

2nd SESSION

No. 2236

H.R.

Approved For Release 2005/06/22 : CIA-RDP85-00988R000200060001-4

IN THE SENATE OF THE UNITED STATES

Referred to the Committee on \_\_\_\_\_ and ordered to be printed.

Ordered to lie on the table and to be printed.

AMENDMENT

IN THE NATURE OF A SUBSTITUTE

Intended to be proposed by Mr. \_\_\_\_\_

(Insert title of bill below)

to S. \_\_\_\_\_, a bill

H.R. \_\_\_\_\_, an Act

viz: On page \_\_\_\_\_, line \_\_\_\_\_, insert the following:

Amdt. No.

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To strengthen Federal policies and programs and international cooperation to combat international terrorism.

Section 1. This Act shall be known as "An Act to Combat International Terrorism."

#### STATEMENT OF FINDINGS AND PURPOSE

Section 2. The Congress hereby finds that --

(a) innocent persons have been killed, injured and victimized, human rights violated, property destroyed and damaged, and international commerce obstructed as a result of terrorist acts;

(b) such acts represent an intolerable attack against the fundamental right to life and security of all peoples of the world;

(c) such acts constitute a threat to the orderly and civilized functions of the international community;

(d) certain nations exhibit a significant pattern of support for international terrorist acts; and

(e) certain international airports fail to conform with minimum security standards.

It is therefore the purpose of the Act to --

(a) strengthen Federal capabilities in policy and planning, coordination, intelligence, and response capability and enlist the cooperation of all other nations and national and international organizations in initiatives to counter terrorist acts more effectively throughout the world, while safeguarding democratic values;

(b) promote appropriate action by the United States and other governments in order to combat international terrorism; and

(c) provide public notice to persons travelling in international air commerce of deficient security programs and facilities at certain foreign and domestic airports.

#### DEFINITIONS

Section 3. For the purposes of this Act, the following definitions are established:

(a) "International terrorism" includes any act designated as an offense or crime under --

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(1) the Convention for the Suppression of Unlawful Seizure of Aircraft (done at The Hague, December 16, 1970);

(2) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (done at Montreal, September 23, 1971); and

(3) the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents (adopted by the General Assembly of the United Nations at New York, December 14, 1973); or

(4) any other unlawful act which results in the death, bodily harm, or forcible deprivation of liberty to any person, or in the violent destruction of property, or an attempt or credible threat to commit any such act, if the act, threat, or attempt is committed or takes effect --

(a) outside the territory of a State of which the alleged offender is a national; or

(b) outside the territory of the State against which the act is directed; or

(c) within the territory of the State against which the act is directed and the alleged offender knows or has reason to know that a person against whom the act is directed is not a national of that State, or

(d) within the territory of any State when found to have been supported by a foreign State as defined in Section 3(b), irrespective of the nationality of the alleged offender;

provided that the act is --

(i) intended to damage the interests of or obtain concessions from a State or an international organization; and

(ii) not committed in the course of military or para-military operations directed essentially against military forces of a State or an organized armed group.

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of any of the following acts when committed deliberately by a State:

(1) furnishing arms, explosives or lethal substances to individuals, groups, or organizations with the likelihood that they will be used in the commission of any act of international terrorism;

(2) planning, directing, providing training for, or assisting in the execution of any act of international terrorism;

(3) providing direct financial support for the commission of any act of international terrorism;

(4) providing diplomatic facilities intended to aid or abet the commission of any act of international terrorism; or

(5) allowing the use of its territory as a sanctuary from extradition or prosecution for any act of international terrorism.

#### REPORT ON ACTS OF INTERNATIONAL TERRORISM

Section 4. (a) Six months after the date of enactment of this Act and every six months thereafter, the Secretary of State shall transmit to the Speaker of the House and the President Pro Tempore of the Senate a report on those incidents he determines to be acts of international terrorism pursuant to section 3 of this Act; provided however, that any such incident which affects or involves citizens or significant interests or property of the United States shall be reported to Congress not later than 30 days after the occurrence of such an incident.

(b) Such report shall include, but not be limited to, the following information:

(1) a description of the incident and of the involvement and identity of each individual, entity, group or organization involved in such incident;

(2) the identity of any government providing state support for such acts of international terrorism, and a statement setting forth the exact nature and extent of such government's involvement;

(3) a description of the actions of any government which assisted in bringing about a positive termination of the incident;

(4) a description of the response of the United States Government to such incident.

