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

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 2009

Mr. CHAFFETZ 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 whole-body imaging technology for aircraft passenger screening, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Aircraft Passenger Whole-Body Imaging Limitations Act of 2009”.

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SEC. 2. LIMITATIONS ON USE OF WHOLE-BODY IMAGING TECHNOLOGY FOR AIRCRAFT PASSENGER SCREENING.

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

“(l) LIMITATIONS ON USE OF WHOLE-BODY IMAGING TECHNOLOGY FOR SCREENING PASSENGERS.—

“(1) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall ensure that whole-body imaging technology is used for the screening of passengers under this section only in accordance with this subsection.

“(2) PROHIBITION ON USE FOR ROUTINE SCREENING.—Whole-body imaging technology may not be used as the sole or primary method of screening a passenger under this section. Whole-body imaging technology may not be used to screen a passenger under this section unless another method of screening, such as metal detection, demonstrates cause for preventing such passenger from boarding an aircraft.

“(3) PROVISION OF INFORMATION.—A passenger for whom screening by whole-body imaging technology is permissible under paragraph (2) shall be provided information on the operation of such technology, on the image generated by such tech-
nology, on privacy policies relating to such technology, and on the right to request a pat-down search under paragraph (4) prior to the utilization of such technology with respect to such passenger.

“(4) PAT-DOWN SEARCH OPTION.—A passenger for whom screening by whole-body imaging technology is permissible under paragraph (2) shall be offered a pat-down search in lieu of such screening.

“(5) PROHIBITION ON USE OF IMAGES.—An image of a passenger generated by whole-body imaging technology may not be stored, transferred, shared, or copied in any form after the boarding determination with respect to such passenger is made.

“(6) REPORT.—Not later than one year after the date of enactment of this section, and annually thereafter, the Assistant Secretary shall submit to Congress a report containing information on the implementation of this subsection, on the number of passengers for whom screening by whole-body imaging technology was permissible under paragraph (2) as a percentage of all screened passengers, on the number of passengers who chose a pat-down search when presented the offer under paragraph (4) as a percentage of all passengers presented such offer, on privacy protection measures taken with respect to
whole-body imaging technology, on privacy violations that occurred with respect to such technology, and on the effectiveness of such technology.

“(7) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) PAT-DOWN SEARCH.—The term ‘pat-down search’ means a physical inspection of the body of an aircraft passenger conducted in accordance with the Transportation Security Administration’s standard operating procedure as described in the Transportation Security Administration’s official training manual.

“(B) WHOLE-BODY IMAGING TECHNOLOGY.—The term ‘whole-body imaging technology’ means a device, including a device using backscatter x-rays or millimeter waves, used to detect objects carried on individuals and that creates a visual image of the individual’s full body, showing the surface of the skin and revealing objects that are on the body.”.

SEC. 3. PENALTY RELATING TO VIOLATION OF PROHIBITION ON IMAGE STORING.

(a) In General.—Chapter 93 of title 18, United States Code, is amended by adding at the end the following:
“§ 1925. Misuse of certain images relating to aircraft passenger screening

“Whoever, being an officer or employee of the United States, knowingly stores, transfers, shares, or copies an image in violation of section 44901(l)(5) of title 49, United States Code, shall be fined under this title or imprisoned not more than three years, or both.”.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 93 of title 18, United States Code, is amended by adding at the end the following:

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

SEC. 4. EFFECTIVE DATE.

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