

Calendar No. 319

114TH CONGRESS
1ST SESSION

S. 571

To amend the Pilot's Bill of Rights to facilitate appeals and to apply to other certificates issued by the Federal Aviation Administration, to require the revision of the third class medical certification regulations issued by the Federal Aviation Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2015

Mr. INHOFE (for himself, Mr. MANCHIN, Mr. BOOZMAN, Mrs. SHAHEEN, Mr. DAINES, Mr. CASEY, Mr. WICKER, Ms. HEITKAMP, Mr. MORAN, Mr. TESTER, Mr. ROBERTS, Mr. BARRASSO, Mr. KING, Ms. MURKOWSKI, Mrs. FISCHER, Mr. HATCH, Mr. ROUNDS, Mr. HELLER, Mr. SULLIVAN, Mr. WYDEN, Mr. KIRK, Mr. PAUL, Ms. WARREN, Mr. JOHNSON, Mr. RUBIO, Mr. LANKFORD, Mr. CRAPO, Mr. BROWN, Mr. COONS, Mrs. CAPITO, Mr. TILLIS, Mr. RISCH, Mr. CASSIDY, Mr. SHELBY, Mr. ENZI, Mr. BLUNT, Mr. ISAKSON, Mr. COTTON, Mr. TOOMEY, Mr. GARDNER, Mr. HOEVEN, Mr. SCOTT, Mr. CORNYN, Mr. LEE, Mr. PERDUE, Mr. FLAKE, Mr. VITTER, Ms. BALDWIN, Mr. BURR, Mr. SESSIONS, Mr. COCHRAN, Mrs. ERNST, Mr. GRASSLEY, Mr. COATS, Mr. WARNER, Mr. ALEXANDER, Mr. PORTMAN, Mr. CRUZ, Mr. GRAHAM, Mr. MCCAIN, Mr. DONNELLY, Mr. BENNET, Mr. WHITEHOUSE, Mr. KAINE, Mr. MURPHY, Mr. CARDIN, Ms. MIKULSKI, Ms. AYOTTE, Ms. COLLINS, and Mr. SASSE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 9, 2015

Reported by Mr. THUNE, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Pilot's Bill of Rights to facilitate appeals

3 ~~SECTION 1. SHORT TITLE.~~

6 SEC. 2. MEDICAL CERTIFICATION OF CERTAIN SMALL AIR-
7 CRAFT PILOTS.

(1) the individual possesses a valid State driver's license and complies with any medical requirement associated with that license;

(3) the individual is operating under visual flight rules or instrument flight rules; and

1 (4) the relevant flight, including each portion
2 thereof, is not carried out—

3 (A) for compensation, including that no
4 passenger or property on the flight is being car-
5 ried for compensation;

6 (B) at an altitude that is more than
7 14,000 feet above mean sea level;

8 (C) outside the United States, unless au-
9 thorized by the country in which the flight is
10 conducted; or

11 (D) at an indicated air speed exceeding
12 250 knots.

13 (b) COVERED AIRCRAFT DEFINED.—In this section,
14 the term “covered aircraft” means an aircraft that—

15 (1) is not authorized under Federal law to carry
16 more than 6 occupants; and

17 (2) has a maximum certificated takeoff weight
18 of not more than 6,000 pounds.

19 (c) REPORT REQUIRED.—Not later than 5 years
20 after the date of the enactment of this Act, the Adminis-
21 trator shall submit to Congress a report that describes the
22 effect of the regulations issued or revised under subsection
23 (a) and includes statistics with respect to changes in small
24 aircraft activity and safety incidents.

1 (d) PROHIBITION ON ENFORCEMENT ACTIONS.—On
 2 and after the date that is 180 days after the date of the
 3 enactment of this Act, the Administrator may not take
 4 an enforcement action for not holding a valid third-class
 5 medical certificate against a pilot of a covered aircraft for
 6 a flight if the pilot and the flight meet the applicable re-
 7 quirements under paragraphs (1) through (4) of sub-
 8 section (a) unless the Administrator has published final
 9 regulations in the Federal Register under subsection (a).

10 **SEC. 3. EXPANSION OF PILOTS BILL OF RIGHTS.**

11 (a) APPEALS NOT SUBJECT TO EXHAUSTION OF AD-
 12 MINISTRATIVE REMEDIES.—

13 (1) IN GENERAL.—Section 2(d)(1) of the Pilot’s
 14 Bill of Rights (Public Law 112–153; 126 Stat.
 15 1159; 49 U.S.C. 44703 note) is amended to read as
 16 follows:

17 “(1) IN GENERAL.—Upon a decision by the Ad-
 18 ministrator denying a covered certificate, or impos-
 19 ing a punitive civil action or an order of revocation
 20 under section 44709 of title 49, United States Code,
 21 a person substantially affected by the decision may,
 22 at the person’s election, file an appeal with the Na-
 23 tional Transportation Safety Board or, without fur-
 24 ther administrative review, in the United States dis-
 25 trict court in which the person resides or in which

1 the action in question occurred, or in the United
 2 States District Court for the District of Columbia.”.

3 ~~(2)~~ CONFORMING AMENDMENT.—Section
 4 2(d)(2) of such Act is amended by striking “Federal
 5 district court” and inserting “United States district
 6 court”.

7 (b) DE NOVO REVIEW BY DISTRICT COURT; BURDEN
 8 OF PROOF.—Section 2(e) of such Act is amended—

9 (1) by amending paragraph (1) to read as fol-
 10 lows:

11 “(1) IN GENERAL.—In an appeal filed under
 12 subsection (d) in a United States district court with
 13 respect to a denial, suspension, or revocation of a
 14 covered certificate by the Administrator—

15 “(A) the district court shall review the de-
 16 nial, suspension, or revocation de novo, includ-
 17 ing by—

18 “(i) conducting a full independent re-
 19 view of the complete administrative record
 20 of the denial, suspension, or revocation;

21 “(ii) permitting additional discovery
 22 and the taking of additional evidence; and

23 “(iii) making the findings of fact and
 24 conclusions of law required by Rule 52 of
 25 the Federal Rules of Civil Procedure with-

out being bound to any facts found by the
Administrator or the National Transportation Safety Board; and

“(B) the Administrator shall bear the burden of proof.”; and

(2) by adding at the end the following:

“(3) **APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.**—Notwithstanding paragraph (1)(A) or subsection (a)(1) of section 554 of title 5, United States Code, that section applies to adjudications of the Administrator and the National Transportation Safety Board to the same extent as that section applied to such adjudications before the date of the enactment of the Pilot’s Bill of Rights 2.”.

(c) **EXPANSION TO ALL CERTIFICATES ISSUED BY FEDERAL AVIATION ADMINISTRATION.**—

(1) **IN GENERAL.**—Section 2 of such Act is amended—

(A) in subsection (a)—

(i) by striking “subpart C, D, or F of”; and

(ii) by striking “an airman certificate” and inserting “a covered certificate”; and

1 (B) in subsection (b)(1), by striking “an
 2 airman certificate under chapter 447 of title 49,
 3 United States Code” and inserting “a covered
 4 certificate”.

5 (2) COVERED CERTIFICATE DEFINED.—Section
 6 2 of such Act is amended by adding at the end the
 7 following:

8 “(k) COVERED CERTIFICATE DEFINED.—In this sec-
 9 tion, the term ‘covered certificate’ means an airman cer-
 10 tificate, design organization certificate, holder of type cer-
 11 tificate, production certificate, airworthiness certificate,
 12 air carrier operating certificate, airport operating certifi-
 13 cate, air agency certificate, air navigation facility certifi-
 14 cate, medical certificate, or any other authorization issued
 15 by the Administrator under chapter 447 of title 49, United
 16 States Code.”.

17 (3) CONFORMING AMENDMENTS.—Section 2 of
 18 such Act, as amended by this subsection, is further
 19 amended—

20 (A) in subsection (b)(4)(C)—

21 (i) in clause (i), by striking “Any indi-
 22 vidual” and inserting “Any person”;

23 (ii) in clauses (ii) and (iii), in the
 24 clause headings, by striking “INDIVIDUAL”
 25 and inserting “PERSON”; and

1 (iii) in clause (iii)(II), by striking “the
2 requesting individual” and inserting “the
3 requesting person”;

4 (B) by striking “the individual’s” each
5 place it appears and inserting “the person’s”;

6 (C) by striking “the individual” each place
7 it appears and inserting “the person”; and

8 (D) by striking “an individual” each place
9 it appears and inserting “a person”.

