

113TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To limit the authority of U.S. Customs and Border Protection to stop and search general aviation aircraft, to amend the Pilot’s Bill of Rights to facilitate appeals and to apply to other certificates issued by the Federal Aviation Administration, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. INHOFE introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To limit the authority of U.S. Customs and Border Protection to stop and search general aviation aircraft, to amend the Pilot’s Bill of Rights to facilitate appeals and to apply to other certificates issued by the Federal Aviation Administration, 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 “Pilot’s Bill of Rights  
5 2”.

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

3 (a) IN GENERAL.—Not later than 180 days after the  
4 date of enactment of this Act, the Administrator of the  
5 Federal Aviation Administration shall issue or revise med-  
6 ical certification regulations to ensure that an individual  
7 may operate as pilot in command of a covered aircraft  
8 without regard to any medical certification or proof of  
9 health requirement otherwise applicable under Federal law  
10 if—

11 (1) the individual possesses a valid State driv-  
12 er's license and complies with any medical require-  
13 ment associated with that license;

14 (2) the individual is transporting not more than  
15 5 passengers;

16 (3) the individual is operating under visual  
17 flight rules; and

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

20 (A) for compensation, including that no  
21 passenger or property on the flight is being car-  
22 ried for compensation;

23 (B) at an altitude that is more than  
24 14,000 feet above mean sea level;

1 (C) outside the United States, unless au-  
2 thorized by the country in which the flight is  
3 conducted; or

4 (D) at a speed exceeding 250 knots.

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

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

9 (2) has a maximum certificated takeoff weight  
10 of not more than 6000 pounds.

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

17 (d) PROHIBITION ON ENFORCEMENT ACTIONS.—On  
18 and after the date that is 180 days after the date of the  
19 enactment of this Act, the Administrator may not take  
20 enforcement action against a pilot of a covered aircraft  
21 who meets the qualifications specified in paragraphs (1)  
22 through (4) of subsection (a) unless the Administrator has  
23 published final regulations in the Federal Register under  
24 subsection (a).

1 **SEC. 3. SEARCHES OF GENERAL AVIATION AIRCRAFT.**

2 (a) IN GENERAL.—Subchapter I of chapter 449 of  
3 title 49, United States Code, is amended by adding at the  
4 end the following:

5 **“§ 44928. Searches of general aviation aircraft**

6 “(a) IN GENERAL.—Notwithstanding any provision  
7 of law specified in subsection (d) and except as provided  
8 in subsection (c), an officer of U.S. Customs and Border  
9 Protection or U.S. Immigration and Customs Enforce-  
10 ment, or any other law enforcement officer under the di-  
11 rection of the Secretary of Homeland Security, may not—

12 “(1) request a pilot of a general aviation air-  
13 craft traveling between 2 points in the contiguous 48  
14 States to present for inspection an airman certifi-  
15 cate, medical certificate, or other authorization or li-  
16 cense without articulable reasonable suspicion of ille-  
17 gal activity; or

18 “(2) search any general aviation aircraft trav-  
19 eling between 2 points in the contiguous 48 States  
20 without probable cause that illegal activity is occur-  
21 ring.

22 “(b) ARTICULABLE REASONABLE SUSPICION.—The  
23 following activities, alone or in combination without addi-  
24 tional articulable reasonable suspicion of illegal activities,  
25 do not constitute articulable reasonable suspicion of illegal  
26 activities:

1           “(1) Flying without a visual flight rules or in-  
2           strument flight rules flight plan.

3           “(2) Flying into or out of fringe general avia-  
4           tion airports.

5           “(3) A flight path that is not a straight line for  
6           the purpose of circumventing weather, avoiding im-  
7           pacting high terrain, or for navigation between navi-  
8           gational aids.

9           “(c) EXCEPTION FOR ACCIDENTS.—Subsection (a)  
10          shall not apply in cases in which an officer of U.S. Cus-  
11          toms and Border Protection or U.S. Immigration and  
12          Customs Enforcement, or any other law enforcement offi-  
13          cer under the direction of the Secretary of Homeland Se-  
14          curity, is responding to an aircraft accident.

15          “(d) PROVISIONS OF LAW SPECIFIED.—A provision  
16          of law specified in this subsection is any of the following:

17                 “(1) Section 3061 of the Revised Statutes (19  
18                 U.S.C. 482).

19                 “(2) Section 467, 496, 581, or 582 of the Tar-  
20                 iff Act of 1930 (19 U.S.C. 1467, 1496, 1581, and  
21                 1582).

22                 “(3) Section 287 of the Immigration and Na-  
23                 tionality Act (8 U.S.C. 1357).

24          “(e) GENERAL AVIATION AIRCRAFT DEFINED.—In  
25          this section, the term ‘general aviation aircraft’ means ci-

1 vilian aircraft other than aircraft used in scheduled pas-  
2 senger service or cargo transportation.”.

3 (b) CLERICAL AMENDMENT.—The table of sections  
4 for chapter 449 of title 49, United States Code, is amend-  
5 ed by inserting after the item relating to section 44927  
6 the following:

“44928. Searches of general aviation aircraft.”.

7 **SEC. 4. USE OF PRIVATELY BUILT AND PRIVATELY OWNED**

8 **HANGARS AT AIRPORTS RECEIVING AIRPORT**

9 **IMPROVEMENT GRANTS.**

10 Not later than 30 days after the date of the enact-  
11 ment of this Act, the Administrator of the Federal Avia-  
12 tion Administration shall issue regulations establishing the  
13 local airport authority as the sole authority to determine  
14 the appropriate uses of any privately built and owned  
15 hangar at an airport that receives a grant under sub-  
16 chapter I of chapter 471 of title 49, United States Code.

