

104TH CONGRESS  
2D SESSION

# H. R. 3536

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.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 29, 1996

Mr. DUNCAN (for himself, Mr. SHUSTER, Mr. OBERSTAR, Mr. LIPINSKI, and Mr. HEINEMAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Airline Pilot Hiring  
5 and Safety Act of 1996”.

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

7 (a) IN GENERAL.—Chapter 447 of title 49, United  
8 States Code, is amended by redesignating section 44723

1 as section 44724 and by inserting after section 44722 the  
2 following:

3 **“§ 44723. Preemployment review of prospective pilot**  
4 **records**

5 “(a) PILOT RECORDS.—

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

9 “(A) FAA RECORDS.—From the Adminis-  
10 trator of the Federal Aviation Administration,  
11 information pertaining to the individual that is  
12 maintained by the Administrator concerning—

13 “(i) current airman certificates (in-  
14 cluding airman medical certificates) and  
15 associated type ratings, including any limi-  
16 tations thereon; and

17 “(ii) summaries of legal enforcement  
18 actions which have resulted in a finding by  
19 the Administrator of a violation of this  
20 title or a regulation prescribed or order is-  
21 sued under this title and which have not  
22 been subsequently overturned.

23 “(B) AIR CARRIER RECORDS.—From any  
24 air carrier (or the trustee in bankruptcy for the  
25 air carrier) that has employed the individual at

1 any time during the 5-year period preceding the  
2 date of the employment application of the indi-  
3 vidual—

4 “(i) records pertaining to the individ-  
5 ual that are maintained by an air carrier  
6 (other than records relating to flight time,  
7 duty time, or rest time) under regulations  
8 set forth in—

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

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

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

15 “(IV) section 125.401 of such  
16 title; and

17 “(V) section 135.63(a)(4) of such  
18 title; and

19 “(ii) other records pertaining to the  
20 individual that are maintained by the air  
21 carrier concerning—

22 “(I) the training, qualifications,  
23 proficiency, or professional com-  
24 petence of the individual, including  
25 comments and evaluations made by a

1 check airman designated in accord-  
2 ance with section 121.411, 125.295,  
3 or 135.337 of such title;

4 “(II) any disciplinary action  
5 which was taken by the air carrier  
6 with respect to the individual and  
7 which was not subsequently over-  
8 turned by the air carrier; and

9 “(III) any release from employ-  
10 ment or resignation, termination, or  
11 disqualification with respect to em-  
12 ployment.

13 “(C) NATIONAL DRIVER REGISTER  
14 RECORDS.—From the chief driver licensing offi-  
15 cial of a State, information concerning the  
16 motor vehicle driving record of the individual in  
17 accordance with section 30305(b)(7) of this  
18 title.

19 “(2) 5-YEAR REPORTING PERIOD.—A person is  
20 not required to furnish a record in response to a re-  
21 quest made under paragraph (1) if the record was  
22 entered more than 5 years before the date of the re-  
23 quest, unless the information is about a revocation  
24 or suspension of an airman certificate or motor vehi-

1       cle license that is still in effect on the date of the  
2       request.

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

8               “(4) WRITTEN CONSENT FOR RELEASE.—Nei-  
9       ther the Administrator nor any air carrier may fur-  
10      nish a record in response to a request made under  
11      paragraph (1) (A) or (B) without first obtaining the  
12      written consent of the individual whose records are  
13      being requested.

14              “(5) DEADLINE FOR PROVISION OF INFORMA-  
15      TION.—A person who receives a request for records  
16      under paragraph (1) shall furnish, on or before the  
17      30th day following the date of receipt of the request  
18      (or on or before the 30th day following the date of  
19      obtaining the written consent of the individual in the  
20      case of a request under paragraph (1) (A) or (B)),  
21      all of the records maintained by the person that  
22      have been requested.

23              “(6) RIGHT TO RECEIVE NOTICE AND COPY OF  
24      ANY RECORD FURNISHED.—A person who receives a  
25      request for records under paragraph (1) shall pro-

1       vide to the individual whose records have been re-  
2       quested—

3               “(A) on or before the 20th day following  
4               the date of receipt of the request, written notice  
5               of the request and of the individual’s right to  
6               receive a copy of such records; and

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

10              “(7) REASONABLE CHARGES FOR PROCESSING  
11              REQUESTS AND FURNISHING COPIES.—A person who  
12              receives a request for records under paragraph (1)  
13              or (9) may establish a reasonable charge for the cost  
14              of processing the request and furnishing copies of  
15              the requested records.

16              “(8) RIGHT TO CORRECT INACCURACIES.—An  
17              air carrier that receives the records of an individual  
18              under paragraph (1)(B) shall provide the individual  
19              with a reasonable opportunity to submit written  
20              comments to correct any inaccuracies contained in  
21              the records before making a final hiring decision  
22              with respect to the individual.