10 (d) NOTIFICATION OF INVESTIGATION.—Section 2 of
11 such Act is further amended—

12 (1) by striking subsection (e);

13 (2) by redesignating paragraph (5) of sub-
14 section (b) as subsection (e), and by moving such
15 subsection, as so redesignated, two ems to the left;

16 (3) in subsection (b)—

17 (A) in paragraph (2)(A), by inserting “and
18 the specific incident or incidents on which the
19 investigation is based” after “nature of the in-
20 vestigation”;

21 (B) in paragraph (3), by striking “timely”;

22 (C) by redesignating paragraph (4) as
23 paragraph (5); and

24 (D) by inserting after paragraph (3) the
25 following:

1 ~~“(4) FAILURE TO PROVIDE INFORMATION.—If~~
 2 the Administrator does not provide a person with
 3 the notification required by paragraph ~~(1)~~ with re-
 4 spect to an investigation relating to the approval, de-
 5 nial, suspension, modification, or revocation of a cov-
 6 ered certificate, including all of the information re-
 7 quired under paragraph ~~(2)~~, the Administrator may
 8 not—

9 ~~“(A) retain records of the investigation;~~

10 ~~“(B) deny, suspend, or revoke the covered~~
 11 certificate;

12 ~~“(C) seek a civil penalty or other punitive~~
 13 action against the person; or

14 ~~“(D) in any way take action, including~~
 15 issuance of a warning letter or letter of correc-
 16 tion or any other administrative action, with re-
 17 gard to the matter that was the subject of the
 18 investigation.”; and

19 ~~(4) in subsection (c), as redesignated by para-~~
 20 graph ~~(2)~~, by striking “section 44709(c)(2)” and in-
 21 serting “section 44709(c)(2)”.

22 ~~(e) RELEASE OF INVESTIGATIVE REPORTS.—Section~~
 23 2 of such Act is amended by inserting after subsection
 24 (e) the following:

25 ~~“(f) RELEASE OF INVESTIGATIVE REPORTS.—~~

1 “(1) IN GENERAL.—

2 “(A) EMERGENCY ORDERS.—In any pro-
3 ceeding conducted under part 821 of title 49,
4 Code of Federal Regulations, relating to denial,
5 amendment, modification, suspension, or rev-
6 ocation of a covered certificate, in which the
7 Administrator issues an emergency order of rev-
8 ocation under subsections (d) and (e) of section
9 44709 of title 49, United States Code, an emer-
10 gency order under section 46105(c) of such
11 title, or another order that takes effect imme-
12 diately, the Administrator shall provide to the
13 person holding the covered certificate the re-
14 leasable portion of the investigative report be-
15 fore issuing the order.

16 “(B) OTHER ORDERS.—In any proceeding
17 conducted under part 821 of title 49, Code of
18 Federal Regulations, relating to denial, amend-
19 ment, modification, suspension, or revocation of
20 a covered certificate, in which the Adminis-
21 trator notifies the holder of the covered certifi-
22 cate of a proposed action under subsections (b)
23 and (e) of section 44709 of title 49, United
24 States Code, the Administrator shall, upon re-
25 quest of the holder of the covered certificate

1 and at any time after that notification, provide
2 to the holder of the covered certificate the re-
3 leasable portion of the investigative report.

4 “(2) MOTION FOR DISMISSAL.—If the Adminis-
5 trator does not provide the investigative report to
6 the person holding the covered certificate subject to
7 the proceeding referred to in paragraph (1) by the
8 time required by that paragraph, the person may
9 move to dismiss the complaint of the Administrator
10 or for other relief and, unless the Administrator es-
11 tablishes good cause for the failure to provide the in-
12 vestigative report, the administrative law judge shall
13 order such relief as the judge considers appropriate.

14 “(3) RELEASABLE PORTION OF REPORT.—For
15 purposes of paragraph (1), the releasable portion of
16 an investigative report is all information in the re-
17 port, except for the following:

18 “(A) Information that is privileged.

19 “(B) Information that constitutes work
20 product or reflects internal deliberative process.

21 “(C) Information that would disclose the
22 identity of a confidential source.

23 “(D) Information the disclosure of which is
24 prohibited by any other provision of law.

1 ~~“(E) Information that is not relevant to~~
 2 ~~the subject matter of the proceeding.~~

3 ~~“(F) Information the Administrator can~~
 4 ~~demonstrate is withheld for good cause.~~

5 ~~“(G) Sensitive security information, as de-~~
 6 ~~finied in section 15.5 of title 49, Code of Fed-~~
 7 ~~eral Regulations (or any corresponding similar~~
 8 ~~ruling or regulation).~~

9 ~~“(4) RULE OF CONSTRUCTION.—Nothing in~~
 10 ~~this subsection shall be construed to prevent the Ad-~~
 11 ~~ministrator from releasing to a person subject to an~~
 12 ~~investigation described in subsection (b)(1)—~~

13 ~~“(A) information in addition to the infor-~~
 14 ~~mation included in the releasable portion of the~~
 15 ~~investigative report; or~~

16 ~~“(B) a copy of the investigative report be-~~
 17 ~~fore the Administrator issues a complaint.”.~~

18 ~~(f) LIMITATION ON DOCUMENT REQUESTS.—Section~~
 19 ~~2 of such Act, as amended by subsection (e), is further~~
 20 ~~amended by inserting after subsection (f) the following:~~

21 ~~“(g) LIMITATION ON DOCUMENT REQUESTS.—In~~
 22 ~~any case in which the Administrator initiates an investiga-~~
 23 ~~tion described in subsection (b)(1) with respect to a per-~~
 24 ~~son, the Administrator and the investigating officials may~~
 25 ~~request documents from the person only if the request is~~

1 limited and narrowly tailored to issues in the investiga-
 2 tion.”.

3 ~~(g) RESPONSE TO REQUESTS BY REPAIR STATIONS~~
 4 ~~TO SETTLE OR WITHDRAW.~~—Section 2 of such Act, as
 5 amended by subsections (e) and (f), is further amended
 6 by inserting after subsection (g) the following:

7 “~~(h) RESPONSE TO REQUESTS BY REPAIR STATIONS~~
 8 ~~TO SETTLE OR WITHDRAW.~~—The Administrator shall re-
 9 spond to a written request by a repair station holding a
 10 certificate under part 145, Code of Federal Regulations,
 11 that is subject to an investigation described in subsection
 12 ~~(b)(1)~~ to withdraw from or settle a proceeding relating to
 13 the investigation not later than 30 calendar days after re-
 14 ceiving the request.”.

15 ~~(h) LIMITATION ON RETENTION OF RECORDS.~~—Sec-
 16 tion 2 of such Act, as amended by subsections (e), (f),
 17 and (g), is further amended by inserting after subsection
 18 ~~(h)~~ the following:

19 “~~(i) LIMITATION ON RETENTION OF RECORDS.~~—The
 20 Administrator shall expunge the record of any investiga-
 21 tion described in subsection ~~(b)(1)~~ with respect to a cov-
 22 ered certificate that does not lead to the denial, suspen-
 23 sion, modification, or revocation of the certificate not later
 24 than 90 days after the Administrator determines not to
 25 deny, suspend, modify, or revoke the certificate.

1 “(j) PROHIBITION ON PUBLICIZING PENDING EN-
 2 FORCEMENT ACTIONS.—The Administrator may not indi-
 3 cate in the publicly accessible records of a person holding
 4 a covered certificate who is the subject of an investigation
 5 described in subsection (b)(1) any information that is dif-
 6 ferent from information in such records of an airman who
 7 is not under such an investigation.”.

8 **SEC. 4. LIMITATIONS ON REEXAMINATION OF CERTIFICATE**
 9 **HOLDERS.**

10 (a) IN GENERAL.—Section 44709 of title 49, United
 11 States Code, is amended—

12 (1) in subsection (a)—

13 (A) in the subsection heading, by striking
 14 “AND REEXAMINATION”;

15 (B) by striking “The Administrator” and
 16 inserting the following:

17 “(1) IN GENERAL.—The Administrator”;

18 (C) by striking “, or reexamine an airman
 19 holding a certificate issued under section 44703
 20 of this title”; and

21 (D) by adding at the end the following:

22 “(2) REEXAMINATION OF AIRMEN CERTIFI-
 23 CATES.—

24 “(A) IN GENERAL.—The Administrator
 25 may reexamine an airman holding a certificate

1 issued under section 44703 of this title only if
 2 the Administrator has reasonable grounds—

3 “(i) to question the airman’s lack of
 4 competence based on acts or omissions
 5 committed while the airman was exercising
 6 the privileges of the certificate; or

7 “(ii) to believe the airman obtained
 8 the certificate through fraudulent means.

9 “(B) NOTIFICATION REQUIREMENTS.—Be-
 10 fore taking any action to reexamine an airman
 11 holding a certificate issued under section 44703
 12 of this title, the Administrator shall provide to
 13 the airman—

14 “(i) the specific justification for the
 15 reexamination; and

16 “(ii) any releasable information gath-
 17 ered by the Federal Aviation Administra-
 18 tion that form the basis for that justifica-
 19 tion.”.

20 (b) MODIFICATION, SUSPENSION, OR REVOCATION
 21 OF AIRMAN CERTIFICATES AFTER REEXAMINATION.—

22 Section 44709(b) of such title is amended—

23 (1) by redesignating subparagraphs (A) and
 24 (B) as clauses (i) and (ii); and by moving such
 25 clauses, as so redesignated, two ems to the right;

1 (2) by redesignating paragraphs (1) and (2) as
 2 subparagraphs (A) and (B), and by moving such
 3 subparagraphs, as so redesignated, two ems to the
 4 right;

5 (3) by striking “The Administrator” and insert-
 6 ing the following:

7 “(1) IN GENERAL.—The Administrator”; and

8 (4) by adding at the end the following:

9 “(2) MODIFICATION, SUSPENSION, OR REVOCATION OF
 10 AIRMEN CERTIFICATES AFTER REEXAMINATION.—The Administrator may not amend, modify,
 11 suspend, or revoke an airman certificate issued
 12 under section 44703 of this title after a reexamina-
 13 tion of the airman holding the certificate unless the
 14 Administrator demonstrates by a preponderance of
 15 the evidence that the airman—

17 “(A) lacks the skills and competency, or
 18 care, judgment, and responsibility, necessary to
 19 hold the certificate; or

20 “(B) materially contributed to the issuance
 21 of the certificate by fraudulent means.”.

