

104TH CONGRESS
2^D SESSION

H.R. 3536

IN THE SENATE OF THE UNITED STATES

JULY 23, 1996

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To amend title 49, United States Code, to require an air carrier to request and receive certain records before allowing an individual to begin service as a pilot, 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 “Airline Pilot Hiring
3 and Safety Act of 1996”.

4 **SEC. 2. EMPLOYMENT INVESTIGATIONS OF PILOTS.**

5 (a) IN GENERAL.—Chapter 447 of title 49, United
6 States Code, is amended by redesignating section 44723
7 as section 44724 and by inserting after section 44722 the
8 following:

9 **“§ 44723. Preemployment review of prospective pilot
10 records**

11 “(a) PILOT RECORDS.—

12 “(1) IN GENERAL.—Before allowing an individ-
13 ual to begin service as a pilot, an air carrier shall
14 request and receive the following information:

15 “(A) FAA RECORDS.—From the Adminis-
16 trator of the Federal Aviation Administration,
17 information pertaining to the individual that is
18 maintained by the Administrator concerning—

19 “(i) current airman certificates (in-
20 cluding airman medical certificates) and
21 associated type ratings, including any limi-
22 tations thereon; and

23 “(ii) summaries of legal enforcement
24 actions which have resulted in a finding by
25 the Administrator of a violation of this
26 title or a regulation prescribed or order is-

1 sued under this title and which have not
2 been subsequently overturned.

3 “(B) AIR CARRIER RECORDS.—From any
4 air carrier (or the trustee in bankruptcy for the
5 air carrier) that has employed the individual at
6 any time during the 5-year period preceding the
7 date of the employment application of the indi-
8 vidual—

9 “(i) records pertaining to the individ-
10 ual that are maintained by an air carrier
11 (other than records relating to flight time,
12 duty time, or rest time) under regulations
13 set forth in—

14 “(I) section 121.683 of title 14,
15 Code of Federal Regulations;

16 “(II) paragraph (A) of section
17 VI, appendix I, part 121 of such title;

18 “(III) paragraph (A) of section
19 IV, appendix J, part 121 of such title;

20 “(IV) section 125.401 of such
21 title; and

22 “(V) section 135.63(a)(4) of such
23 title; and

1 “(ii) other records pertaining to the
2 individual that are maintained by the air
3 carrier concerning—

4 “(I) the training, qualifications,
5 proficiency, or professional com-
6 petence of the individual, including
7 comments and evaluations made by a
8 check airman designated in accord-
9 ance with section 121.411, 125.295,
10 or 135.337 of such title;

11 “(II) any disciplinary action re-
12 lating to the training, qualifications,
13 proficiency, or professional com-
14 petence of the individual which was
15 taken by the air carrier with respect
16 to the individual and which was not
17 subsequently overturned by the air
18 carrier; and

19 “(III) any release from employ-
20 ment or resignation, termination, or
21 disqualification with respect to em-
22 ployment.

23 “(C) NATIONAL DRIVER REGISTER
24 RECORDS.—From the chief driver licensing offi-
25 cial of a State, information concerning the

1 motor vehicle driving record of the individual in
2 accordance with section 30305(b)(7) of this
3 title.

4 “(2) 5-YEAR REPORTING PERIOD.—A person is
5 not required to furnish a record in response to a re-
6 quest made under paragraph (1) if the record was
7 entered more than 5 years before the date of the re-
8 quest, unless the information is about a revocation
9 or suspension of an airman certificate or motor vehi-
10 cle license that is still in effect on the date of the
11 request.

12 “(3) REQUIREMENT TO MAINTAIN RECORDS.—
13 The Administrator and each air carrier (or the
14 trustee in bankruptcy for the air carrier) shall main-
15 tain pilot records described in paragraph (1) for a
16 period of at least 5 years.

17 “(4) WRITTEN CONSENT FOR RELEASE.—Nei-
18 ther the Administrator nor any air carrier may fur-
19 nish a record in response to a request made under
20 paragraph (1) (A) or (B) without first obtaining the
21 written consent of the individual whose records are
22 being requested.

23 “(5) DEADLINE FOR PROVISION OF INFORMA-
24 TION.—A person who receives a request for records
25 under paragraph (1) shall furnish, on or before the

1 30th day following the date of receipt of the request
2 (or on or before the 30th day following the date of
3 obtaining the written consent of the individual in the
4 case of a request under paragraph (1) (A) or (B)),
5 all of the records maintained by the person that
6 have been requested.