(c) ~~Nothing in this section is intended to require the public disclosure of information which is properly classified under criteria established by Executive Order, or is otherwise protected by law.~~ Such information shall be provided to the Speaker of the House of Representatives and the President Pro Tempore of the Senate in a written classified report. Upon such a determination in such case, an unclassified summary of such information shall be prepared and submitted to the Speaker of the House of Representatives and President Pro Tempore of the Senate.

(d) Nothing in this section is intended to require disclosure of investigatory records compiled for law enforcement purposes specifically protected by 5 U.S.C. 522(C)(b)(7).

#### LIST OF STATES SUPPORTING INTERNATIONAL TERRORISM

Section 5. (a) Six months after the date of enactment of this Act and every six months thereafter, the President shall consider which, if any, states have demonstrated a pattern of support for acts of international terrorism. If the President determines that any states have so acted, he shall submit a List of states supporting international terrorism to the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

(b) Such List shall also identify any states against which sanctions have been applied pursuant to section 6 of this Act, and any other initiatives of the United States with respect to such states, and set forth the President's reasons for listing any such states.

(c) If the President determines that no states have undertaken the acts described in subsection (a) of this section, he shall report the same with a detailed explanation.

(d)(1) The List shall be reviewed periodically by the President. The President may propose to Congress a request for removal of any

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state from the List. Such request shall be accompanied by the reasons therefor.

(2) A state requested by the President to be deleted from the List shall be removed from the List thirty days after the submission of that request to the Congress unless Congress by Concurrent Resolution disapproves that request

PRESIDENTIAL AUTHORITY TO COMBAT INTERNATIONAL  
TERRORIST ACTS

Section 6. (a) When a foreign government is listed pursuant to section 5 of this Act, the President shall

(1) provide no assistance under the Foreign Assistance Act of 1961, or

(2) not authorize any sale, or extend any credit or guaranty, with respect to any defense article or service as defined by section 47 of the Arms Export Control Act so identified, or

(3) approve no export licenses for the export of commodities or technical data which has a potential military application or which would otherwise enable a foreign government to support international terrorist actions, or

(4) extend no duty-free treatment under title V of the Trade Act of 1974.

(b) If the President finds that the interests of national security so require, he may suspend the applicability of any part of the prohibitions listed in subsection (a) of this section in such case. He shall report his reasons therefor in writing to the Speaker of the House of Representatives and the President Pro Tempore of the Senate and those prohibitions shall no longer apply.

(c) In devising initiatives to combat international terrorist actions and to reduce state support for such actions, the President shall take such other measures available to him as he deems appropriate; he shall take into account: the effectiveness of specific sanctions in inducing change in a country's policy or practice of supporting international terrorist actions; the likely effect of sanctions on overall U.S. relations with such country or with other countries; and the effect such sanctions would have on other U.S. national interests.

(d) The President shall take all appropriate diplomatic measures consistent with international obligations to support the effectiveness of actions taken pursuant to this authority in the accomplishment of the purposes of this Act.

(e) The President shall promptly and fully inform the Speaker of the House of Representatives and the Chairman and Ranking Minority Members of the Committee on Foreign Relations of the Senate of each exercise of authority granted under the Act.

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REPORT ON FEDERAL AND INTERNATIONAL CAPABILITIES  
TO COMBAT TERRORISM

Section 7. (a) The President shall, six months after the date of enactment of this Act, submit to the President Pro Tempore of the Senate and the Speaker of the House of Representatives a Report on Federal and International Capabilities to Combat Terrorism. Such Report shall include a comprehensive and specific review of Federal anti-terrorism organization, policies and activities. It shall include a description and evaluation of the effectiveness of relevant Federal organizational structures, planning, coordination, including with State and local authorities, response capability, intelligence gathering and analysis, assistance to and cooperation with U.S. business representatives abroad, and security preparedness and security adequacy of U.S. diplomatic and military installations. Such Report shall further include a statement and evaluation of all relevant Federal policies, including those with respect to responding to threats, and the management of a terrorist incident. The Report shall contain an assessment of the capability and effectiveness of the International Civil Aviation Organization and other international programs and organizations to establish appropriate airport security standards and combat terrorist activities.