22 (e) APPEALS.—Section 44709(f) of such title is
 23 amended—

24 (1) by striking “A person” and inserting the
 25 following:

1 “(1) IN GENERAL.—A person”; and

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

3 “(2) APPEALS RELATING TO REEXAMINATION
4 OF AIRMEN CERTIFICATES.—If the Administrator
5 amends, modifies, suspends, or revokes an airman
6 certificate after reexamination of the airman holding
7 the certificate in violation of subsection (a)(2), the
8 airman may elect to file an appeal in the United
9 States district court in which the airman resides or
10 in which the action in question occurred, or in the
11 United States District Court for the District of Co-
12 lumbia, instead of filing an appeal with the Board
13 under subsection (d).”.

14 (d) CONFORMING AMENDMENTS.—Section
15 44709(d)(1) of such title is amended—

16 (1) in subparagraph (A), by striking “sub-
17 section (b)(1)(A)” and inserting “subsection
18 (b)(1)(A)(i)”; and

19 (2) in subparagraph (B), by striking “sub-
20 section (b)(1)(B)” and inserting “subsection
21 (b)(1)(A)(ii).”.

22 **SEC. 5. EXPEDITING UPDATES TO NOTAM PROGRAM.**

23 (a) IN GENERAL.—The Administrator of the Federal
24 Aviation Administration may not take any enforcement ac-
25 tion, on or after the date that is 180 days after the date

1 of the enactment of this Act, against any individual for
 2 a violation of a NOTAM (as defined in section 3 of the
 3 Pilot's Bill of Rights (49 U.S.C. 44701 note)) until the
 4 Administrator certifies that the Administrator has com-
 5 plied with the requirements of section 3 of the Pilot's Bill
 6 of Rights, as amended by this section, to—

7 (1) the Committee on Appropriations and the
 8 Committee on Commerce, Science, and Transpor-
 9 tation of the Senate; and

10 (2) the Committee on Appropriations and the
 11 Committee on Transportation and Infrastructure of
 12 the House of Representatives.

13 (b) AMENDMENTS.—Section 3 of the Pilot's Bill of
 14 Rights (Public Law 112–153; 126 Stat. 1162; 49 U.S.C.
 15 44701 note) is amended—

16 (1) in subsection (a)(2)—

17 (A) in the matter preceding subparagraph

18 (A)—

19 (i) by striking “this Act” and insert-
 20 ing “the Pilot's Bill of Rights 2”; and

21 (ii) by striking “begin” and inserting
 22 “complete the implementation of”;

23 (B) by amending subparagraph (B) to read
 24 as follows:

1 “(B) to establish a repository, in a public
 2 central location, to maintain and archive all
 3 NOTAMs, including the original content and
 4 form of the notices, the original date of publica-
 5 tion, and any amendments to such notices with
 6 the date of each amendment, in a manner that
 7 is Internet-accessible, machine-readable, and
 8 searchable;”;

9 (C) in subparagraph (C), by striking the
 10 period at the end and inserting a semicolon;
 11 and

12 (D) by adding at the end the following:

13 “(D) to establish a rating system to
 14 prioritize each NOTAM by the urgency and im-
 15 portance of the NOTAM; and

16 “(E) to specify the times during which
 17 temporary flight restrictions are in effect and
 18 the duration of a designation of special use air-
 19 space in a specific area.”; and

20 (2) by amending subsection (d) to read as fol-
 21 lows:

22 “(d) DESIGNATION OF REPOSITORY AS SOLE
 23 SOURCE FOR NOTAMS.—

24 “(1) IN GENERAL.—The Administrator—

1 “(A) shall consider the repository for
2 NOTAMs established under subsection
3 (a)(2)(B) to be the sole location for airmen to
4 check for NOTAMs; and

5 “(B) may not consider a NOTAM to be
6 announced and published until the NOTAM is
7 included in the repository.

8 “(2) PROHIBITION ON TAKING ACTION FOR VIO-
9 LATIONS OF NOTAMS NOT IN REPOSITORY.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (A), on and after the date on
12 which the repository established under sub-
13 section (a)(2)(B) is final and published, the Ad-
14 ministrators may not take any enforcement ac-
15 tion against an airman for a violation of a
16 NOTAM during a flight if that NOTAM is not
17 available through the repository before the com-
18 mencement of the flight and reasonably acces-
19 sible and identifiable to the airman.

20 “(B) EXCEPTION FOR NATIONAL SECU-
21 RITY.—Subparagraph (A) shall not apply in the
22 case of an enforcement action for a violation of
23 a NOTAM that directly relates to national se-
24 curity.”.

1 **SEC. 6. ACCESSIBILITY OF CERTAIN FLIGHT DATA.**

2 (a) ~~IN GENERAL.~~—Subchapter I of chapter 471 of
3 title 49, United States Code, is amended by inserting after
4 section 47124 the following:

5 **“§ 47124a. Accessibility of certain flight data**

6 **“(a) DEFINITIONS.**—In this section:

7 **“(1) CONTRACT TOWER.**—The term ‘contract
8 tower’ means an air traffic control tower providing
9 air traffic control services pursuant to a contract
10 with the Federal Aviation Administration under the
11 Contract Tower Program under section 47124(b)(3).

12 **“(2) COVERED FLIGHT RECORD.**—The term
13 ‘covered flight record’ means any flight data, includ-
14 ing air traffic data (as defined in section 2(b)(4)(B)
15 of the Pilot’s Bill of Rights (49 U.S.C. 44703
16 note)), created, maintained, or controlled by any
17 program of the Federal Aviation Administration,
18 whether carried out by employees or contractors of
19 the Federal Aviation Administration, including con-
20 tract towers, flight service stations, and controller
21 training programs.

22 **“(b) PROVISION OF COVERED FLIGHT DATA TO**
23 **FEDERAL AVIATION ADMINISTRATION.**—

24 **“(1) REQUEST FROM FEDERAL AVIATION AD-**
25 **MINISTRATION.**—When the Federal Aviation Admin-
26 istration receives a request, pursuant to section 552

1 of title 5, United States Code, for a covered flight
2 record that is not in the possession of the Federal
3 Aviation Administration, the Administrator of the
4 Federal Aviation Administration shall request the
5 record from the contract tower or other contractor
6 of the Federal Aviation Administration that pos-
7 sesses the record.

8 “(2) PROVISION OF RECORDS TO FEDERAL
9 AVIATION ADMINISTRATION.—Any covered flight
10 record created, maintained, or controlled by a con-
11 tract tower or another contractor of the Federal
12 Aviation Administration that maintains covered
13 flight records shall be provided to the Federal Avia-
14 tion Administration if the Federal Aviation Adminis-
15 tration requests the record pursuant to paragraph
16 (1).

17 “(e) APPLICABILITY OF FOIA.—After the Federal
18 Aviation Administration receives a covered flight record
19 under subsection (b), that record shall be—

20 “(1) considered an agency record of the Federal
21 Aviation Administration for purposes of section
22 552(f)(2) of title 5, United States Code; and

23 “(2) subject to section 552 of title 5, United
24 States Code (commonly known as the ‘Freedom of
25 Information Act’), to the same extent as if the

1 record was created, maintained, and controlled by
2 the Federal Aviation Administration.

3 ~~“(d) WITHHOLDING OF INFORMATION.—The Admin-~~
4 ~~istrator of the Federal Aviation Administration may with-~~
5 ~~hold information that would otherwise be required to be~~
6 ~~made available under this section only if—~~

7 ~~“(1) the Administrator determines, based on in-~~
8 ~~formation in the possession of the Administrator,~~
9 ~~that the Administrator may withhold the informa-~~
10 ~~tion in accordance with section 552(b) of title 5,~~
11 ~~United States Code; or~~

12 ~~“(2) the information is voluntarily provided~~
13 ~~safety- or security-related information covered by~~
14 ~~section 40123.~~

15 ~~“(e) FORMAT OF RECORDS.—Each contract tower or~~
16 ~~other contractor of the Federal Aviation Administration~~
17 ~~that maintains covered flight records shall maintain~~
18 ~~records relating to covered flight records in formats that~~
19 ~~are readily reproducible and reasonably searchable by the~~
20 ~~Federal Aviation Administration.~~

21 ~~“(f) REGULATIONS.—~~

22 ~~“(1) IN GENERAL.—Not later than 180 days~~
23 ~~after the date of the enactment of the Pilot’s Bill of~~
24 ~~Rights 2, the Administrator shall promulgate regula-~~
25 ~~tions or guidance to ensure compliance with this sec-~~

tion by the Federal Aviation Administration, contract towers, and other contractors of the Federal Aviation Administration that maintain covered flight records.

“(2) COMPLIANCE BY APPLICABLE ENTITIES.—

“(A) IN GENERAL.—Compliance with this section by a contract tower or other contractor of the Federal Aviation Administration that maintains covered flight records shall be included as a material term in any contract between the Federal Aviation Administration and the contract tower or contractor entered into or renewed on or after the date of the enactment of the Pilot’s Bill of Rights 2.

