

104TH CONGRESS
1ST SESSION

S. 1461

To amend title 49, United States Code, relating to required employment investigations of pilots.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 1995

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend title 49, United States Code, relating to required employment investigations of pilots.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That section 44936 of title 49, United States Code,
4 is amended by adding at the end thereof the following:

5 “(f) RECORDS OF EMPLOYMENT.—

6 “(1) IN GENERAL.—An air carrier or foreign
7 air carrier receiving an application for employment
8 from an individual seeking a position as a pilot may
9 request and receive records described in paragraph

10 (2) relating to that individual’s employment from

1 any person who has employed that individual at any
2 time during the 5 years preceding the application.

3 “(2) RECORDS TO WHICH SUBSECTION AP-
4 PLIES.—The records referred to in paragraph (1)
5 are—

6 “(A) the personnel file of the individual;

7 “(B) any records maintained under the
8 regulations set forth in—

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

11 “(ii) paragraph (A) of section VI, ap-
12 pendix I, part 121 of title 14, Code of Fed-
13 eral Regulations;

14 “(iii) section 125.401 of title 14, Code
15 of Federal Regulations;

16 “(iv) section 127.301 of title 14, Code
17 of Federal Regulations; and

18 “(v) section 135.63(a)(4) of title 14,
19 Code of Federal Regulations; and

20 “(C) any other records concerning—

21 “(i) the training, qualifications, pro-
22 ficiency, or professional competence of the
23 individual;

1 “(ii) any disciplinary action taken by
2 the employer with respect to the individual;
3 and

4 “(iii) the release from employment,
5 resignation, termination, or disqualification
6 of the individual.

7 “(3) RIGHT TO RECEIVE NOTICE AND COPY OF
8 ANY RECORD FURNISHED.—An individual whose em-
9 ployment records have been requested under para-
10 graph (1) of this subsection—

11 “(A) shall receive written notice from each
12 person providing a record in response to a re-
13 quest under paragraph (1) of the individual’s
14 right to receive such copies; and

15 “(B) is entitled to receive copies of any
16 records provided by the individual’s employer or
17 a former employer to any air carrier or foreign
18 air carrier.

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

1 “(5) STANDARD FORMS.—The Administrator
2 shall promulgate—

3 “(A) standard forms which may be used by
4 an air carrier or foreign air carrier to request
5 records under paragraph (1) of this subsection;
6 and

7 “(B) standard forms which may be used by
8 any employer receiving a request under para-
9 graph (1) for records to inform the individual
10 to whom the records relate of the request and
11 of the individual’s right to receive copies of any
12 records provided in response to the request.

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

15 “(A) to protect the personal privacy of any
16 individual whose records are requested under
17 paragraph (1) of this subsection and to protect
18 the confidentiality of those records;

19 “(B) to limit the further dissemination of
20 records received under paragraph (1) of this
21 subsection by the person who requested them;
22 and

23 “(C) to ensure prompt compliance with
24 any request under paragraph (1) of this sub-
25 section.

1 “(g) LIMITATION ON LIABILITY; PREEMPTION OF
2 STATE LAW.—

3 “(1) LIMITATION ON LIABILITY.—No action or
4 proceeding may be brought by or on behalf of an in-
5 dividual who has applied for a position described in
6 subsection (a)(1) of this section against—

7 “(A) an air carrier or foreign air carrier
8 with which the individual has filed such an ap-
9 plication for requesting the individual’s records
10 under subsection (f)(1);

11 “(B) a person who has complied with such
12 a request; or

13 “(C) an agent or employee of a person de-
14 scribed in subparagraph (A) or (B) of this
15 paragraph

16 in the nature of an action for defamation, invasion
17 of privacy, negligence, interference with contract, or
18 otherwise, or under any State or Federal law with
19 respect to the furnishing or use of such records in
20 accordance with subsection (f) of this section.

21 “(2) PREEMPTION.—No State or political sub-
22 division thereof may enact, prescribe, issue, continue
23 in effect, or enforce any law, regulation, standard, or
24 other provision having the force and effect of law
25 that prohibits, penalizes, or imposes liability for fur-

- 1 nishing or using records in accordance with sub-
- 2 section (f) of this section.”.

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