(b) Nothing in this section is intended to require the public disclosure of information which is properly classified under criteria established by Executive Order, or is otherwise protected by law. Such information shall be provided to the Speaker of the House of Representatives and the President Pro Tempore of the Senate in a written classified report. In such case, an unclassified summary of such information shall be prepared and submitted to the Speaker of the House of Representatives and President Pro Tempore of the Senate.

INFORMATION ON FOREIGN AIRPORT SECURITY

Section 8. (a) Section 1115 of the Federal Aviation Act of 1958 (49 U.S.C. 1515) relating to security standards in foreign air transportation is amended to read as follows:

"Security Standards in Foreign Air Transportation

"Section 1115(a). The Secretary of Transportation shall conduct at such intervals as the Secretary shall deem necessary an assessment

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of the effectiveness of the security measures maintained at those foreign airports serving U.S. carriers, those foreign airports from which foreign air carriers serve the U.S., and at such other foreign airports as the Secretary may deem appropriate. Such assessments shall be made by the Secretary in consultation with the competent aeronautic authorities of the appropriate foreign government. The assessment shall determine the extent to which an airport effectively maintains and administers security measures. The criteria utilized by the Secretary in assessing the effectiveness of security at U.S. airports shall be considered in making such assessments and shall be equal to or above the Standards established pursuant to the Convention on International Civil Aviation. The assessment shall include consideration of specific security programs and techniques, including but not limited to, physical and personnel security programs and procedures, passenger security and baggage examination, the use of electronic, mechanical or other detection devices, airport police and security forces, control of unauthorized access to aircraft, airport perimeter, passenger boarding, and cargo boarding areas.

"(b) The Report to the Congress required by Section 315 of this Act shall contain:

"(1) A summary of those assessments conducted pursuant to subsection (a) of this section. The summary shall identify the airports assessed and describe any significant deficiencies and actions taken or recommended.

"(2) A description of the extent if any to which specific deficiencies previously identified have been eliminated.

"(c) When the Secretary finds that an airport does not maintain and administer security measures at the level of effectiveness specified in subsection (a) of this section, he shall notify the appropriate authorities of such foreign government of his finding, and recommend the steps necessary to bring the security measures in use at that airport to such standards.

"(d)(1) Within a reasonable period, but not less than 60 days after the notification required in subsection (c) of this section

and upon a determination by the Secretary that the foreign government

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he failed to bring the security measures at the identified airport to the level of effectiveness specified in subsection (a) of this section, he:

"(A) shall publish in the Federal Register and cause to be posted and prominently displayed at all U.S. airports regularly serving scheduled air carrier operations the identification of the airport; and

"(B) after consultation with the competent aeronautical authorities of such government and, notwithstanding section 1102 of this Act, may, with the approval of the Secretary of State, withhold, revoke, or impose conditions of the operating authority of any carrier or foreign air carrier to engage in foreign air transportation utilizing that airport.

"(2) The Secretary shall promptly report to the Congress any action taken under this subsection setting forth information concerning the attempts he has made to secure the cooperation of that nation in attaining the acceptable level of effectiveness."

#### PRIORITIES FOR NEGOTIATION OF INTERNATIONAL AGREEMENTS

Section 9. (a) The President is hereby urged to seek international agreements to assure more effective international cooperation in combating terrorism.

(b) High priority in the negotiation of such agreements should be given to agreements which include, but which need not be limited to the following:

(1) establishment of a permanent international working group, including subgroups on topics as may be appropriate, including but not limited to, law enforcement and crisis management, which would combat international terrorism by --

(A) promoting international cooperation among countries; and

(B) developing new methods, procedures, and standards to combat international terrorism;

(2) establishment of means to effect observance of --

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(A) the Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, December 16, 1970);

(B) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971); and

(C) the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents (New York, December 14, 1973);

(3) establishment of international legal requirements to prohibit and punish the act of taking hostages.

#### EXTENSION OF EXISTING SECURITY MEASURES

Section 10. Section 315(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1356(b)) is amended by adding the words "or charter" immediately after the word "scheduled" where it first appears.