“(B) MODIFICATION OF CONTRACT OR AGREEMENT.—Not later than one year after the date of the enactment of the Pilot’s Bill of Rights 2, the Administrator shall secure a modification to include compliance with this section by each contract tower and other contractor of the Federal Aviation Administration that maintains covered flight records as a material term in any contract between the Federal Aviation Administration and the contract tower or contractor that will not otherwise be renegot-

1 tiated, renewed, or modified before the date
2 that is one year after such date of enactment.”.

3 (b) ~~CLERICAL AMENDMENT.~~—The table of sections
4 for chapter 471 of title 49, United States Code, is amend-
5 ed by inserting after the item relating to section 47124
6 the following:

“47124a. Accessibility of certain flight data.”.

7 **SEC. 7. LIMITATION OF LIABILITY FOR CERTAIN INDIVID-**
8 **UALS DESIGNATED AS REPRESENTATIVES OF**
9 **THE FEDERAL AVIATION ADMINISTRATION.**

10 (a) ~~IN GENERAL.~~—Any individual designated by the
11 Administrator of the Federal Aviation Administration
12 under subpart C of part 183 of title 14, Code of Federal
13 Regulations, to act as a representative of the Adminis-
14 trator, including an aviation medical examiner, pilot exam-
15 iner, or designated airworthiness representative, shall,
16 when carrying out duties pursuant to that designation and
17 without regard to the individual’s employer—

18 (1) be considered to be performing an activity
19 necessary to safeguard a uniquely Federal interest;
20 and

21 (2) not be liable in a civil action for actions per-
22 formed with reasonable care in connection with those
23 duties.

24 (b) ~~FRAUDULENT MISCONDUCT.~~—This section does
25 not relieve an individual described in subsection (a) that

1 causes harm to any person through intentional or fraudu-
 2 lent misconduct while carrying out duties pursuant to that
 3 subsection from any penalty applicable under any provi-
 4 sion of law for that misconduct.

5 **SEC. 8. AUTHORITY FOR LEGAL COUNSEL TO ISSUE CER-**
 6 **TAIN NOTICES.**

7 Not later than 180 days after the date of the enact-
 8 ment of this Act, the Administrator of the Federal Avia-
 9 tion Administration shall revise section 13.11 of title 14,
 10 Code of Federal Regulations, to authorize legal counsel to
 11 close enforcement actions covered by that section with a
 12 warning notice, letter of correction, or other administra-
 13 tive action.

14 **SEC. 9. LIABILITY PROTECTION FOR VOLUNTEER PILOTS**
 15 **THAT FLY FOR THE PUBLIC BENEFIT.**

16 (a) FINDINGS AND PURPOSE.—

17 (1) FINDINGS.—Congress finds the following:

18 (A) Many volunteer pilot nonprofit organi-
 19 zations fly for public benefit and provide valu-
 20 able services to communities and individuals.

21 (B) In each calendar year, volunteer pilot
 22 nonprofit organizations provide long-distance,
 23 no-cost transportation for tens of thousands of
 24 people during times of special need.

(C) Such nonprofit organizations are no longer able to purchase liability insurance for aircraft they do not own to provide liability protection at a reasonable price, and therefore face a highly detrimental liability risk.

(D) Such nonprofit organizations have supported the homeland security of the United States by providing volunteer pilot services during times of national emergency.

(2) PURPOSE.—The purpose of this section is to promote the activities of volunteer pilot nonprofit organizations that fly for public benefit and to sustain the availability of the services that such nonprofit organizations provide, including the following:

(A) Transportation at no cost to financially needy medical patients for medical treatment, evaluation, and diagnosis.

(B) Flights for humanitarian and charitable purposes.

(C) Other flights of compassion.

(b) LIABILITY PROTECTION FOR VOLUNTEER PILOT NONPROFIT ORGANIZATIONS THAT FLY FOR PUBLIC BENEFIT AND TO PILOTS AND STAFF OF SUCH NONPROFIT ORGANIZATIONS.—Section 4 of the Volunteer Protection Act of 1997 (42 U.S.C. 14503) is amended—

1 (1) in subsection (a)(4)—

2 (A) by redesignating subparagraphs (A)
3 and (B) as clauses (i) and (ii), respectively;

4 (B) by striking “the harm” and inserting
5 “(A) except in the case of subparagraph (B),
6 the harm”;

7 (C) in subparagraph (A)(ii), as redesign-
8 ated by this paragraph, by striking the period
9 at the end and inserting “; and”; and

10 (D) by adding at the end the following:

11 “(B) the volunteer—

12 “(i) was operating an aircraft in fur-
13 therance of the purpose of a volunteer pilot
14 nonprofit organization that flies for public
15 benefit; and

16 “(ii) was properly licensed and in-
17 sured for the operation of such aircraft.”;
18 and

19 (2) in subsection (c)—

20 (A) by striking “Nothing in this section”
21 and inserting the following:

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), nothing in this section”; and

24 (B) by adding at the end the following:

1 “(2) **EXCEPTION.**—A volunteer pilot nonprofit
 2 organization that flies for public benefit, the staff,
 3 mission coordinators, officers, and directors (whether
 4 volunteer or otherwise) of that nonprofit organiza-
 5 tion, and a referring agency of that nonprofit orga-
 6 nization shall not be liable for harm caused to any
 7 person by a volunteer of the nonprofit organization
 8 while the volunteer—

9 “(A) is operating an aircraft in further-
 10 ance of the purpose of the nonprofit organiza-
 11 tion;

12 “(B) is properly licensed for the operation
 13 of the aircraft; and

14 “(C) has certified to the nonprofit organi-
 15 zation that the volunteer has insurance covering
 16 the volunteer’s operation of the aircraft.”.

17 **SECTION 1. SHORT TITLE.**

18 *This Act may be cited as “Pilot’s Bill of Rights 2”.*

19 **SEC. 2. MEDICAL CERTIFICATION OF CERTAIN SMALL AIR-**
 20 **CRAFT PILOTS.**

21 (a) **IN GENERAL.**—Not later than 180 days after the
 22 date of enactment of this Act, the Administrator of the Fed-
 23 eral Aviation Administration shall issue or revise regula-
 24 tions to ensure that an individual may operate as pilot in
 25 command of a covered aircraft if—

1 (1) *the individual possesses a valid driver's li-*
 2 *cence issued by a State, territory, or possession of the*
 3 *United States and complies with all medical require-*
 4 *ments or restrictions associated with that license;*

5 (2) *the individual holds a medical certificate*
 6 *issued by the Federal Aviation Administration on the*
 7 *date of enactment of this Act, held such a certificate*
 8 *at any point during the 10-year period preceding*
 9 *such date of enactment, or obtains such a certificate*
 10 *after such date of enactment;*

11 (3) *the most recent medical certificate issued by*
 12 *the Federal Aviation Administration to the indi-*
 13 *vidual—*

14 (A) *indicates whether the certificate is first,*
 15 *second, or third class;*

16 (B) *may include authorization for special*
 17 *issuance;*

18 (C) *may be expired;*

19 (D) *cannot have been revoked or suspended;*

20 *and*

21 (E) *cannot have been withdrawn;*

22 (4) *the most recent application for airman med-*
 23 *ical certification submitted to the Federal Aviation*
 24 *Administration by the individual cannot have been*
 25 *completed and denied;*

1 (5) *the individual has completed a medical edu-*
 2 *cation course described in subsection (c) during the 24*
 3 *calendar months before acting as pilot in command of*
 4 *a covered aircraft and demonstrates proof of comple-*
 5 *tion of the course;*

6 (6) *the individual, when serving as a pilot in*
 7 *command, is under the care and treatment of a physi-*
 8 *cian if the individual has been diagnosed with any*
 9 *medical condition that may impact the ability of the*
 10 *individual to fly;*

11 (7) *the individual has received a comprehensive*
 12 *medical examination from a State-licensed physician*
 13 *during the previous 48 months and—*

14 (A) *prior to the examination, the indi-*
 15 *vidual—*

16 (i) *completed the individual's section of*
 17 *the checklist described in subsection (b); and*

18 (ii) *provided the completed checklist to*
 19 *the physician performing the examination;*
 20 *and*

21 (B) *the physician conducted the comprehen-*
 22 *sive medical examination in accordance with the*
 23 *checklist described in subsection (b), checking*
 24 *each item specified during the examination and*
 25 *addressing, as medically appropriate, every med-*

1 ical condition listed, and any medications the
2 individual is taking; and

3 (8) the individual is operating in accordance
4 with the following conditions:

5 (A) The covered aircraft is carrying not
6 more than 5 passengers.

7 (B) The individual is operating the covered
8 aircraft under visual flight rules or instrument
9 flight rules.

10 (C) The flight, including each portion of
11 that flight, is not carried out—

12 (i) for compensation or hire, including
13 that no passenger or property on the flight
14 is being carried for compensation or hire;

15 (ii) at an altitude that is more than
16 18,000 feet above mean sea level;

17 (iii) outside the United States, unless
18 authorized by the country in which the
19 flight is conducted; or

20 (iv) at an indicated air speed exceed-
21 ing 250 knots.

