

112TH CONGRESS
1ST SESSION

H. R. 1279

To amend title 49, United States Code, to establish limitations on the use of advanced imaging technology for aircraft passenger screening, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2011

Mr. CHAFFETZ (for himself and Mr. HOLT) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 49, United States Code, to establish limitations on the use of advanced imaging technology for aircraft passenger screening, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Aircraft Passenger
5 Whole-Body Imaging Limitations Act of 2011”.

1 **SEC. 2. LIMITATIONS ON USE OF ADVANCED IMAGING**
2 **TECHNOLOGY AND ENHANCED PAT-DOWN**
3 **SEARCHES FOR AIRCRAFT PASSENGER**
4 **SCREENING.**

5 Section 44901 of title 49, United States Code, is
6 amended by adding at the end the following:

7 “(1) LIMITATIONS ON USE OF ADVANCED IMAGING
8 TECHNOLOGY AND ENHANCED PAT-DOWN SEARCHES
9 FOR SCREENING PASSENGERS.—

10 “(1) IN GENERAL.—The Assistant Secretary of
11 Homeland Security (Transportation Security Admin-
12 istration) shall ensure that advanced imaging tech-
13 nology is used for the screening of passengers under
14 this section only in accordance with this subsection.

15 “(2) ADVANCED IMAGING TECHNOLOGY.—Ad-
16 vanced imaging technology may not be used as a
17 method of screening a passenger under this section
18 unless—

19 “(A) the National Academy of Sciences de-
20 termines that the technology poses no threat to
21 public health;

22 “(B) the technology is equipped with a pri-
23 vacy filter or other privacy-protecting tech-
24 nology; and

25 “(C) another method of screening, such as
26 metal detection, explosive trace detection, or be-

1 havioral profiling, demonstrates reasonable
2 cause for utilizing advanced imaging technology
3 to detect a possible threat to aviation security.

4 “(3) ENHANCED PAT-DOWN SEARCHES.—An
5 enhanced pat-down search may not be used as a
6 method of screening a passenger under this section
7 unless another method of screening, such as metal
8 detection, explosive trace detection, behavioral
9 profiling, or use of advanced imaging technology in
10 accordance with paragraph (2), demonstrates rea-
11 sonable cause for utilizing advanced imaging tech-
12 nology to detect a possible threat to aviation secu-
13 rity.

14 “(4) PROVISION OF INFORMATION.—A pas-
15 senger for whom screening by advanced imaging
16 technology is permissible under paragraph (2) shall
17 be provided, prior to the utilization of such tech-
18 nology with respect to such passenger, information
19 on—

20 “(A) the operation of such technology;

21 “(B) the image generated by such tech-
22 nology;

23 “(C) privacy policies relating to such tech-
24 nology; and

1 “(D) the right to request an advanced pat-
2 down search under paragraph (5).

3 “(5) PAT-DOWN SEARCH OPTION.—A passenger
4 for whom screening by advanced imaging technology
5 is permissible under paragraph (2) shall be offered
6 an advanced pat-down search in lieu of such screen-
7 ing.

8 “(6) PROHIBITION ON USE OF IMAGES.—An
9 image of a passenger generated by advanced imaging
10 technology may not be stored, transferred, shared,
11 or copied in any form after the boarding determina-
12 tion with respect to such passenger is made.

13 “(7) REPORT.—Not later than one year after
14 the date of enactment of the Aircraft Passenger
15 Whole-Body Imaging Limitations Act of 2011, and
16 annually thereafter, the Assistant Secretary shall
17 submit to Congress a report containing information
18 on—

19 “(A) the implementation of this subsection;

20 “(B) the number of passengers for whom
21 screening by advanced imaging technology was
22 permissible under paragraph (2) as a percent-
23 age of all screened passengers;

24 “(C) the number of passengers who chose
25 an advanced pat-down search when presented

1 the offer under paragraph (5) as a percentage
2 of all passengers presented such offer;

3 “(D) privacy protection measures taken
4 with respect to advanced imaging technology;

5 “(E) privacy violations that occurred with
6 respect to such technology; and

7 “(F) the effectiveness and safety of such
8 technology.

9 “(8) **ADVANCED IMAGING TECHNOLOGY.**—The
10 term ‘advanced imaging technology’ means a device,
11 including a device using backscatter x-rays or milli-
12 meter waves, used to detect objects carried on indi-
13 viduals and that creates a visual image of the indi-
14 vidual’s full body, showing the surface of the skin
15 and revealing objects that are on the body.”.

16 **SEC. 3. PENALTY RELATING TO VIOLATION OF PROHIBI-**
17 **TION ON IMAGE STORING.**

18 (a) **IN GENERAL.**—Chapter 93 of title 18, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

21 **“§ 1925. Misuse of certain images relating to aircraft**
22 **passenger screening**

23 “Whoever, being an officer or employee of the United
24 States, knowingly stores, transfers, shares, or copies an

1 image in violation of section 44901(l)(6) of title 49,
 2 United States Code, shall be fined under this title.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
 4 at the beginning of chapter 93 of title 18, United States
 5 Code, is amended by adding at the end the following:

“1925. Misuse of certain images relating to aircraft passenger screening.”.

6 **SEC. 4. PERFORMANCE MEASURES AND COST-BENEFIT**
 7 **ANALYSIS REQUIREMENTS.**

8 (a) IN GENERAL.—Section 44901 of title 49, United
 9 States Code, is further amended by adding at the end the
 10 following:

11 “(m) PERFORMANCE MEASURE AND COST-BENEFIT
 12 ANALYSIS REQUIREMENTS.—

13 “(1) IN GENERAL.—The Secretary may not use
 14 any security technology or methodology for screening
 15 under this section unless the Secretary has—

16 “(A) established quantifiable and validated
 17 performance measures to determine if the tech-
 18 nology or methodology is cost effective, reliable,
 19 and safe, and demonstrated that the technology
 20 or methodology satisfies those measures;

21 “(B) performed a full assessment of the
 22 costs and benefits of such technology or meth-
 23 odology; and

1 “(C) determined that there is no other
2 equally effective and less invasive technology or
3 methodology that satisfies those standards.

4 “(2) EMERGENCY EXCEPTION.—Paragraph (1)
5 shall not apply with respect to use of a technology
6 or methodology to address a temporary emergency
7 determined by the Secretary.”.

8 (b) APPLICATION.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the amendment made by subsection (a)
11 shall apply with respect to any use of a security
12 technology or methodology after the date of enact-
13 ment of this Act.

14 (2) ADVANCED IMAGING TECHNOLOGY AND
15 PAT-DOWN SEARCHES.—The amendment made by
16 subsection (a) shall apply with respect to any use of
17 advanced imaging technology or pat-down search (as
18 those terms are used in section 44901(l) of title 49,
19 United States Code, as amended by this section) for
20 the screening of passengers, beginning upon the end
21 of the 12-month period beginning on the date of the
22 enactment of this Act.

1 **SEC. 5. EFFECTIVE DATE.**

2 Sections 2 and 3 of this Act shall take effect on the
3 date that is 30 days after the date of enactment of this
4 Act.

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