7 “(6) RIGHT TO RECEIVE NOTICE AND COPY OF
8 ANY RECORD FURNISHED.—A person who receives a
9 request for records under paragraph (1) shall pro-
10 vide to the individual whose records have been re-
11 quested—

12 “(A) on or before the 20th day following
13 the date of receipt of the request, written notice
14 of the request and of the individual’s right to
15 receive a copy of such records; and

16 “(B) in accordance with paragraph (9), a
17 copy of such records, if requested by the indi-
18 vidual.

19 “(7) REASONABLE CHARGES FOR PROCESSING
20 REQUESTS AND FURNISHING COPIES.—A person who
21 receives a request for records under paragraph (1)
22 or (9) may establish a reasonable charge for the cost
23 of processing the request and furnishing copies of
24 the requested records.

1 “(8) RIGHT TO CORRECT INACCURACIES.—An
2 air carrier that receives the records of an individual
3 under paragraph (1)(B) shall provide the individual
4 with a reasonable opportunity to submit written
5 comments to correct any inaccuracies contained in
6 the records before making a final hiring decision
7 with respect to the individual.

8 “(9) RIGHT OF PILOT TO REVIEW CERTAIN
9 RECORDS.—Notwithstanding any other provision of
10 a law or agreement, an air carrier shall, upon writ-
11 ten request from a pilot employed by such carrier,
12 make available, within a reasonable time of the re-
13 quest, to the pilot for review any and all employment
14 records referred to in paragraph (1)(B) pertaining
15 to the pilot’s employment.

16 “(10) PRIVACY PROTECTIONS.—

17 “(A) USE OF RECORDS.—An air carrier or
18 employee of an air carrier that receives the
19 records of an individual under paragraph (1)
20 may use such records only to assess the quali-
21 fications of the individual in deciding whether
22 or not to hire the individual as a pilot.

23 “(B) REQUIRED ACTIONS.—Subject to
24 subsection (c), the air carrier or employee of an
25 air carrier shall take such actions as may be

1 necessary to protect the privacy of the pilot and
2 the confidentiality of the records, including en-
3 suring that the information contained in the
4 records is not divulged to any individual that is
5 not directly involved in the hiring decision.

6 “(C) INDIVIDUALS NOT HIRED.—If the in-
7 dividual is not hired, the air carrier shall de-
8 stroy or return the records of the individual re-
9 ceived under paragraph (1); except that the air
10 carrier may retain any records needed to defend
11 its decisions not to hire the individual.

12 “(11) STANDARD FORMS.—The Administrator
13 may promulgate—

14 “(A) standard forms which may be used by
15 an air carrier to request the records of an indi-
16 vidual under paragraph (1); and

17 “(B) standard forms which may be used by
18 a person who receives a request for records
19 under paragraph (1) to obtain the written con-
20 sent of the individual and to inform the individ-
21 ual of the request and of the individual’s right
22 to receive a copy of any records furnished in re-
23 sponse to the request.

24 “(12) REGULATIONS.—The Administrator may
25 prescribe such regulations as may be necessary—

1 “(A) to protect the personal privacy of any
2 individual whose records are requested under
3 paragraph (1) and to protect the confidentiality
4 of those records;

5 “(B) to preclude the further dissemination
6 of records received under paragraph (1) by the
7 air carrier who requested them; and

8 “(C) to ensure prompt compliance with
9 any request under paragraph (1).

10 “(b) LIMITATION ON LIABILITY; PREEMPTION OF
11 STATE AND LOCAL LAW.—

12 “(1) LIMITATION ON LIABILITY.—No action or
13 proceeding may be brought by or on behalf of an in-
14 dividual who is seeking a position with an air carrier
15 as a pilot against—

16 “(A) the air carrier for requesting the indi-
17 vidual’s records under subsection (a)(1);

18 “(B) a person who has complied with such
19 request and in the case of a request under sub-
20 section (a)(1) (A) or (B) has obtained the writ-
21 ten consent of the individual;

22 “(C) a person who has entered information
23 contained in the individual’s records; or

24 “(D) an agent or employee of a person de-
25 scribed in subparagraph (A) or (B);

1 in the nature of an action for defamation, invasion
2 of privacy, negligence, interference with contract, or
3 otherwise, or under any Federal, State, or local law
4 with respect to the furnishing or use of such records
5 in accordance with subsection (a).