23              “(9) RIGHT OF PILOT TO REVIEW CERTAIN  
24              RECORDS.—Notwithstanding any other provision of  
25              a law or agreement, an air carrier shall, upon writ-

1       ten request from a pilot employed by such carrier,  
2       make available, within a reasonable time of the re-  
3       quest, to the pilot for review any and all employment  
4       records referred to in paragraph (1)(B) pertaining  
5       to the pilot's employment.

6               “(10) PRIVACY PROTECTIONS.—An air carrier  
7       or employee of an air carrier that receives the  
8       records of an individual under paragraph (1) may  
9       use such records only to assess the qualifications of  
10      the individual in deciding whether or not to hire the  
11      individual as a pilot. Subject to subsection (c), the  
12      air carrier or employee of an air carrier shall take  
13      such actions as may be necessary to protect the pri-  
14      vacy of the pilot and the confidentiality of the  
15      records, including ensuring that the information con-  
16      tained in the records is not divulged to any individ-  
17      ual that is not directly involved in the hiring deci-  
18      sion.

19              “(11) STANDARD FORMS.—The Administrator  
20      may promulgate—

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

24                      “(B) standard forms which may be used by  
25                      a person who receives a request for records

1 under paragraph (1) to obtain the written con-  
2 sent of the individual and to inform the individ-  
3 ual of the request and of the individual's right  
4 to receive a copy of any records furnished in re-  
5 sponse to the request.

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

8 “(A) to protect the personal privacy of any  
9 individual whose records are requested under  
10 paragraph (1) and to protect the confidentiality  
11 of those records;

12 “(B) to limit the further dissemination of  
13 records received under paragraph (1) by the air  
14 carrier who requested them; and

15 “(C) to ensure prompt compliance with  
16 any request under paragraph (1).

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

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

23 “(A) the air carrier for requesting the indi-  
24 vidual's records under subsection (a)(1);

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

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

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

9           in the nature of an action for defamation, invasion  
10          of privacy, negligence, interference with contract, or  
11          otherwise, or under any Federal, State, or local law  
12          with respect to the furnishing or use of such records  
13          in accordance with subsection (a).

14          “(2) PREEMPTION.—No State or political sub-  
15          division thereof may enact, prescribe, issue, continue  
16          in effect, or enforce any law, regulation, standard, or  
17          other provision having the force and effect of law  
18          that prohibits, penalizes, or imposes liability for fur-  
19          nishing or using records in accordance with sub-  
20          section (a).

21          “(3) PROVISION OF KNOWINGLY FALSE INFOR-  
22          MATION.—Paragraphs (1) and (2) shall not apply  
23          with respect to a person that furnishes in response  
24          to a request made under subsection (a)(1) informa-  
25          tion that the person knows is false.

1       “(c) LIMITATION ON STATUTORY CONSTRUCTION.—  
2 Nothing in this section shall be construed as precluding  
3 the availability of the records of a pilot in an investigation  
4 or other proceeding concerning an accident or incident  
5 conducted by the Secretary, the National Transportation  
6 Safety Board, or a court.”.

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

“44723. Annual report.”

9 and inserting

“44723. Preemployment review of prospective pilot records.

“44724. Annual report.”.

10       (c) CONFORMING AMENDMENT.—Section 30305(b)  
11 of such title is amended by redesignating paragraph (7)  
12 as paragraph (8) and by inserting after paragraph (6) the  
13 following:

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

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

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

9 **SEC. 3. RULEMAKING TO ESTABLISH MINIMUM STANDARDS**  
10 **FOR PILOT QUALIFICATIONS.**

11 Not later than 18 months after the date of the enact-  
12 ment of this Act, the Administrator of the Federal Avia-  
13 tion Administration shall issue a notice of a proposed rule-  
14 making to establish—

15 (1) minimum standards and criteria for  
16 preemployment screening tests measuring the bio-  
17 graphical factors (psychomotor coordination), gen-  
18 eral intellectual capacity, instrument and mechanical  
19 comprehension, and physical fitness of an applicant  
20 for employment as a pilot by an air carrier; and

21 (2) minimum standards and criteria for pilot  
22 training facilities which will be licensed by the Ad-  
23 ministrator and which will assure that pilots trained  
24 at such facilities meet the preemployment screening  
25 standards and criteria described in paragraph (1).

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

2 (a) STUDY.—The Administrator of the Federal Avia-  
3 tion Administration, in conjunction with the Secretary of  
4 Defense, shall conduct a study to determine the relevance  
5 and appropriateness of requiring the Secretary of Defense  
6 to provide to an air carrier, upon request in connection  
7 with the hiring of an individual as a pilot, records of the  
8 individual concerning the individual's training, qualifica-  
9 tions, proficiency, professional competence, or terms of  
10 discharge from the Armed Forces.

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

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