#### EXPLOSIVE TAGGANTS

Section 11. (a) Section 841 of title 18, United States Code, is amended by adding at the end thereof the following:

(o) "Identification taggant" means any substance which (1) is added to an explosive material during the manufacture of such material and (2) is retrievable after detonation and permits the identification of the manufacturer, the date of manufacture of such material, and provides such other information as determined by the Secretary of the Treasury.

(p) "Detection taggant" means any substance which (1) is added to an explosive material during the manufacture of such material, and (2) permits detection of such material prior to its detonation.

(b) Section 842 of title 18, United States Code, is amended by adding at the end thereof the following:

(1) One year after the date of the enactment of this Act, it shall be unlawful for any person or persons to manufacture any explosive material which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

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(2) Two years after the date of the enactment of this Act, it shall be unlawful for any person or persons to manufacture any explosive material which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(3) Two years after the date of the enactment of this Act, it shall be unlawful for any person or persons to transport, ship, distribute, or receive, or cause to be transported, shipped, distributed, or received, in interstate or foreign commerce any explosive material which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(4) Three years after the date of the enactment of this Act, it shall be unlawful for any person or persons to transport, ship, distribute, or receive, or cause to be transported, shipped, distributed, or received, in interstate or foreign commerce any explosive material which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(5) One year after the date of the enactment of this Act, it shall be unlawful for any person or persons to import any explosive material which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(6) Two years after the date of the enactment of this Act, it shall be unlawful for any person or persons to import any explosive material which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847.

(7) Two years after the date of the enactment of this Act, it shall be unlawful for any person to resell or otherwise dispose of any explosive material sold as surplus by a military or naval service or other agency of the United States which does not contain an identification taggant which satisfies the standards promulgated by the Secretary as provided in section 847. The shipment of surplus explosive materials from the military establishment where

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sold to the purchaser's place of business shall be in accordance with regulations promulgated by the Secretary.

(8) Three years after the date of the enactment of this Act, it shall be unlawful for any person to resell or otherwise dispose of any explosive material sold as surplus by a military or naval service or other agency of the United States which does not contain a detection taggant which satisfies the standards promulgated by the Secretary as provided in section 847. The shipment of surplus explosive materials from the military establishment where sold to the purchaser's place of business shall be in accordance with regulations promulgated by the Secretary.

(9) The Secretary may by regulations alter the time periods specified in paragraphs 1-8 of this subsection if he determines it is not possible to adhere to such time periods because of insufficient technological advances.

(c) Section 844(a) of title 18, United States Code, is amended (1) by striking out "(a) Any" and inserting in lieu thereof "(a) (1) Any", and (2) by adding at the end thereof the following new subsection:

(2) Any person who violates subsection (1) of section 842 of this chapter shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(d) Section 845(a) of title 18, United States Code, is amended by inserting a new paragraph immediately following paragraph (6) as follows: "(7) the provisions of subsection (1) of section 842 of this title shall apply to paragraphs (4) and (5) of this subsection."

#### IMPLEMENTATION OF MONTREAL CONVENTION

Section 12. The President shall develop standards and programs to insure the full implementation of the provisions of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, September 23, 1971).

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AIRCRAFT SABOTAGE

Section 13. (a) Section 31 of title 18, United States Code, is amended by striking out the words "Civil Aeronautics Act of 1938" and inserting in lieu thereof the words "Federal Aviation Act of 1958" and by adding at the end thereof the following two paragraphs:

"'In flight' means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property aboard.

"'In service' means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight."

(b) Section 32, title 18, United States Code, is amended to read as follows:

"Whoever willfully sets fire to, damages, destroys, disables, or interferes with the operation of, or makes unsuitable for use any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce; or willfully places a destructive substance in, upon, or in proximity to any such aircraft which is likely to damage, destroy, or disable any such aircraft, or any part or other material used, or intended to be used, in connection with the operation of such aircraft; or willfully sets fire to, damages, destroys, or disables any air navigation facility or interferes with the operation of such air navigation facility, if any such act is likely to endanger the safety of such aircraft in flight; or

"Whoever, with intent to damage, destroy, or disable any such aircraft, willfully sets fire to, damages, destroys, or disables or places a destructive substance in, upon, or in the proximity of any appliance or structure, ramp, landing area, property, machine, or

apparatus, or any facility, or other material used, or intended to be used, in connection with the operation, maintenance, or loading or unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft; or

"Whoever willfully performs an act of violence against or incapacitates any passenger or member of the crew of any such aircraft if such act of violence or incapacitation is likely to endanger the safety of such aircraft in service; or

"Whoever willfully communicates information, which he knows to be false, thereby endangering the safety of any such aircraft while in flight; or

"Whoever willfully attempts to do any of the aforesaid acts-- shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both."

