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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Aircraft Passenger Whole-Body Imaging Limitations Act of 2011”.
SEC. 2. LIMITATIONS ON USE OF ADVANCED IMAGING TECHNOLOGY AND ENHANCED PAT-DOWN SEARCHES 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 ADVANCED IMAGING TECHNOLOGY AND ENHANCED PAT-DOWN SEARCHES FOR SCREENING PASSENGERS.—

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

“(2) ADVANCED IMAGING TECHNOLOGY.—Advanced imaging technology may not be used as a method of screening a passenger under this section unless—

“(A) the National Academy of Sciences determines that the technology poses no threat to public health;

“(B) the technology is equipped with a privacy filter or other privacy-protecting technology; and

“(C) another method of screening, such as metal detection, explosive trace detection, or be-
behavioral profiling, demonstrates reasonable cause for utilizing advanced imaging technology to detect a possible threat to aviation security.

“(3) ENHANCED PAT-DOWN SEARCHES.—An enhanced pat-down search may not be used as a method of screening a passenger under this section unless another method of screening, such as metal detection, explosive trace detection, behavioral profiling, or use of advanced imaging technology in accordance with paragraph (2), demonstrates reasonable cause for utilizing advanced imaging technology to detect a possible threat to aviation security.

“(4) PROVISION OF INFORMATION.—A passenger for whom screening by advanced imaging technology is permissible under paragraph (2) shall be provided, prior to the utilization of such technology with respect to such passenger, information on—

“(A) the operation of such technology;

“(B) the image generated by such technology;

“(C) privacy policies relating to such technology; and
“(D) the right to request an advanced pat-down search under paragraph (5).

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

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

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

“(A) the implementation of this subsection;

“(B) the number of passengers for whom screening by advanced imaging technology was permissible under paragraph (2) as a percentage of all screened passengers;

“(C) the number of passengers who chose an advanced pat-down search when presented
the offer under paragraph (5) as a percentage of all passengers presented such offer;

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

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

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

“(8) ADVANCED IMAGING TECHNOLOGY.—The term ‘advanced 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)(6) of title 49, United States Code, shall be fined under this title.”.

(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. PERFORMANCE MEASURES AND COST-BENEFIT ANALYSIS REQUIREMENTS.

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

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

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

“(A) established quantifiable and validated performance measures to determine if the technology or methodology is cost effective, reliable, and safe, and demonstrated that the technology or methodology satisfies those measures;

“(B) performed a full assessment of the costs and benefits of such technology or methodology; and
“(C) determined that there is no other equally effective and less invasive technology or methodology that satisfies those standards.

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

(b) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to any use of a security technology or methodology after the date of enactment of this Act.

(2) ADVANCED IMAGING TECHNOLOGY AND PAT-DOWN SEARCHES.—The amendment made by subsection (a) shall apply with respect to any use of advanced imaging technology or pat-down search (as those terms are used in section 44901(l) of title 49, United States Code, as amended by this section) for the screening of passengers, beginning upon the end of the 12-month period beginning on the date of the enactment of this Act.
SEC. 5. 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.