

Calendar No. 484112TH CONGRESS
2^D SESSION**S. 1956****[Report No. 112-195]**

To prohibit operators of civil aircraft of the United States from participating in the European Union's emissions trading scheme, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 7, 2011

Mr. THUNE (for himself, Mr. WICKER, Mr. ISAKSON, Mr. ENZI, Mr. BOOZMAN, Mr. JOHANNES, Mrs. MCCASKILL, Mr. RUBIO, Mr. BLUNT, Mrs. HUTCHISON, Mr. ROBERTS, Mr. NELSON of Florida, and Mrs. HAGAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

AUGUST 2, 2012

Reported by Mr. ROCKEFELLER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To prohibit operators of civil aircraft of the United States from participating in the European Union's emissions trading scheme, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “European Union Emis-
3 sions Trading Scheme Prohibition Act of 2011”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The European Union has unilaterally im-
7 posed an emissions trading scheme (in this section
8 referred to as the “ETS”) on non-European Union
9 aircraft flying to and from, as well as within, Eu-
10 rope.

11 (2) United States airlines and other United
12 States aircraft operators will be required under the
13 ETS to pay for European Union emissions allow-
14 ances for aircraft operations within the United
15 States, over other non-European Union countries,
16 and in international airspace for flights serving the
17 European Union.

18 (3) The European Union’s extraterritorial ac-
19 tion is inconsistent with long-established inter-
20 national law and practice, including the Chicago
21 Convention of 1944 and the Air Transport Agree-
22 ment between the United States and the European
23 Union and its member states, and directly infringes
24 on the sovereignty of the United States.

25 (4) The European Union’s action undermines
26 ongoing efforts at the International Civil Aviation

1 Organization to develop a unified, worldwide ap-
2 proach to reducing aircraft greenhouse gas emissions
3 and has generated unnecessary friction within the
4 international civil aviation community as it endeav-
5 ors to reduce such emissions.

6 (5) The European Union and its member states
7 should instead work with other contracting states of
8 the International Civil Aviation Organization to de-
9 velop such an approach.

10 (6) There is no assurance that ETS revenues
11 will be used for aviation environmental purposes by
12 the European Union member states that will collect
13 them.

14 (7) The United States Government expressed
15 these and other serious objections relating to the
16 ETS to representatives of the European Union and
17 its member states during June 2011, but has not re-
18 ceived satisfactory answers to those objections.

19 **SEC. 3. PROHIBITION ON PARTICIPATION IN THE EURO-**
20 **PEAN UNION'S EMISSIONS TRADING SCHEME.**

21 The Secretary of Transportation shall prohibit an op-
22 erator of a civil aircraft of the United States from partici-
23 pating in any emissions trading scheme unilaterally estab-
24 lished by the European Union in any case in which the

1 Secretary determines the prohibition to be, and in a man-
2 ner that is, in the public interest.

3 **SEC. 4. NEGOTIATIONS.**

4 The Secretary of Transportation, the Administrator
5 of the Federal Aviation Administration, and other appro-
6 priate officials of the United States Government shall, as
7 appropriate, use their authority to conduct international
8 negotiations and take other actions in the public interest
9 to ensure that operators of civil aircraft of the United
10 States are held harmless from any emissions trading
11 scheme unilaterally established by the European Union.

12 **SEC. 5. CIVIL AIRCRAFT OF THE UNITED STATES DEFINED.**

13 In this Act, the term “civil aircraft of the United
14 States” has the meaning given that term under section
15 40102(a) of title 49, United States Code.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “European Union Emis-
18 sions Trading Scheme Prohibition Act of 2011”.*

19 **SEC. 2. PROHIBITION ON PARTICIPATION IN THE EURO-
20 PEAN UNION’S EMISSIONS TRADING SCHEME.**

21 *(a) IN GENERAL.—The Secretary of Transportation
22 shall prohibit an operator of a civil aircraft of the United
23 States from participating in the emissions trading scheme
24 unilaterally established by the European Union in EU Di-
25 rective 2003/87/EC of October 13, 2003, as amended, in any*

1 *case in which the Secretary determines the prohibition to*
2 *be, and in a manner that is, in the public interest, taking*
3 *into account—*

4 *(1) the impacts on U.S. consumers, U.S. car-*
5 *riers, and U.S. operators;*

6 *(2) the impacts on the economic, energy, and en-*
7 *vironmental security of the United States; and*

8 *(3) the impacts on U.S. foreign relations, includ-*
9 *ing existing international commitments.*

10 *(b) PUBLIC HEARING.—After determining that a pro-*
11 *hibition under this section may be in the public interest,*
12 *the Secretary must hold a public hearing at least 30 days*
13 *before imposing any prohibition.*

14 **SEC. 3. NEGOTIATIONS.**

15 *The Secretary of Transportation, the Administrator of*
16 *the Federal Aviation Administration, and other appro-*
17 *priate officials of the United States Government—*

18 *(1) should, as appropriate, use their authority to*
19 *conduct international negotiations, including using*
20 *their authority to conduct international negotiations*
21 *to pursue a worldwide approach to address aircraft*
22 *emissions; and*

23 *(2) shall, as appropriate, take other actions*
24 *under existing authorities that are in the public in-*
25 *terest necessary to hold operators of civil aircraft of*

1 *the United States harmless from the emissions trading*
2 *scheme referred to under section 2.*

3 **SEC. 4. DEFINITION OF CIVIL AIRCRAFT OF THE UNITED**
4 **STATES.**

5 *In this Act, the term “civil aircraft of the United*
6 *States” has the meaning given the term under section*
7 *40102(a) of title 49, United States Code.*

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