§ 40119. Security and research and development activities

(a) General Requirements.— The Under Secretary of Transportation for Security and the Administrator of the Federal Aviation Administration each shall conduct research (including behavioral research) and development activities appropriate to develop, modify, test, and evaluate a system, procedure, facility, or device to protect passengers and property against acts of criminal violence, aircraft piracy, and terrorism and to ensure security.

(b) Disclosure.—

(1) Notwithstanding section 552 of title 5 and the establishment of a Department of Homeland Security, the Secretary of Transportation shall prescribe regulations prohibiting disclosure of information obtained or developed in ensuring security under this title if the Secretary of Transportation decides disclosing the information would—

(A) be an unwarranted invasion of personal privacy;
(B) reveal a trade secret or privileged or confidential commercial or financial information; or
(C) be detrimental to transportation safety.

(2) Paragraph (1) of this subsection does not authorize information to be withheld from a committee of Congress authorized to have the information.

(3) Nothing in paragraph (1) shall be construed to authorize the designation of information as sensitive security information (as defined in section 15.5 of title 49, Code of Federal Regulations)—

(A) to conceal a violation of law, inefficiency, or administrative error;
(B) to prevent embarrassment to a person, organization, or agency;
(C) to restrain competition; or
(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.

(c) Transfers of Duties and Powers Prohibited.— Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this section to another department, agency, or instrumentality of the United States Government.

In this section, the word “Administrator” in section 316(d) and (e) of the Federal Aviation Act of 1958 (Public Law 85–726, 72 Stat. 731) is retained on authority of 49:106(g).

In subsection (a), the words “as he may deem” and “aboard aircraft in air transportation or intrastate air transportation” are omitted as surplus.

In subsection (b)(1), before clause (A), the words “relating to freedom of information”, “as he may deem necessary”, and “in the conduct of research and development activities” are omitted as surplus. In clause (A), the words “(including, but not limited to, information contained in any personnel, medical, or similar file)” are omitted as surplus. In clause (B), the words “obtained from any person” are omitted as surplus. In clause (C), the word “traveling” is omitted as surplus.

In subsection (b)(2), the word “duly” is omitted as surplus. The words “to have the information” are added for clarity.

### Amendments


2002—Subsec. (a). Pub. L. 107–296, § 1601(a)(1), inserted “and the Administrator of the Federal Aviation Administration each” after “for Security” and substituted “criminal violence, aircraft piracy, and terrorism and to ensure security” for “criminal violence and aircraft piracy”.

Subsec. (b)(1), Pub. L. 107–296, § 1601(a)(2)(A), (B), in introductory provisions, substituted “and the establishment of a Department of Homeland Security, the Secretary of Transportation” for “, the Under Secretary” and “ensuring security under this title if the Secretary of Transportation” for “carrying out security or research and development activities under section 44501 (a) or (c), 44502 (a)(1) or (3), (b), or (c), 44504, 44505, 44507, 44508, 44511, 44512, 44513, 44901, 44903 (a), (b), (c), or (e), 44905, 44912, 44935, 44936, or 44938 (a) or (b) of this title if the Under Secretary”.

Subsec. (b)(1)(C). Pub. L. 107–296, § 1601(a)(2)(C), substituted “transportation safety” for “the safety of passengers in transportation”.


### Effective Date of 2002 Amendment

Amendment by Pub. L. 107–296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107–296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

### Transfer of Functions

For transfer of functions, personnel, assets, and liabilities of the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203 (2), 551 (d), 552 (d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.
Deemed References to Chapters 509 and 511 of Title 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111–314, set out as a note under section 101 of this title.