22 (b) *COMPREHENSIVE MEDICAL EXAMINATION.*—

23 (1) *IN GENERAL.*—Not later than 180 days after
24 the date of enactment of this Act, the Administrator
25 shall develop a checklist for an individual to complete

1 *and provide to the physician performing the com-*
 2 *prehensive medical examination required in sub-*
 3 *section (a)(7).*

4 (2) *REQUIREMENTS.—The checklist shall con-*
 5 *tain—*

6 (A) *a section, for the individual to complete*
 7 *that contains—*

8 (i) *boxes 3 through 13 and boxes 16*
 9 *through 19 of the Federal Aviation Admin-*
 10 *istration Form 8500-8 (3-99);*

11 (ii) *a signature line for the individual*
 12 *to affirm that—*

13 (I) *the answers provided by the*
 14 *individual on that checklist, including*
 15 *the individual's answers regarding*
 16 *medical history, are true and complete;*

17 (II) *the individual understands*
 18 *that he or she is prohibited under Fed-*
 19 *eral Aviation Administration regula-*
 20 *tions from acting as pilot in command,*
 21 *or any other capacity as a required*
 22 *flight crew member, if he or she knows*
 23 *or has reason to know of any medical*
 24 *deficiency or medically disqualifying*
 25 *condition that would make the indi-*

1 *vidual unable to operate the aircraft in*
 2 *a safe manner; and*

3 *(III) the individual is aware of*
 4 *the regulations pertaining to the prohi-*
 5 *bition on operations during medical*
 6 *deficiency and has no medically dis-*
 7 *qualifying conditions in accordance*
 8 *with applicable law;*

9 *(B) a section with instructions for the indi-*
 10 *vidual to provide the completed checklist to the*
 11 *physician performing the comprehensive medical*
 12 *examination required in subsection (a)(7); and*

13 *(C) a section, for the physician to complete,*
 14 *that instructs the physician—*

15 *(i) to perform a clinical examination*
 16 *of—*

17 *(I) head, face, neck, and scalp;*

18 *(II) nose, sinuses, mouth, and*
 19 *throat;*

20 *(III) ears, general (internal and*
 21 *external canals), and eardrums (per-*
 22 *foration);*

23 *(IV) eyes (general),*
 24 *ophthalmoscopic, pupils (equality and*

- 1 *reaction), and ocular motility (associ-*
2 *ated parallel movement, nystagmus);*
3 (V) *lungs and chest (not including*
4 *breast examination);*
5 (VI) *heart (precordial activity,*
6 *rhythm, sounds, and murmurs);*
7 (VII) *vascular system (pulse, am-*
8 *plitude, and character, and arms, legs,*
9 *and others);*
10 (VIII) *abdomen and viscera (in-*
11 *cluding hernia);*
12 (IX) *anus (not including digital*
13 *examination);*
14 (X) *skin;*
15 (XI) *G-U system (not including*
16 *pelvic examination);*
17 (XII) *upper and lower extremities*
18 *(strength and range of motion);*
19 (XIII) *spine and other musculo-*
20 *skeletal;*
21 (XIV) *identifying body marks,*
22 *scars, and tattoos (size and location);*
23 (XV) *lymphatics;*

1 (XVI) *neurologic (tendon reflexes,*
 2 *equilibrium, senses, cranial nerves, and*
 3 *coordination, etc.);*

4 (XVII) *psychiatric (appearance,*
 5 *behavior, mood, communication, and*
 6 *memory);*

7 (XVIII) *general systemic;*

8 (XIX) *hearing;*

9 (XX) *vision (distant, near, and*
 10 *intermediate vision, field of vision,*
 11 *color vision, and ocular alignment);*

12 (XXI) *blood pressure and pulse;*
 13 *and*

14 (XXII) *anything else the physi-*
 15 *cian, in his or her medical judgment,*
 16 *considers necessary;*

17 (ii) *to exercise medical discretion to*
 18 *address, as medically appropriate, any*
 19 *medical conditions identified, and to exer-*
 20 *cise medical discretion in determining*
 21 *whether any medical tests are warranted as*
 22 *part of the comprehensive medical examina-*
 23 *tion;*

24 (iii) *to discuss all drugs the individual*
 25 *reports taking (prescription and non-*

prescription) and their potential to interfere with the safe operation of an aircraft or motor vehicle;

(iv) to sign the checklist, stating: “I certify that I discussed all items on this checklist with the individual during my examination, discussed any medications the individual is taking that could interfere with their ability to safely operate an aircraft or motor vehicle, and performed an examination that included all of the items on this checklist.”; and

(v) to provide the date the comprehensive medical examination was completed, and the physician’s full name, address, telephone number, and State medical license number.

(3) *LOGBOOK.*—The completed checklist shall be retained in the individual’s logbook and made available on request.

(c) *MEDICAL EDUCATION COURSE REQUIREMENTS.*—The medical education course described in this subsection shall—

(1) be available on the Internet free of charge;

1 (2) be developed and periodically updated in co-
2 ordination with representatives of relevant nonprofit
3 and not-for-profit general aviation stakeholder groups;

4 (3) educate pilots on conducting medical self-as-
5 sessments;

6 (4) advise pilots on identifying warning signs of
7 potential serious medical conditions;

8 (5) identify risk mitigation strategies for med-
9 ical conditions;

10 (6) increase awareness of the impacts of poten-
11 tially impairing over-the-counter and prescription
12 drug medications;

13 (7) encourage regular medical examinations and
14 consultations with primary care physicians;

15 (8) inform pilots of the regulations pertaining to
16 the prohibition on operations during medical defi-
17 ciency and medically disqualifying conditions;

18 (9) provide the checklist developed by the Federal
19 Aviation Administration in accordance with sub-
20 section (b); and

21 (10) upon successful completion of the course,
22 electronically provide to the individual and transmit
23 to the Federal Aviation Administration—

24 (A) a certification of completion of the med-
25 ical education course, which shall be printed and

1 *retained in the individual's logbook and made*
2 *available upon request, and shall contain the in-*
3 *dividual's name, address, and airman certificate*
4 *number;*

5 *(B) subject to subsection (d), a release au-*
6 *thorizing the National Driver Register through a*
7 *designated State Department of Motor Vehicles to*
8 *furnish to the Federal Aviation Administration*
9 *information pertaining to the individual's driv-*
10 *ing record;*

11 *(C) a certification by the individual that*
12 *the individual is under the care and treatment*
13 *of a physician if the individual has been diag-*
14 *nosed with any medical condition that may im-*
15 *pact the ability of the individual to fly, as re-*
16 *quired under (a)(6);*

17 *(D) a form that includes—*

18 *(i) the name, address, telephone num-*
19 *ber, and airman certificate number of the*
20 *individual;*

21 *(ii) the name, address, telephone num-*
22 *ber, and State medical license number of the*
23 *physician performing the comprehensive*
24 *medical examination required in subsection*
25 *(a)(7);*

1 (iii) the date of the comprehensive
 2 medical examination required in subsection
 3 (a)(7); and

4 (iv) a certification by the individual
 5 that the checklist described in subsection (b)
 6 was followed in the comprehensive medical
 7 examination required in subsection (a)(7);
 8 and

9 (E) a statement, which shall be printed,
 10 and signed by the individual certifying that the
 11 individual understands the existing prohibition
 12 on operations during medical deficiency by stat-
 13 ing: “I understand that I cannot act as pilot in
 14 command, or any other capacity as a required
 15 flight crew member, if I know or have reason to
 16 know of any medical condition that would make
 17 me unable to operate the aircraft in a safe man-
 18 ner.”.

19 (d) NATIONAL DRIVER REGISTER.—The authorization
 20 under subsection (c)(10)(B) shall be an authorization for
 21 a single access to the information contained in the National
 22 Driver Register.

23 (e) SPECIAL ISSUANCE PROCESS.—

24 (1) IN GENERAL.—An individual who has quali-
 25 fied for the third-class medical certificate exemption

1 *under subsection (a) and is seeking to serve as a pilot*
 2 *in command of a covered aircraft shall be required to*
 3 *have completed the process for obtaining an Author-*
 4 *ization for Special Issuance of a Medical Certificate*
 5 *for each of the following:*

6 *(A) A mental health disorder, limited to an*
 7 *established medical history or clinical diagnosis*
 8 *of—*

9 *(i) personality disorder that is severe*
 10 *enough to have repeatedly manifested itself*
 11 *by overt acts;*

12 *(ii) psychosis, defined as a case in*
 13 *which an individual—*

14 *(I) has manifested delusions, hal-*
 15 *lucinations, grossly bizarre or disorga-*
 16 *nized behavior, or other commonly ac-*
 17 *cepted symptoms of psychosis; or*

18 *(II) may reasonably be expected to*
 19 *manifest delusions, hallucinations,*
 20 *grossly bizarre or disorganized behav-*
 21 *ior, or other commonly accepted symp-*
 22 *toms of psychosis;*

23 *(iii) bipolar disorder; or*

24 *(iv) substance dependence within the*
 25 *previous 2 years, as defined in section*

1 67.307(a)(4) of title 14, Code of Federal
2 Regulations.

3 (B) A neurological disorder, limited to an
4 established medical history or clinical diagnosis
5 of any of the following:

6 (i) Epilepsy.

7 (ii) Disturbance of consciousness with-
8 out satisfactory medical explanation of the
9 cause.

