

110TH CONGRESS
2D SESSION

H. R. 5909

To amend the Aviation and Transportation Security Act to prohibit advance notice to certain individuals, including security screeners, of covert testing of security screening procedures for the purpose of enhancing transportation security at airports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2008

Mrs. LOWEY introduced the following bill; which was referred to the
Committee on Homeland Security

A BILL

To amend the Aviation and Transportation Security Act to prohibit advance notice to certain individuals, including security screeners, of covert testing of security screening procedures for the purpose of enhancing transportation security at airports, 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. PROHIBITION OF ADVANCE NOTICE OF COVERT**

4 **TESTING TO SECURITY SCREENERS.**

5 Section 111 of the Aviation and Transportation Secu-
6 rity Act (Public Law 107–71) is amended—

1 (1) by striking the section enumerator and
2 heading and inserting the following:

3 **“SEC. 111. TRAINING, EMPLOYMENT, AND TESTING OF SE-**
4 **CURITY SCREENING PERSONNEL.”;**

5 and

6 (2) by adding at the end the following:

7 “(e) PROHIBITION OF ADVANCE NOTICE OF COVERT
8 TESTING TO SECURITY SCREENERS.—

9 “(1) IN GENERAL.—Before a covert test relat-
10 ing to transportation security occurs, any covered
11 employee shall not provide any information con-
12 cerning the covert test to any individual.

13 “(2) EXCEPTION FOR SELECT STAFF.—Not-
14 withstanding paragraph (1), a covered employee may
15 provide information concerning a covert test to em-
16 ployees or officers of the Federal Government se-
17 lected by one or more of the following:

18 “(A) The Assistant Secretary of Homeland
19 Security (Transportation Security Administra-
20 tion).

21 “(B) The Inspector General of the Depart-
22 ment of Homeland Security.

23 “(C) The Comptroller General of the
24 United States.

1 “(3) MONITORING AND SECURITY OF TESTING
2 PERSONNEL.—Each head of a covert testing office
3 shall ensure that a person or group of persons con-
4 ducting a covert test for a covert testing office is ac-
5 companied at the site of the test by a secondary
6 team of employees of the covert testing office for the
7 purpose of monitoring the covert test and confirming
8 the identity of personnel involved in the covert test
9 under paragraph (4).

10 “(4) RESPONSIBILITY OF THE SECONDARY
11 TEAM.—The secondary team shall—

12 “(A) monitor the covert test; and

13 “(B) confirm, notwithstanding paragraph
14 (1), the identity of any authorized personnel
15 conducting the covert test to any appropriate
16 individual if a security screener or other indi-
17 vidual who is not a covered employee identifies
18 the personnel conducting the test as a potential
19 threat.

20 “(5) DEFINITIONS.—For purposes of this sub-
21 section the following definitions apply:

22 “(A) APPROPRIATE INDIVIDUAL.—The
23 term ‘appropriate individual’, as used with re-
24 spect to a covert test, means any individual that
25 the secondary team monitoring the test under

1 paragraph (3) determines needs to know the
2 identity of the individual conducting the test
3 after the individual conducting the test has
4 been identified as attempting to inappropriately
5 gain access to a secure or sterile area of an air-
6 port.

7 “(B) COVERED EMPLOYEE.—The term
8 ‘covered employee’ means an employee or con-
9 tractor of the Transportation Security Adminis-
10 tration who has access to information con-
11 cerning the timing or location of the covert test
12 before such test occurs.

13 “(C) COVERT TEST.—The term ‘covert
14 test’ means an exercise conducted by a covert
15 testing office during which security screening
16 procedures related to transportation security
17 are intentionally tested or transportation secu-
18 rity systems are intentionally compromised or
19 circumvented to identify vulnerabilities in trans-
20 portation security systems if, before such exer-
21 cise begins, information about such test is pro-
22 vided only to covered employees and employees
23 or officers selected under paragraph (2).

1 “(D) COVERT TESTING OFFICE.—The term
2 ‘covert testing office’ means any of the fol-
3 lowing offices:

4 “(i) The Office of the Inspector Gen-
5 eral of the Department of Homeland Secu-
6 rity.

7 “(ii) The Office of Inspection of the
8 Transportation Security Administration.

9 “(iii) The Office of Security Oper-
10 ations of the Transportation Security Ad-
11 ministration.

12 “(iv) The United States Government
13 Accountability Office.

14 “(E) EMPLOYEE OF A COVERT TESTING
15 OFFICE.—The term ‘employee of a covert test-
16 ing office’ includes an individual who is an em-
17 ployee of a covert testing office or a contractor
18 or an employee of a contractor of a covert test-
19 ing office.”.

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