

111TH CONGRESS
2D SESSION

H. R. 6326

To amend title 49, United States Code, to provide waivers and appeals
to certain individuals.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2010

Mr. DENT introduced the following bill; which was referred to the Committee
on Homeland Security

A BILL

To amend title 49, United States Code, to provide waivers
and appeals to certain individuals.

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 “Fair and Impartial
5 Recruitment Act of 2010”.

6 **SEC. 2. WAIVER AND APPEALS PROCESS FOR DISQUALI-**
7 **FIED INDIVIDUALS.**

8 Section 44936 of title 49, United States Code, is
9 amended—

1 (1) in subsection (a)(2) by striking “the Under
2 Secretary requires is conducted” and inserting the
3 following “the Assistant Secretary requires is con-
4 ducted and upon the Assistant Secretary’s request,
5 a copy of the investigation report is provided to the
6 Assistant Secretary.”;

7 (2) by redesignating subsections (d) and (e) as
8 subsection (e) and (f), respectively; and

9 (3) by inserting after subsection (c) the fol-
10 lowing:

11 “(d) WAIVER AND APPEALS PROCESS ESTAB-
12 LISHED.—

13 “(1) WAIVER PROCESS.—

14 “(A) IN GENERAL.—Not later than one
15 year after the date of enactment of the Fair
16 and Impartial Recruitment Act of 2010, the As-
17 sistant Secretary shall issue regulations to es-
18 tablish a waiver process to allow an employer to
19 hire an individual disqualified for employment
20 under subsection (b)(1)(B).

21 “(B) WAIVER APPLICATION.—To request
22 such a waiver an individual shall apply to the
23 Assistant Secretary who shall issue a waiver to
24 an individual—

1 “(i) after the Assistant Secretary con-
2 sider the circumstances of any disquali-
3 fying act or offense, any restitution made
4 by the individual, Federal and State miti-
5 gation remedies, and other factors that
6 lead the Assistant Secretary to conclude
7 that the individual does not pose a ter-
8 rorism risk warranting denial of employ-
9 ment; and

10 “(ii) without regard to whether that
11 individual would otherwise be disqualified
12 under subsection (b)(1)(B) if the individ-
13 ual’s employer establishes alternate secu-
14 rity arrangements acceptable to the Assist-
15 ant Secretary.

16 “(2) APPEALS PROCESS.—Not later than one
17 year after the date of enactment of the Fair and Im-
18 partial Recruitment Act of 2010, the Assistant Sec-
19 retary shall establish an appeals process for an indi-
20 vidual disqualified for employment under subsection
21 (b)(1)(B) that includes notice and an opportunity
22 for a hearing before an impartial third party.

23 “(3) SAVINGS CLAUSE.—An airport operator
24 shall not be required to issue an airport credential
25 providing unescorted access to a secured identifica-

tion display area to any individual based solely on the waiver or appeal process established pursuant to this subsection.

“(4) LIMITATION ON LIABILITY.—No cause of action, suit, action, or other proceeding may arise from any denial of a request of a waiver, or from a subsequent disqualification for employment pursuant to subsection (b)(1)(B) if the cause of action, suit, action or proceeding is based solely on the fact that the applicant was granted a waiver or appeal under this subsection.”.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

Section 44936 of title 49, United States Code, is amended—

(1) by striking “Under Secretary of Transportation for Security” the first place it appears and inserting “Assistant Secretary (Transportation Security Administration)”;

(2) except as provided in paragraph (1), by striking “Under Secretary of Transportation for Security” and “Under Secretary” each place they appear and inserting “Assistant Secretary”; and

1 (3) in subsection (c)(1) by striking “Under Sec-
2 retary’s designee” and inserting “Assistant Sec-
3 retary’s designee”.

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