever appearing.

Subsec. (a). Pub. L. 115-254, §1991(d)(29)(A), substituted “Secretary of Homeland Security” for “Secretary of Transportation” and “Administrator of the Transportation Security Administration submits under subsection (b)” for “Under Secretary of Transportation for Security submits under subsection (b)” in introductory provisions.

2001—Subsec. (a). Pub. L. 107-71, §101(f)(7), (9), in introductory provisions, substituted “Under Secretary” for “Administrator” in two places and “of Transportation for Security” for “of the Federal Aviation Administration”.

Subsec. (a)(9). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator”.

Subsec. (b). Pub. L. 107-71, §101(f)(7), substituted “Under Secretary” for “Administrator” in introductory provisions and par. (3)(A).

1998—Subsec. (a). Pub. L. 105-362, §1502(b)(1), in second sentence of introductory provisions, substituted “biennial report” for “annual report” and inserted “in each year the Administrator submits the biennial report” after “subsection (b) of this section”.

Subsec. (b). Pub. L. 105-362, §1502(b)(2), substituted “biennially” for “annually” in introductory provisions.

Subsec. (c). Pub. L. 105-362, §1502(b)(3), struck out heading and text of subsec. (c). Text read as follows: “The Administrator shall submit to Congress an annual report for each of the calendar years 1991 and 1992 on the progress being made, and the problems occurring, in carrying out section 44904 of this title. The report shall include recommendations for improving domestic air transportation security.”

1994—Subsec. (a). Pub. L. 103-305 substituted “March 31” for “December 31”.

Statutory Notes and Related Subsidiaries

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the 8th item on page 132 and the 11th item on page 138 identify reporting provisions which, as subsequently amended, are contained, respectively, in subsecs. (a) and (b)(1), (2) of this section), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 44939. Training to operate certain aircraft

(a) **WAITING PERIOD.**—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of more than 12,500 pounds to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if—

(1) that person has first notified the Secretary that the alien or individual has requested such training and submitted to the Secretary, in such form as the Secretary may prescribe, the following information about the alien or individual:

(A) full name, including any aliases used by the applicant or variations in spelling of the applicant’s name;

(B) passport and visa information;

(C) country of citizenship;

(D) date of birth;

(E) dates of training; and

(F) fingerprints collected by, or under the supervision of, a Federal, State, or local law enforcement agency or by another entity approved by the Federal Bureau of Investigation or the Secretary of Homeland Security, including fingerprints taken by United States Government personnel at a United States embassy or consulate; and

(2) the Secretary has not directed, within 30 days after being notified under paragraph (1), that person not to provide the requested training because the Secretary has determined that the individual presents a risk to aviation or national security.

(b) **INTERRUPTION OF TRAINING.**—If the Secretary of Homeland Security, more than 30 days after receiving notification under subsection (a) from a person providing training described in subsection (a), determines that the individual presents a risk to aviation or national security, the Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

(c) **NOTIFICATION.**—A person operating as a flight instructor, pilot school, or aviation training center or subject to regulation under this part may provide training in the operation of any aircraft having a maximum certificated takeoff weight of 12,500 pounds or less to an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Secretary of Homeland Security only if that person has notified the Secretary that the individual has requested such training and furnished the Secretary with that individual’s identification in such form as the Secretary may require.

(d) **EXPEDITED PROCESSING.**—The Secretary of Homeland Security shall establish a process to ensure that the waiting period under subsection (a) shall not exceed 5 days for an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) who—

(1) holds an airman’s certification of a foreign country that is recognized by an agency of the United States, including a military agency, that permits an individual to operate a multi-engine aircraft that has a certificated takeoff weight of more than 12,500 pounds;

(2) is employed by a foreign air carrier that is certified under part 129 of title 14, Code of Federal Regulations, and that has a security program approved under section 1546 of title 49, Code of Federal Regulations;

(3) is an individual that has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii); or

(4) is an individual that is part of a class of individuals that the Secretary has determined that providing aviation training to presents minimal risk to aviation or national security because of the aviation training already possessed by such class of individuals.