(c)(1) Chapter 2, title 18, United States Code, is amended by adding a new section after section 32 to read as follows:

"§32A. Offenses in Violation of the Convention for the  
Suppression of Unlawful Acts Against the Safety  
of Civil Aviation

"(a) Whoever commits an offense as defined in subsection (b) against or on board an aircraft registered in a state other than the United States and is afterward found in this country--shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

"(b) For purposes of this section a person commits an 'offense' when he willfully --

"(1) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

"(2) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

"(3) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or



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flight, or to cause damage to it which is likely to endanger its safety in flight; or

"(4) attempts to commit, or is an accomplice of a person who commits or attempts to commit, an offense enumerated in this subsection."

(2) The analysis of chapter 2 of title 18 of the United States Code is amended by adding after item "32. Destruction of aircraft or aircraft facilities." the following new item:

"32A. Offenses in violation of the Convention for the Suppression Of Unlawful Acts Against the Safety of Civil Aviation."

(d) Section 101(34) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301(34)), relating to the definition of the term "special aircraft jurisdiction of the United States," is amended as follows:

(1) by deleting the word "or" at the end of subsection (d)(i);

(2) by deleting the word "and" at the end of subsection (d)(ii) and inserting in lieu thereof the word "or"; and

(3) by adding a new subsection (d)(iii) as follows:

"(iii) regarding which an offense as defined in subsection (d) or (e) of article I, section I of the (Montreal) Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation is committed, provided the aircraft lands in the United States with an alleged offender still on board; and"

(e) Section 902(k) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(k)), is amended by adding subsection (3) to the end thereof, to read as follows:

"(3) Whoever while aboard an aircraft in the special aircraft jurisdiction of the United States commits an act which would be an offense under section 32 of title 18, United States Code, shall be punished as provided therein."

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(f)(1) Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§36. Imparting or conveying threats

"(a) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by section 32 or 33 of this chapter or section 1992 of chapter 97 or section 2275 of chapter 111 of this title with an apparent determination and will to carry the threat into execution shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

(2) The analysis of chapter 2 of title 18 of the United States Code is amended by adding at the end thereof the following new item:

"36. Imparting or conveying threats."

AIRCRAFT PIRACY

Section 14. (a) Section 901 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1471), is amended by adding at the end thereof the following new subsections:

"(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this Act, shall be subject to a civil penalty of not more than \$1,000 which shall be recoverable in a civil action brought in the name of the United States.

"(d) Except for law enforcement officers of any municipal or State government, or the Federal Government, who are authorized or required within their official capacities to carry arms, or other persons who may be so authorized under regulations issued by the Administrator, whoever, while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight shall be subject to a civil penalty of not more than \$1,000 which shall be recoverable in a civil action brought in the name of the United States."

(b) Subsection (a) of section 1395 of title 28, United States Code, is amended by striking the period at the end of such subsection and adding the following: ",and in any proceeding to recover a civil penalty under section 35(a) of title 18 of the United States Code or section 901(c) or 901(d) of the Federal Aviation Act of 1958, all process against any defendant or witness, otherwise not authorized under the Federal Rules of Civil Procedure, may be served in any judicial district of the United States upon an ex parte order for good cause shown."

(c)(1) Section 902(m) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(m)) is amended to read as follows:

False Information and Threats

"(m)(1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), or (1)(2) of this section, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), or (1)(2) of this section, with an apparent determination and will to carry the threat into execution, shall be fined not more than \$5,000 or imprisoned not more than five years, or both."

(2) The table of contents of the Federal Aviation Act of 1958, in the matter of title II (subchapter IX, chapter 20 of title 49, United States Code, section 1472(m)), is amended by redesignating

"(m) False information."

to read

"(m) False information and threats."

(d) Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking "Such" at the beginning of the second sentence of subsection (b)(1) of that section, and substituting therefor "Except with respect to civil penalties under section 901 (c) and (d) of this Act, such".