10 (iii) A transient loss of control of nerv-
11 ous system functions without satisfactory
12 medical explanation of the cause.

13 (C) A cardiovascular condition, limited to a
14 one-time special issuance for each diagnosis of
15 the following:

16 (i) Myocardial infraction.

17 (ii) Coronary heart disease that has re-
18 quired treatment.

19 (iii) Cardiac valve replacement.

20 (iv) Heart replacement.

21 (2) SPECIAL RULE FOR CARDIOVASCULAR CONDI-
22 TIONS.—In the case of an individual with a cardio-
23 vascular condition, the process for obtaining an Au-
24 thorization for Special Issuance of a Medical Certifi-
25 cate shall be satisfied with the successful completion

1 *of an appropriate clinical evaluation without a man-*
 2 *datory wait period.*

3 (3) *SPECIAL RULE FOR MENTAL HEALTH CONDI-*
 4 *TIONS.—*

5 (A) *In the case of an individual with a*
 6 *clinically diagnosed mental health condition, the*
 7 *third-class medical certificate exemption under*
 8 *subsection (a) shall not apply if—*

9 (i) *in the judgment of the individual's*
 10 *State-licensed medical specialist, the condi-*
 11 *tion—*

12 (I) *renders the individual unable*
 13 *to safely perform the duties or exercise*
 14 *the airman privileges described in sub-*
 15 *section (a)(8); or*

16 (II) *may reasonably be expected to*
 17 *make the individual unable to perform*
 18 *the duties or exercise the privileges de-*
 19 *scribed in subsection (a)(8); or*

20 (ii) *the individual's driver's license is*
 21 *revoked by the issuing agency as a result of*
 22 *a clinically diagnosed mental health condi-*
 23 *tion.*

24 (B) *Subject to subparagraph (A), an indi-*
 25 *vidual clinically diagnosed with a mental health*

condition shall certify every 2 years, in conjunction with the certification under subsection (c)(10)(C), that the individual is under the care of a State-licensed medical specialist for that mental health condition.

(4) SPECIAL RULE FOR NEUROLOGICAL CONDITIONS.—

(A) In the case of an individual with a clinically diagnosed neurological condition, the third-class medical certificate exemption under subsection (a) shall not apply if—

(i) in the judgment of the individual's State-licensed medical specialist, the condition—

(I) renders the individual unable to safely perform the duties or exercise the airman privileges described in subsection (a)(8); or

(II) may reasonably be expected to make the individual unable to perform the duties or exercise the privileges described in subsection (a)(8); or

(ii) the individual's driver's license is revoked by the issuing agency as a result of

1 *a clinically diagnosed neurological condi-*
 2 *tion.*

3 *(B) Subject to subparagraph (A), an indi-*
 4 *vidual clinically diagnosed with a neurological*
 5 *condition shall certify every 2 years, in conjunc-*
 6 *tion with the certification under subsection*
 7 *(c)(10)(C), that the individual is under the care*
 8 *of a State-licensed medical specialist for that*
 9 *neurological condition.*

10 *(f) IDENTIFICATION OF ADDITIONAL MEDICAL CONDI-*
 11 *TIONS FOR THE CACI PROGRAM.—*

12 *(1) IN GENERAL.—Not later than 180 days after*
 13 *the date of enactment of this Act, the Administrator*
 14 *shall review and identify additional medical condi-*
 15 *tions that could be added to the program known as*
 16 *the Conditions AMEs Can Issue (CACI) program.*

17 *(2) CONSULTATIONS.—In carrying out para-*
 18 *graph (1), the Administrator shall consult with avia-*
 19 *tion, medical, and union stakeholders.*

20 *(3) REPORT REQUIRED.—Not later than 180*
 21 *days after the date of enactment of this Act, the Ad-*
 22 *ministrator shall submit to the Committee on Com-*
 23 *merce, Science, and Transportation of the Senate and*
 24 *the Committee on Transportation and Infrastructure*
 25 *of the House of Representatives a report listing the*

1 *medical conditions that have been added to the CACI*
 2 *program under paragraph (1).*

3 *(g) EXPEDITED AUTHORIZATION FOR SPECIAL*
 4 *ISSUANCE OF A MEDICAL CERTIFICATE.—*

5 *(1) IN GENERAL.—The Administrator shall im-*
 6 *plement procedures to expedite the process for obtain-*
 7 *ing an Authorization for Special Issuance of a Med-*
 8 *ical Certificate under section 67.401 of title 14, Code*
 9 *of Federal Regulations.*

10 *(2) CONSULTATIONS.—In carrying out para-*
 11 *graph (1), the Administrator shall consult with avia-*
 12 *tion, medical, and union stakeholders.*

13 *(3) REPORT REQUIRED.—Not later than 1 year*
 14 *after the date of enactment of this Act, the Adminis-*
 15 *trator shall submit to the Committee on Commerce,*
 16 *Science, and Transportation of the Senate and the*
 17 *Committee on Transportation and Infrastructure of*
 18 *the House of Representatives a report describing how*
 19 *the procedures implemented under paragraph (1) will*
 20 *streamline the process for obtaining an Authorization*
 21 *for Special Issuance of a Medical Certificate and re-*
 22 *duce the amount of time needed to review and decide*
 23 *special issuance cases.*

24 *(h) REPORT REQUIRED.—Not later than 5 years after*
 25 *the date of enactment of this Act, the Administrator, in co-*

1 *ordination with the National Transportation Safety Board,*
 2 *shall submit to the Committee on Commerce, Science, and*
 3 *Transportation of the Senate and the Committee on Trans-*
 4 *portation and Infrastructure of the House of Representa-*
 5 *tives a report that describes the effect of the regulations*
 6 *issued or revised under subsection (a) and includes statis-*
 7 *tics with respect to changes in small aircraft activity and*
 8 *safety incidents.*

9 (i) *PROHIBITION ON ENFORCEMENT ACTIONS.—Begin-*
 10 *ning on the date that is 1 year after the date of enactment*
 11 *of this Act, the Administrator may not take an enforcement*
 12 *action for not holding a valid third-class medical certificate*
 13 *against a pilot of a covered aircraft for a flight, through*
 14 *a good faith effort, if the pilot and the flight meet the appli-*
 15 *cable requirements under subsection (a), except paragraph*
 16 *(5), unless the Administrator has published final regula-*
 17 *tions in the Federal Register under that subsection.*

18 (j) *COVERED AIRCRAFT DEFINED.—In this section, the*
 19 *term “covered aircraft” means an aircraft that—*

20 (1) *is authorized under Federal law to carry not*
 21 *more than 6 occupants; and*

22 (2) *has a maximum certificated takeoff weight of*
 23 *not more than 6,000 pounds.*

24 (k) *OPERATIONS COVERED.—The provisions and re-*
 25 *quirements covered in this section do not apply to pilots*

1 *who elect to operate under the medical requirements under*
 2 *subsection (b) or subsection (c) of section 61.23 of title 14,*
 3 *Code of Federal Regulations.*

4 **SEC. 3. EXPANSION OF PILOT'S BILL OF RIGHTS.**

5 (a) *APPEALS OF SUSPENDED AND REVOKED AIRMAN*
 6 *CERTIFICATES.*—Section 2(d)(1) of the *Pilot's Bill of*
 7 *Rights (Public Law 112–153; 126 Stat. 1159; 49 U.S.C.*
 8 *44703 note)* is amended by striking “or imposing a punitive
 9 civil action or an emergency order of revocation under sub-
 10 sections (d) and (e) of section 44709 of such title” and in-
 11 serting “suspending or revoking an airman certificate
 12 under section 44709(d) of such title, or imposing an emer-
 13 gency order of revocation under subsections (d) and (e) of
 14 section 44709 of such title”.

15 (b) *DE NOVO REVIEW BY DISTRICT COURT; BURDEN*
 16 *OF PROOF.*—Section 2(e) of the *Pilot's Bill of Rights (Pub-*
 17 *lic Law 112–153; 126 Stat. 1159; 49 U.S.C. 44703 note)*
 18 *is amended—*

19 (1) *by amending paragraph (1) to read as fol-*
 20 *lows:*

21 “(1) *IN GENERAL.*—In an appeal filed under
 22 subsection (d) in a United States district court with
 23 respect to a denial, suspension, or revocation of an
 24 airman certificate by the Administrator—

1 “(A) the district court shall review the de-
 2 nial, suspension, or revocation de novo, includ-
 3 ing by—

4 “(i) conducting a full independent re-
 5 view of the complete administrative record
 6 of the denial, suspension, or revocation;

7 “(ii) permitting additional discovery
 8 and the taking of additional evidence; and

9 “(iii) making the findings of fact and
 10 conclusions of law required by Rule 52 of
 11 the Federal Rules of Civil Procedure with-
 12 out being bound to any findings of fact of
 13 the Administrator or the National Trans-
 14 portation Safety Board.”;

15 (2) by redesignating paragraph (2) as para-
 16 graph (3); and

17 (3) by inserting after paragraph (1) the fol-
 18 lowing:

19 “(2) *BURDEN OF PROOF.*—In an appeal filed
 20 under subsection (d) in a United States district court
 21 after an exhaustion of administrative remedies, the
 22 burden of proof shall be as follows:

23 “(A) In an appeal of the denial of an appli-
 24 cation for the issuance or renewal of an airman
 25 certificate under section 44703 of title 49, United

