

111TH CONGRESS
2D SESSION

S. 3536

To enhance aviation security and protect personal privacy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 24, 2010

Mr. BENNETT (for himself and Ms. KLOBUCHAR) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To enhance aviation security and protect personal privacy,
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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Securing Aircraft
5 From Explosives Responsibly: Advanced Imaging Recogni-
6 tion Act of 2010” or “SAFER AIR Act of 2010”.

7 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

8 (a) FINDINGS.—Congress makes the following find-
9 ings:

1 (1) On December 25, 2009, Umar Farouk
2 Abdulmutallab, a national of Nigeria, allegedly at-
3 tempted to detonate a concentration of pentaeryth-
4 ritol tetranitrate aboard Northwest Airlines Flight
5 253 as the aircraft prepared to land in Detroit,
6 Michigan.

7 (2) Pentaerythritol tetranitrate is an explosive
8 chemical compound that cannot be detected by con-
9 ventional metal detection devices like those that Mr.
10 Abdulmutallab allegedly passed through at airport
11 checkpoints in Nigeria and the Netherlands.

12 (3) However, detection devices employing ad-
13 vanced imaging technology (formerly known as
14 whole-body imaging), and other technologies cur-
15 rently available, such as trace detection equipment,
16 can be used to identify or detect on-body plastic ex-
17 plosives and other nonmetallic explosives, including
18 pentaerythritol tetranitrate, as well as other mate-
19 rials that can be used as weapons.

20 (4) Despite these capabilities, advanced imaging
21 technology has not been fully deployed in the United
22 States or abroad. Through 2009, the Department of
23 Homeland Security used 40 advanced imaging tech-
24 nology units in 19 airports in the United States.
25 Only 6 of those airports used advanced imaging for

1 primary screening, and only then in a limited role at
2 the airport.

3 (5) The Department of Homeland Security has
4 announced plans to deploy 950 additional advanced
5 imaging technology units through fiscal year 2011,
6 for use at approximately 2,200 checkpoints at com-
7 mercial airports.

8 (6) Other detection technologies complement,
9 and may be used in combination with, advanced im-
10 aging technology units as part of a multi-layered ap-
11 proach at the airport checkpoint, and need to be
12 tested and deployed more consistently. These tech-
13 nologies include devices that detect traces of explo-
14 sives from swabs of passengers or carry-on baggage
15 and advanced technology machines that conduct
16 multiple-view examinations of carry-on baggage.

17 (b) SENSE OF CONGRESS ON PRIVACY CONCERNS
18 RELATED TO THE USE OF ADVANCED IMAGING TECH-
19 NOLOGY.—It is the sense of Congress that the Depart-
20 ment of Homeland Security should—

21 (1) increase efforts to address privacy concerns
22 with respect to the screening of passengers at air-
23 ports using advanced imaging technology; and

1 (2) conduct additional lab and operational test-
2 ing of advanced imaging technology and deploy, in
3 a reasonable period of time, technology—

4 (A) to standardize images produced using
5 advanced imaging technology;

6 (B) to remove personally identifying char-
7 acteristics from the images viewed by transpor-
8 tation security officers, while providing such of-
9 ficers with the information necessary to make a
10 clear assessment of the threat posed by indi-
11 vidual passengers; and

12 (C) to upgrade equipment to be able to de-
13 tect new threats without major capital expendi-
14 tures.

15 **SEC. 3. POLICY OF THE UNITED STATES WITH RESPECT TO**
16 **PRIMARY SCREENING TECHNOLOGIES AT**
17 **AIRPORT CHECKPOINTS.**

18 It is the policy of the United States to aggressively
19 seek, develop, and deploy, in a timely fashion and in suffi-
20 cient numbers, primary screening technologies capable of
21 detecting and protecting against threats to domestic and
22 international aviation travel that cannot be effectively and
23 efficiently detected by other technologies currently more
24 commonly utilized in airports, such as metal detection.

1 **SEC. 4. USE OF ADVANCED TECHNOLOGY FOR SCREENING**
2 **AIRCRAFT PASSENGERS.**

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

5 “(1) USE OF ADVANCED TECHNOLOGY FOR SCREEN-
6 ING PASSENGERS.—

7 “(1) IN GENERAL.—The Secretary of Homeland
8 Security shall ensure that advanced imaging tech-
9 nology and other advanced technology with the capa-
10 bility to detect weapons, on-body plastic explosives,
11 and other nonmetallic explosives, are deployed, indi-
12 vidually or in combination with each other, in a
13 timely and effective manner for the primary screen-
14 ing of aircraft passengers in accordance with this
15 subsection.