(e) **TRAINING.**—In subsection (a), the term “training” means training received from an instructor in an aircraft or aircraft simulator and

does not include recurrent training, ground training, or demonstration flights for marketing purposes.

(f) **NONAPPLICABILITY TO CERTAIN FOREIGN MILITARY PILOTS.**—The procedures and processes required by subsections (a) through (d) shall not apply to a foreign military pilot endorsed by the Department of Defense for flight training in the United States and seeking training described in subsection (e) in the United States.

(g) **FEE.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security may assess a fee for an investigation under this section, which may not exceed \$100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

(2) **OFFSET.**—Notwithstanding section 3302 of title 31, any fee collected under this section—

(A) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Secretary for those expenses; and

(B) shall remain available until expended.

(h) **INTERAGENCY COOPERATION.**—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Secretary in implementing this section.

(i) **SECURITY AWARENESS TRAINING FOR EMPLOYEES.**—The Secretary shall require flight schools to conduct a security awareness program for flight school employees to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.

(Added Pub. L. 107–71, title I, §113(a), Nov. 19, 2001, 115 Stat. 622; amended Pub. L. 108–176, title VI, §612(a), Dec. 12, 2003, 117 Stat. 2572; Pub. L. 115–254, div. K, title I, §1991(d)(30), Oct. 5, 2018, 132 Stat. 3639.)

Editorial Notes

AMENDMENTS

2018—Subsec. (d). Pub. L. 115–254 substituted “The Secretary of Homeland Security” for “Not later than 60 days after the date of enactment of this section, the Secretary” in introductory provisions.

2003—Pub. L. 108–176 reenacted section catchline without change and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d) relating to waiting period for training, interruption of training, covered training, and security awareness training for employees.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–176, title VI, §612(c), Dec. 12, 2003, 117 Stat. 2574, provided that: “The amendment made by subsection (a) [amending this section] takes effect on the effective date of the interim final rule required by subsection (b)(1) [set out below] [rule effective Sept. 20, 2004, see 69 F.R. 56323].”

EFFECTIVE DATE

Pub. L. 107–71, title I, §113(d), Nov. 19, 2001, 115 Stat. 622, provided that: “The amendment made by sub-

section (a) [enacting this section] applies to applications for training received after the date of enactment of this Act [Nov. 19, 2001].”

IMPLEMENTATION

Pub. L. 108–176, title VI, §612(b), Dec. 12, 2003, 117 Stat. 2574, provided that:

“(1) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act [Dec. 12, 2003], the Secretary of Homeland Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

“(2) **USE OF OVERSEAS FACILITIES.**—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Secretary or other agency designated by the Secretary. The Attorney General and the Secretary of State shall cooperate with the Secretary of Homeland Security in carrying out this paragraph.

“(3) **USE OF UNITED STATES FACILITIES.**—If the Secretary of Homeland Security requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.”

REPORT

Pub. L. 108–176, title VI, §612(d), Dec. 12, 2003, 117 Stat. 2574, provided that, not later than 1 year after Dec. 12, 2003, the Secretary of Homeland Security would submit to Congress a report on the effectiveness of the activities carried out under this section in reducing risks to aviation and national security.

INTERNATIONAL COOPERATION

Pub. L. 107–71, title I, §113(c), Nov. 19, 2001, 115 Stat. 622, provided that: “The Secretary of Transportation, in consultation with the Secretary of State, shall work with the International Civil Aviation Organization and the civil aviation authorities of other countries to improve international aviation security through screening programs for flight instruction candidates.”

§ 44940. Security service fee

(a) **GENERAL AUTHORITY.**—

(1) **PASSENGER FEES.**—The Administrator of the Transportation Security Administration shall impose a uniform fee, on passengers of air carriers and foreign air carriers in air transportation and intrastate air transportation originating at airports in the United States, to pay for the following costs of providing civil aviation security services:

(A) Salary, benefits, overtime, retirement and other costs of screening personnel, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations under section 44901.

(B) The costs of training personnel described in subparagraph (A), and the acquisition, operation, and maintenance of equipment used by such personnel.

(C) The costs of performing background investigations of personnel described in subparagraphs (A), (D), (F), and (G).

(D) The costs of the Federal air marshals program.