1 *States Code, the burden of proof shall be upon*
 2 *the applicant denied an airman certificate by*
 3 *the Administrator.*

4 “(B) *In an appeal of an order issued by the*
 5 *Administrator under section 44709 of title 49,*
 6 *United States Code, the burden of proof shall be*
 7 *upon the Administrator.”; and*

8 *(4) by adding at the end the following:*

9 “(4) *APPLICABILITY OF ADMINISTRATIVE PROCE-*
 10 *DURE ACT.—Notwithstanding paragraph (1)(A) of*
 11 *this subsection or subsection (a)(1) of section 554 of*
 12 *title 5, United States Code, section 554 of such title*
 13 *shall apply to adjudications of the Administrator and*
 14 *the National Transportation Safety Board to the*
 15 *same extent as that section applied to such adjudica-*
 16 *tions before the date of enactment of the Pilot’s Bill*
 17 *of Rights 2.”.*

18 (c) *NOTIFICATION OF INVESTIGATION.—Subsection (b)*
 19 *of section 2 of the Pilot’s Bill of Rights (Public Law 112–*
 20 *153; 126 Stat. 1159; 49 U.S.C. 44703 note) is amended—*

21 (1) *in paragraph (2)(A), by inserting “and the*
 22 *specific activity on which the investigation is based”*
 23 *after “nature of the investigation”; and*

24 (2) *in paragraph (3), by striking “timely”; and*

1 (3) in paragraph (5), by striking “section
2 44709(c)(2)” and inserting “section 44709(e)(2)”.

3 (d) *RELEASE OF INVESTIGATIVE REPORTS.*—Section
4 2 of the *Pilot’s Bill of Rights* (Public Law 112–153; 126
5 Stat. 1159; 49 U.S.C. 44703 note) is further amended by
6 inserting after subsection (e) the following:

7 “(f) *RELEASE OF INVESTIGATIVE REPORTS.*—

8 “(1) *IN GENERAL.*—

9 “(A) *EMERGENCY ORDERS.*—In any pro-
10 ceeding conducted under part 821 of title 49,
11 Code of Federal Regulations, relating to the
12 amendment, modification, suspension, or revoca-
13 tion of an airman certificate, in which the Ad-
14 ministrator issues an emergency order under
15 subsections (d) and (e) of section 44709, section
16 44710, or section 46105(c) of title 49, United
17 States Code, or another order that takes effect
18 immediately, the Administrator shall provide to
19 the individual holding the airman certificate the
20 releasable portion of the investigative report at
21 the time the Administrator issues the order. If
22 the complete Report of Investigation is not avail-
23 able at the time the Emergency Order is issued,
24 the Administrator shall issue all portions of the
25 report that are available at the time and shall

1 *provide the full report within 5 days of its com-*
2 *pletion.*

3 *“(B) OTHER ORDERS.—In any non-emer-*
4 *gency proceeding conducted under part 821 of*
5 *title 49, Code of Federal Regulations, relating to*
6 *the amendment, modification, suspension, or rev-*
7 *ocation of an airman certificate, in which the*
8 *Administrator notifies the certificate holder of a*
9 *proposed certificate action under subsections (b)*
10 *and (c) of section 44709 or section 44710 of title*
11 *49, United States Code, the Administrator shall,*
12 *upon the written request of the covered certificate*
13 *holder and at any time after that notification,*
14 *provide to the covered certificate holder the re-*
15 *leasable portion of the investigative report.*

16 *“(2) MOTION FOR DISMISSAL.—If the Adminis-*
17 *trator does not provide the releasable portions of the*
18 *investigative report to the individual holding the air-*
19 *man certificate subject to the proceeding referred to in*
20 *paragraph (1) by the time required by that para-*
21 *graph, the individual may move to dismiss the com-*
22 *plaint of the Administrator or for other relief and,*
23 *unless the Administrator establishes good cause for the*
24 *failure to provide the investigative report or for a lack*

1 *of timeliness, the administrative law judge shall order*
 2 *such relief as the judge considers appropriate.*

3 “(3) *RELEASABLE PORTION OF INVESTIGATIVE*
 4 *REPORT.—For purposes of paragraph (1), the releas-*
 5 *able portion of an investigative report is all informa-*
 6 *tion in the report, except for the following:*

7 “(A) *Information that is privileged.*

8 “(B) *Information that constitutes work*
 9 *product or reflects internal deliberative process.*

10 “(C) *Information that would disclose the*
 11 *identity of a confidential source.*

12 “(D) *Information the disclosure of which is*
 13 *prohibited by any other provision of law.*

14 “(E) *Information that is not relevant to the*
 15 *subject matter of the proceeding.*

16 “(F) *Information the Administrator can*
 17 *demonstrate is withheld for good cause.*

18 “(G) *Sensitive security information, as de-*
 19 *finied in section 15.5 of title 49, Code of Federal*
 20 *Regulations (or any corresponding similar rul-*
 21 *ing or regulation).*

22 “(4) *RULE OF CONSTRUCTION.—Nothing in this*
 23 *subsection shall be construed to prevent the Adminis-*
 24 *trator from releasing to an individual subject to an*
 25 *investigation described in subsection (b)(1)—*

“(A) information in addition to the information included in the releasable portion of the investigative report; or

“(B) a copy of the investigative report before the Administrator issues a complaint.”.

SEC. 4. LIMITATIONS ON REEXAMINATION OF CERTIFICATE HOLDERS.

(a) *IN GENERAL.*—Section 44709(a) of title 49, United States Code, is amended—

(1) by striking “The Administrator” and inserting the following:

“(1) *IN GENERAL.*—The Administrator”;

(2) by striking “reexamine” and inserting “, except as provided in paragraph (2), reexamine”; and

(3) by adding at the end the following:

“(2) *LIMITATION ON THE REEXAMINATION OF AIRMAN CERTIFICATES.*—

“(A) *IN GENERAL.*—The Administrator may not reexamine an airman holding a student, sport, recreational, or private pilot certificate issued under section 44703 of this title if the reexamination is ordered as a result of an event involving the fault of the Federal Aviation Administration or its designee, unless the Administrator has reasonable grounds—

1 “(i) to establish that the airman may
2 not be qualified to exercise the privileges of
3 a particular certificate or rating, based
4 upon an act or omission committed by the
5 airman while exercising those privileges,
6 after the certificate or rating was issued by
7 the Federal Aviation Administration or its
8 designee; or

9 “(ii) to demonstrate that the airman
10 obtained the certificate or the rating
11 through fraudulent means or through an ex-
12 amination that was substantially and de-
13 monstrably inadequate to establish the air-
14 man’s qualifications.

15 “(B) NOTIFICATION REQUIREMENTS.—Be-
16 fore taking any action to reexamine an airman
17 under subparagraph (A), the Administrator shall
18 provide to the airman—

19 “(i) a reasonable basis, described in de-
20 tail, for requesting the reexamination; and

21 “(ii) any information gathered by the
22 Federal Aviation Administration, that the
23 Administrator determines is appropriate to
24 provide, such as the scope and nature of the

1 *requested reexamination, that formed the*
 2 *basis for that justification.”.*

3 **(b) AMENDMENT, MODIFICATION, SUSPENSION, OR**
 4 **REVOCATION OF AIRMAN CERTIFICATES AFTER REEXAM-**
 5 **INATION.**—*Section 44709(b) of title 49, United States Code,*
 6 *is amended—*

7 *(1) in paragraph (1), by redesignating subpara-*
 8 *graphs (A) and (B) as clauses (i) and (ii), respec-*
 9 *tively, and indenting appropriately;*

10 *(2) by redesignating paragraphs (1) and (2) as*
 11 *subparagraphs (A) and (B), respectively, and indent-*
 12 *ing appropriately;*

13 *(3) in the matter preceding subparagraph (A), as*
 14 *redesignated, by striking “The Administrator” and*
 15 *inserting the following:*

16 *“(1) IN GENERAL.—Except as provided in para-*
 17 *graph (2), the Administrator”; and*

18 *(4) by adding at the end the following:*

19 **“(2) AMENDMENTS, MODIFICATIONS, SUSPEN-**
 20 **SIONS, AND REVOCATIONS OF AIRMAN CERTIFICATES**
 21 **AFTER REEXAMINATION.—**

22 **“(A) IN GENERAL.—The Administrator**
 23 *may not issue an order to amend, modify, sus-*
 24 *pend, or revoke an airman certificate held by a*
 25 *student, sport, recreational, or private pilot and*

1 *issued under section 44703 of this title after a*
 2 *reexamination of the airman holding the certifi-*
 3 *cate unless the Administrator determines that the*
 4 *airman—*

5 “(i) *lacks the technical skills and com-*
 6 *petency, or care, judgment, and responsi-*
 7 *bility, necessary to hold and safely exercise*
 8 *the privileges of the certificate; or*

9 “(ii) *materially contributed to the*
 10 *issuance of the certificate by fraudulent*
 11 *means.*

12 “(B) *STANDARD OF REVIEW.—Any order of*
 13 *the Administrator under this paragraph shall be*
 14 *subject to the standard of review provided for*
 15 *under section 2 of the Pilot’s Bill of Rights (49*
 16 *U.S.C. 44703 note).’’.*

