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Calendar No. 484

112TH CONGRESS
2D 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. JOHANNS, 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 italic]

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.

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 ''European Union Emissions Trading Scheme Prohibition Act of 2011''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The European Union has unilaterally imposed an emissions trading scheme (in this section referred to as the ''ETS'') on non-European Union aircraft flying to and from, as well as within, Europe.

(2) United States airlines and other United States aircraft operators will be required under the ETS to pay for European Union emissions allowances for aircraft operations within the United States, over other non-European Union countries, and in international airspace for flights serving the European Union.

(3) The European Union's extraterritorial action is inconsistent with long-established international law and practice, including the Chicago Convention of 1944 and the Air Transport Agreement between the United States and the European Union and its member states, and directly infringes on the sovereignty of the United States.

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

~~Organization to develop a unified, worldwide approach to reducing aircraft greenhouse gas emissions and has generated unnecessary friction within the international civil aviation community as it endeavors to reduce such emissions.~~

~~(5) The European Union and its member states should instead work with other contracting states of the International Civil Aviation Organization to develop such an approach.~~

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

~~(7) The United States Government expressed these and other serious objections relating to the ETS to representatives of the European Union and its member states during June 2011, but has not received satisfactory answers to those objections.~~

~~SEC. 3. PROHIBITION ON PARTICIPATION IN THE EUROPEAN UNION'S EMISSIONS TRADING SCHEME.~~

~~The Secretary of Transportation shall prohibit an operator of a civil aircraft of the United States from participating in any emissions trading scheme unilaterally established by the European Union in any case in which the~~

~~Secretary determines the prohibition to be, and in a manner that is, in the public interest.~~

~~SEC. 4. NEGOTIATIONS.~~

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

~~SEC. 5. CIVIL AIRCRAFT OF THE UNITED STATES DEFINED.~~

~~In this Act, the term "civil aircraft of the United States" has the meaning given that term under section 40102(a) of title 49, United States Code.~~

SECTION 1. SHORT TITLE.

This Act may be cited as the "European Union Emissions Trading Scheme Prohibition Act of 2011".

SEC. 2. PROHIBITION ON PARTICIPATION IN THE EUROPEAN UNION'S EMISSIONS TRADING SCHEME.

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

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

(1) the impacts on U.S. consumers, U.S. carriers, and U.S. operators;

(2) the impacts on the economic, energy, and environmental security of the United States; and

(3) the impacts on U.S. foreign relations, including existing international commitments.

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

SEC. 3. NEGOTIATIONS.

The Secretary of Transportation, the Administrator of the Federal Aviation Administration, and other appropriate officials of the United States Government—

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

(2) shall, as appropriate, take other actions under existing authorities that are in the public interest necessary to hold operators of civil aircraft of

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

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

In this Act, the term "civil aircraft of the United States" has the meaning given the term under section 40102(a) of title 49, United States Code.

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