16 “(2) TECHNOLOGICAL AND OPERATIONAL CER-
17 TIFICATION.—

18 “(A) IN GENERAL.—Not later than 30
19 days after the date of the enactment of the Se-
20 curing Aircraft From Explosives Responsibly:
21 Advanced Imaging Recognition Act of 2010, the
22 Secretary of Homeland Security shall certify to
23 Congress that—

24 “(i) the Department of Homeland Se-
25 curity has the capacity to deploy advanced
26 technology described in subparagraph (B)

1 at airport checkpoints to detect weapons,
2 on-body plastic explosives, and other non-
3 metallic explosives; and

4 “(ii) those technologies will be de-
5 ployed at each airport checkpoint in the
6 United States by 2013 in sufficient quan-
7 tities to detect and deter operational
8 threats from weapons, on-body plastic ex-
9 plosives, and other nonmetallic explosives.

10 “(B) ADVANCED TECHNOLOGY DE-
11 SCRIBED.—Advanced technology described in
12 this subparagraph is—

13 “(i) advanced imaging technology; or

14 “(ii) such other technology as the Sec-
15 retary of Homeland Security determines,
16 and certifies to Congress—

17 “(I) provides a capability to de-
18 tect weapons, on-body plastic explo-
19 sives, and other nonmetallic explosives
20 that is comparable to, or greater than,
21 the capability to detect such weapons
22 and explosives provided by advanced
23 imaging technology; and

1 “(II) will be used in a manner
2 suitable to detect such weapons and
3 explosives.

4 “(3) PRIMARY SCREENING OF PASSENGERS.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), all primary screening of pas-
7 sengers shall be conducted using advanced im-
8 aging technology or another advanced tech-
9 nology described in paragraph (2)(B)(ii).

10 “(B) ALTERNATIVE SCREENING METHOD
11 FOR PASSENGERS WITH PRIVACY CONCERNS.—

12 “(i) IN GENERAL.—The Secretary of
13 Homeland Security shall provide pas-
14 sengers with an option for primary screen-
15 ing other than the use of advanced imag-
16 ing technology or another advanced tech-
17 nology described in paragraph (2)(B)(ii).

18 “(ii) OPTIONS.—The alternative op-
19 tion for primary screening provided to pas-
20 sengers under clause (i) shall be either—

21 “(I) to both pass through a metal
22 detector and undergo a pat-down
23 search; or

24 “(II) screening using such other
25 method or combination of methods for

1 screening passengers as the Secretary
2 determines, and certifies to Congress,
3 is appropriate and effective.

4 “(C) PROVISION OF INFORMATION.—Pas-
5 sengers shall be provided with—

6 “(i) information regarding the images
7 produced by advanced imaging technology
8 to detect on-body plastic explosives and
9 other nonmetallic explosives;

10 “(ii) information regarding the pri-
11 vacy protections provided under paragraph
12 (4); and

13 “(iii) sufficiently detailed notice and
14 an explanation of the alternative option for
15 primary screening provided to passengers
16 under subparagraph (B).

17 “(4) PRIVACY PROTECTIONS FOR PAS-
18 SENGERS.—

19 “(A) NONRETENTION OF IMAGES.—Except
20 as provided in subparagraph (B)(ii), all ad-
21 vanced imaging technology equipment used by
22 the Department of Homeland Security at an
23 airport checkpoint shall be configured so that
24 images produced using the equipment—

1 “(i) cannot be stored, transferred,
2 copied, or printed; and

3 “(ii) are permanently removed from
4 the screen after the passenger is cleared to
5 pass through the airport checkpoint.

6 “(B) STANDARDIZATION AND BLURRING
7 OF IMAGES.—

8 “(i) IN GENERAL.—The Secretary of
9 Homeland Security shall ensure that any
10 advanced imaging technology equipment
11 used by the Department of Homeland Se-
12 curity to screen passengers be configured
13 so that—

14 “(I) all facial features on a pas-
15 senger’s image are blurred; and

16 “(II) passenger images are
17 standardized to the greatest extent
18 possible while allowing for detection of
19 individual on-body threats.