6 “(2) PREEMPTION.—No State or political sub-
7 division thereof may enact, prescribe, issue, continue
8 in effect, or enforce any law, regulation, standard, or
9 other provision having the force and effect of law
10 that prohibits, penalizes, or imposes liability for fur-
11 nishing or using records in accordance with sub-
12 section (a).

13 “(3) PROVISION OF KNOWINGLY FALSE INFOR-
14 MATION.—Paragraphs (1) and (2) shall not apply
15 with respect to a person that furnishes in response
16 to a request made under subsection (a)(1) informa-
17 tion that the person knows is false.

18 “(c) LIMITATION ON STATUTORY CONSTRUCTION.—
19 Nothing in this section shall be construed as precluding
20 the availability of the records of a pilot in an investigation
21 or other proceeding concerning an accident or incident
22 conducted by the Secretary, the National Transportation
23 Safety Board, or a court.”.

24 (b) CHAPTER ANALYSIS AMENDMENT.—The analysis
25 for chapter 447 of such title is amended by striking

“44723. Annual report.”

1 and inserting

“44723. Preemployment review of prospective pilot records.
“44724. Annual report.”.

2 (c) CONFORMING AMENDMENT.—Section 30305(b)
3 of such title is amended by redesignating paragraph (7)
4 as paragraph (8) and by inserting after paragraph (6) the
5 following:

6 “(7) An individual who is employed or seeking em-
7 ployment by an air carrier as a pilot may request the chief
8 driver licensing official of a State to provide information
9 about the individual under subsection (a) of this section
10 to the individual’s prospective employer or to the Secretary
11 of Transportation. Information may not be obtained from
12 the Register under this paragraph if the information was
13 entered in the Register more than 5 years before the re-
14 quest, unless the information is about a revocation or sus-
15 pension still in effect on the date of the request.”.

16 (d) CIVIL PENALTIES.—Section 46301 of such title
17 is amended by inserting “44723,” after “44716,” in each
18 of subsections (a)(1)(A), (a)(2)(A), (d)(2), and
19 (f)(1)(A)(i).

20 (e) APPLICABILITY.—The amendments made by this
21 section shall apply to any air carrier hiring an individual
22 as a pilot on or after the 30th day after the date of the
23 enactment of this Act.

1 **SEC. 3. RULEMAKING TO ESTABLISH MINIMUM STANDARDS**
2 **FOR PILOT QUALIFICATIONS.**

3 Not later than 18 months after the date of the enact-
4 ment of this Act, the Administrator of the Federal Avia-
5 tion Administration shall issue a notice of a proposed rule-
6 making to establish—

7 (1) minimum standards and criteria for
8 preemployment screening tests measuring the bio-
9 graphical factors (psychomotor coordination), gen-
10 eral intellectual capacity, instrument and mechanical
11 comprehension, and physical fitness of an applicant
12 for employment as a pilot by an air carrier; and

13 (2) minimum standards and criteria for pilot
14 training facilities which will be licensed by the Ad-
15 ministrator and which will assure that pilots trained
16 at such facilities meet the preemployment screening
17 standards and criteria described in paragraph (1).

18 **SEC. 4. SHARING ARMED SERVICES RECORDS.**

19 (a) STUDY.—The Administrator of the Federal Avia-
20 tion Administration, in conjunction with the Secretary of
21 Defense, shall conduct a study to determine the relevance
22 and appropriateness of requiring the Secretary of Defense
23 to provide to an air carrier, upon request in connection
24 with the hiring of an individual as a pilot, records of the
25 individual concerning the individual's training, qualifica-

1 tions, proficiency, professional competence, or terms of
2 discharge from the Armed Forces.

3 (b) REPORT.—Not later than 1 year after the date
4 of the enactment of this Act, the Administrator shall
5 transmit to Congress a report on the results of the study.

6 **SEC. 5. MINIMUM FLIGHT TIME.**

7 (a) STUDY.—The Administrator of the Federal Avia-
8 tion Administration shall conduct a study to determine
9 whether current minimum flight time requirements appli-
10 cable to individuals seeking employment as a pilot with
11 an air carrier are sufficient to ensure public safety.

12 (b) REPORT.—Not later than 1 year after the date
13 of the enactment of this Act, the Administrator shall
14 transmit to Congress a report on the results of the study.

Passed the House of Representatives July 22, 1996.

Attest:

ROBIN H. CARLE,

Clerk.