17 (c) *CONFORMING AMENDMENTS.—Section 44709(d)(1)*
 18 *of title 49, United States Code, is amended—*

19 (1) *in subparagraph (A), by striking “subsection*
 20 *(b)(1)(A)” and inserting “subsection (b)(1)(A)(i)”;*
 21 *and*

22 (2) *in subparagraph (B), by striking “subsection*
 23 *(b)(1)(B)” and inserting “subsection (b)(1)(A)(ii)”.*

24 **SEC. 5. EXPEDITING UPDATES TO NOTAM PROGRAM.**

25 (a) *IN GENERAL.—*

1 (1) *Beginning on the date that is 180 days after*
 2 *the date of enactment of this Act, the Administrator*
 3 *of the Federal Aviation Administration may not take*
 4 *any enforcement action against any individual for a*
 5 *violation of a NOTAM (as defined in section 3 of the*
 6 *Pilot’s Bill of Rights (49 U.S.C. 44701 note)) until*
 7 *the Administrator certifies to the appropriate congres-*
 8 *sional committees that the Administrator has com-*
 9 *plied with the requirements of section 3 of the Pilot’s*
 10 *Bill of Rights, as amended by this section.*

11 (2) *In this subsection, the term “appropriate*
 12 *congressional committees” means—*

13 (A) *the Committee on Commerce, Science,*
 14 *and Transportation of the Senate; and*

15 (B) *the Committee on Transportation and*
 16 *Infrastructure of the House of Representatives.*

17 (b) *AMENDMENTS.—Section 3 of the Pilot’s Bill of*
 18 *Rights (Public Law 112–153; 126 Stat. 1162; 49 U.S.C.*
 19 *44701 note) is amended—*

20 (1) *in subsection (a)(2)—*

21 (A) *in the matter preceding subparagraph*

22 (A)—

23 (i) *by striking “this Act” and inserting*

24 *“the Pilot’s Bill of Rights 2”; and*

1 (ii) by striking “begin” and inserting
2 “complete the implementation of”;

3 (B) by amending subparagraph (B) to read
4 as follows:

5 “(B) to continue developing and modern-
6 izing the NOTAM repository, in a public central
7 location, to maintain and archive all NOTAMs,
8 including the original content and form of the
9 notices, the original date of publication, and any
10 amendments to such notices with the date of each
11 amendment, in a manner that is Internet-acces-
12 sible, machine-readable, and searchable;”;

13 (C) in subparagraph (C), by striking the
14 period at the end and inserting a semicolon; and

15 (D) by adding at the end the following:

16 “(D) to specify the times during which tem-
17 porary flight restrictions are in effect and the
18 duration of a designation of special use airspace
19 in a specific area.”; and

20 (2) by amending subsection (d) to read as fol-
21 lows:

22 “(d) DESIGNATION OF REPOSITORY AS SOLE SOURCE
23 FOR NOTAMS.—

24 “(1) IN GENERAL.—The Administrator—

1 “(A) shall consider the repository for
 2 NOTAMs under subsection (a)(2)(B) to be the
 3 sole location for airmen to check for NOTAMs;
 4 and

5 “(B) may not consider a NOTAM to be an-
 6 nounced or published until the NOTAM is in-
 7 cluded in the repository for NOTAMs under sub-
 8 section (a)(2)(B).

9 “(2) PROHIBITION ON TAKING ACTION FOR VIO-
 10 LATIONS OF NOTAMS NOT IN REPOSITORY.—

11 “(A) IN GENERAL.—Except as provided in
 12 subparagraph (B), beginning on the date that
 13 the repository under subsection (a)(2)(B) is final
 14 and published, the Administrator may not take
 15 any enforcement action against an airman for a
 16 violation of a NOTAM during a flight if—

17 “(i) that NOTAM is not available
 18 through the repository before the commence-
 19 ment of the flight; and

20 “(ii) that NOTAM is not reasonably
 21 accessible and identifiable to the airman.

22 “(B) EXCEPTION FOR NATIONAL SECUR-
 23 ITY.—Subparagraph (A) shall not apply in the
 24 case of an enforcement action for a violation of

1 *a NOTAM that directly relates to national secu-*
 2 *rity.”.*

3 **SEC. 6. ACCESSIBILITY OF CERTAIN FLIGHT DATA.**

4 *(a) IN GENERAL.—Subchapter I of chapter 471 of title*
 5 *49, United States Code, is amended by inserting after sec-*
 6 *tion 47124 the following:*

7 **“§ 47124a. Accessibility of certain flight data**

8 *“(a) DEFINITIONS.—In this section:*

9 *“(1) ADMINISTRATION.—The term ‘Administra-*
 10 *tion’ means the Federal Aviation Administration.*

11 *“(2) ADMINISTRATOR.—The term ‘Adminis-*
 12 *trator’ means the Administrator of the Federal Avia-*
 13 *tion Administration.*

14 *“(3) APPLICABLE INDIVIDUAL.—The term ‘appli-*
 15 *cable individual’ means an individual who is the sub-*
 16 *ject of an investigation initiated by the Administrator*
 17 *related to a covered flight record.*

18 *“(4) CONTRACT TOWER.—The term ‘contract*
 19 *tower’ means an air traffic control tower providing*
 20 *air traffic control services pursuant to a contract*
 21 *with the Administration under the contract air traffic*
 22 *control tower program under section 47124(b)(3).*

23 *“(5) COVERED FLIGHT RECORD.—The term ‘cov-*
 24 *ered flight record’ means any air traffic data (as de-*
 25 *finied in section 2(b)(4)(B) of the Pilot’s Bill of Rights*

1 (49 U.S.C. 44703 note)), created, maintained, or con-
 2 trolled by any program of the Administration, includ-
 3 ing any program of the Administration carried out
 4 by employees or contractors of the Administration,
 5 such as contract towers, flight service stations, and
 6 controller training programs.

7 “(b) *PROVISION OF COVERED FLIGHT RECORD TO AD-*
 8 *MINISTRATION.*—

9 “(1) *REQUESTS.*—Whenever the Administration
 10 receives a written request for a covered flight record
 11 from an applicable individual and the covered flight
 12 record is not in the possession of the Administration,
 13 the Administrator shall request the covered flight
 14 record from the contract tower or other contractor of
 15 the Administration in possession of the covered flight
 16 record.

17 “(2) *PROVISION OF RECORDS.*—Any covered
 18 flight record created, maintained, or controlled by a
 19 contract tower or another contractor of the Adminis-
 20 tration that maintains covered flight records shall be
 21 provided to the Administration if the Administration
 22 requests the record pursuant to paragraph (1).

23 “(3) *NOTICE OF PROPOSED CERTIFICATE AC-*
 24 *TION.*—If the Administrator has issued, or subse-
 25 quently issues, a Notice of Proposed Certificate Action

1 *relying on evidence contained in the covered flight*
2 *record and the individual who is the subject of an in-*
3 *vestigation has requested the record, the Adminis-*
4 *trator shall promptly produce the record and extend*
5 *the time the individual has to respond to the Notice*
6 *of Proposed Certificate Action until the covered flight*
7 *record is provided.*

8 “(c) *IMPLEMENTATION.*—

9 “(1) *IN GENERAL.*—Not later than 180 days
10 *after the date of enactment of the Pilot’s Bill of*
11 *Rights 2, the Administrator shall promulgate regula-*
12 *tions or guidance to ensure compliance with this sec-*
13 *tion.*

14 “(2) *COMPLIANCE BY CONTRACTORS.*—

15 “(A) *Compliance with this section by a con-*
16 *tract tower or other contractor of the Adminis-*
17 *tration that maintains covered flight records*
18 *shall be included as a material term in any con-*
19 *tract between the Administration and the con-*
20 *tract tower or contractor entered into or renewed*
21 *on or after the date of enactment of the Pilot’s*
22 *Bill of Rights 2.*

23 “(B) *Subparagraph (A) shall not apply to*
24 *any contract or agreement in effect on the date*
25 *of enactment of the Pilot’s Bill of Rights 2 unless*

1 *the contract or agreement is renegotiated, re-*
 2 *newed, or modified after that date.”.*

3 **(b) TECHNICAL AND CONFORMING AMENDMENTS.—**
 4 *The table of contents for chapter 471 of title 49, United*
 5 *States Code, is amended by inserting after the item relating*
 6 *to section 47124 the following:*

“47124a. Accessibility of certain flight data.”.

7 **SEC. 7. AUTHORITY FOR LEGAL COUNSEL TO ISSUE CER-**
 8 **TAIN NOTICES.**

9 *Not later than 180 days after the date of enactment*
 10 *of this Act, the Administrator of the Federal Aviation Ad-*
 11 *ministration shall revise section 13.11 of title 14, Code of*
 12 *Federal Regulations, to authorize legal counsel of the Fed-*
 13 *eral Aviation Administration to close enforcement actions*
 14 *covered by that section with a warning notice, letter of cor-*
 15 *rection, or other administrative action.*

Calendar No. 319

114TH CONGRESS
1ST Session

S. 571

A BILL

To amend the Pilot's Bill of Rights to facilitate appeals and to apply to other certificates issued by the Federal Aviation Administration, to require the revision of the third class medical certification regulations issued by the Federal Aviation Administration, and for other purposes.

DECEMBER 9, 2015

Reported with an amendment