20 “(ii) TRANSFER OF NONSTANDARD-
21 IZED IMAGES.—An image produced using
22 advanced imaging technology that shows
23 personal or nonstandardized images shall
24 be transferred using a secure connection to
25 a location that enables an employee of the

1 Department of Homeland Security to view
2 the image without risking the exposure of
3 the image to the public.

4 “(C) PROHIBITION ON PRESENCE OF CAM-
5 ERAS WHILE VIEWING IMAGES.—An employee
6 of the Department of Homeland Security view-
7 ing an image of a passenger produced using ad-
8 vanced imaging technology—

9 “(i) may not have a camera or cell
10 phone present; and

11 “(ii) if viewing the image in a location
12 described in subparagraph (B)(ii), shall
13 communicate with other employees of the
14 Department of Homeland Security using a
15 wireless headset or another comparable
16 method of communication that does not
17 allow for the transmission of the image.

18 “(5) REPORTS.—

19 “(A) DEPARTMENT OF HOMELAND SECU-
20 RITY.—Not later than 1 year after the date of
21 the enactment of the Securing Aircraft From
22 Explosives Responsibly: Advanced Imaging Rec-
23 ognition Act of 2010, and every 2 years there-
24 after, the Secretary of Homeland Security shall

1 submit to Congress a report on the implementa-
2 tion of this subsection that includes—

3 “(i) an assessment of existing and
4 emerging threats presented by on-body
5 plastic explosives, other nonmetallic explo-
6 sives, and other items undetectable by con-
7 ventional metal detectors deployed at air-
8 port checkpoints;

9 “(ii) an assessment of the capabilities
10 and effectiveness of primary screening
11 using advanced imaging technology and
12 any other advanced technology described in
13 paragraph (2)(B)(ii) used by the Depart-
14 ment of Homeland Security in combating
15 any threat described in clause (i);

16 “(iii) an estimate of the percentage of
17 passengers who choose to be screened—

18 “(I) by advanced imaging tech-
19 nology or using another advanced
20 technology described in paragraph
21 (2)(B)(ii); and

22 “(II) using an alternative option
23 for primary screening provided to pas-
24 sengers under paragraph (3)(B); and

1 “(iv) a description of the measures
2 taken to protect the privacy of passengers
3 screened using advanced imaging tech-
4 nology and an assessment of compliance
5 with those measures.

6 “(B) GOVERNMENT ACCOUNTABILITY OF-
7 FICE.—Not later than 180 days after the date
8 of the enactment of the Securing Aircraft From
9 Explosives Responsibly: Advanced Imaging Rec-
10 ognition Act of 2010, and every 2 years there-
11 after, the Comptroller General of the United
12 States shall conduct a study and submit to
13 Congress a report on the costs of carrying out
14 this subsection, including the costs relating to
15 procuring the necessary technology, construc-
16 tion at airports, and training and deploying em-
17 ployees of the Department of Homeland Secu-
18 rity to use new technologies.

19 “(6) DEFINITIONS.—In this subsection:

20 “(A) ADVANCED IMAGING TECHNOLOGY.—
21 The term ‘advanced imaging technology’—

22 “(i) means a device that creates a vis-
23 ual image of an individual showing the sur-
24 face of the skin and revealing other objects
25 on the body as applicable, including nar-

1 cotics, explosives, and other weapons com-
2 ponents; and

3 “(ii) includes devices using
4 backscatter x-rays or millimeter waves and
5 devices referred to as ‘whole-body imaging
6 technology’ or ‘body scanning’.

7 “(B) AIRPORT CHECKPOINT.—The term
8 ‘airport checkpoint’ has the meaning given the
9 term ‘screening location’ in section 1540.5 of
10 title 49, Code of Federal Regulations (or any
11 corresponding similar rule or regulation).

12 “(C) PAT-DOWN SEARCH.—The term ‘pat-
13 down search’ means a physical inspection of the
14 body of an individual conducted in accordance
15 with the standard operating procedure de-
16 scribed in the official training manual of the
17 Transportation Security Administration of the
18 Department of Homeland Security.

19 “(D) PRIMARY SCREENING.—The term
20 ‘primary screening’ means the initial examina-
21 tion of any passenger at an airport checkpoint,
22 including using available screening technologies
23 to detect weapons, explosives, narcotics, or
24 other indications of unlawful action, in order to
25 determine whether to clear the passenger to

1 board an aircraft or to further examine the pas-
2 senger.”.

3 **SEC. 5. DEVELOPMENT OF NEW SCREENING TECH-**
4 **NOLOGIES.**

5 Nothing in this Act, or the amendments made by this
6 Act, shall be construed to discourage the Secretary of
7 Homeland Security from developing and deploying ad-
8 vanced technologies for aviation screening to protect the
9 traveling public from emerging threats. The Secretary
10 shall continue to develop and deploy such new advanced
11 technologies.

12 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

13 There are authorized to be appropriated such sums
14 as may be necessary to carry out this Act and the amend-
15 ments made by this Act.

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