17 **SEC. 5. EXEMPTIONS FOR INSTALLATION OF SAFETY-EN-**

18 **HANCING EQUIPMENT.**

19 ***【To be supplied.】***

20 **SEC. 6. EXPANSION OF PILOT’S BILL OF RIGHTS.**

21 (a) APPEALS NOT SUBJECT TO EXHAUSTION OF AD-  
22 MINISTRATIVE REMEDIES.—Section 2(d)(1) of the Pilot’s  
23 Bill of Rights (Public Law 112–153; 126 Stat. 1159; 49  
24 U.S.C. 44703 note) is amended to read as follows:

1           “(1) IN GENERAL.—Upon a decision by the Ad-  
2           ministrators denying a covered certificate, or impos-  
3           ing a punitive civil action or an emergency order of  
4           revocation under subsections (d) and (e) of section  
5           44709 of title 49, United States Code, a person sub-  
6           stantially affected by the decision may, at the per-  
7           son’s election, file an appeal with the National  
8           Transportation Safety Board or, without further ad-  
9           ministrative review, in the United States district  
10          court in which the person resides or in which the ac-  
11          tion in question occurred, or in the United States  
12          District Court for the District of Columbia. If the  
13          person elects not to file an appeal in a United States  
14          district court, the person may file an appeal in an  
15          appropriate United States court of appeals. Any per-  
16          son electing to file an appeal with the National  
17          Transportation Safety Board is not precluded from  
18          filing an appeal with the District Court.”.

19          (b) DE NOVO REVIEW BY DISTRICT COURT; BURDEN  
20 OF PROOF.—Section 2(e)(1) of such Act is amended to  
21 read as follows :

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

1 covered certificate by the Administrator or the Na-  
2 tional Transportation Safety Board—

3 “(A) the district court shall review the de-  
4 nial, suspension, or revocation de novo and give  
5 full independent review of the denial, suspen-  
6 sion, or revocation, including substantive inde-  
7 pendent and expedited review of any decision by  
8 the Administrator or the Board to make the de-  
9 nial, suspension, or revocation effective imme-  
10 diately;

11 “(B) the Administrator or the Board, as  
12 the case may be, shall bear the burden of  
13 proof.”.

14 (c) EXPANSION TO ALL CERTIFICATES ISSUES BY  
15 FEDERAL AVIATION ADMINISTRATION.—

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

18 (A) in subsection (a)—

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

20 and

21 (ii) by striking “an airman certifi-  
22 cate” and inserting “a covered certificate”;

23 and

24 (B) in subsection (b)(1), by striking “an  
25 airman certificate under chapter 447 of title 49,

1 United States Code” and inserting “a covered  
2 certificate”.

3 (2) COVERED CERTIFICATE DEFINED.—Section  
4 2 of such Act is amended by adding at the end the  
5 following:

6 “(i) COVERED CERTIFICATE DE-  
7 FINED.—In this section, the term ‘covered  
8 certificate’ means an airman certificate,  
9 design organization certificate, type certifi-  
10 cate, production certificate, airworthiness  
11 certificate, air carrier operating certificate,  
12 airport operating certificate, air agency  
13 certificate, or air navigation facility certifi-  
14 cate issued under chapter 447 of title 49,  
15 United States Code.”.

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

19 (A) in subsection (b)(4)(C)—

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

22 (ii) in clause (iii)(II), by striking “the  
23 requesting individual” and inserting “the  
24 requesting person”;

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

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

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

7 (d) NOTIFICATION OF INVESTIGATION.—Section 2(b)  
8 of such Act, as amended by subsection (c), is further  
9 amended—

10 (1) in paragraph (1)—

11 (A) by striking “timely,”; and

12 (B) by inserting before the end period the  
13 following: “, when the Administrator initiates  
14 the investigation”;

15 (2) by redesignating paragraphs (4) and (5) as  
16 paragraphs (5) and (6), respectively;

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

19 “(4) FAILURE TO PROVIDE INFORMATION.—If  
20 the Administrator does not provide a person with  
21 the notification required by paragraph (1) with re-  
22 spect to an investigation, including all of the infor-  
23 mation required under paragraph (2), the Adminis-  
24 trator may not—

25 “(A) retain records of the investigation;

1           “(B) deny, suspend, or revoke a covered  
2           certificate held by the person;

3           “(C) seek a civil penalty or other punitive  
4           action against the holder of a covered certifi-  
5           cate; or

6           “(D) in any way take action with regard to  
7           the matter that was the subject of the inves-  
8           tigation.”; and

9           (4) in paragraph (6), as redesignated by para-  
10          graph (2), by striking “30-day period” and all that  
11          follows and inserting “investigation.”.

12          (e) LIMITATION ON DOCUMENT REQUESTS.—Section  
13          2 of such Act is amended by adding at the end the fol-  
14          lowing:

15          “(f) LIMITATION ON DOCUMENT REQUESTS.—In any  
16          case in which the Administrator initiates an investigation  
17          described in subsection (b)(1) with respect to a person,  
18          the Administrator may request documents from the person  
19          only if the request is limited and narrowly tailored to  
20          issues in the investigation.”.

21          (f) LIMITATIONS ON RETENTION OF RECORDS.—Sec-  
22          tion 2 of such Act, as amended by subsection (e), is fur-  
23          ther amended by adding at the end the following:

24          “(g) LIMITATIONS ON RETENTION OF RECORDS RE-  
25          LATING TO AIRMEN CERTIFICATES.—

1           “(1) LEGAL ENFORCEMENT ACTIONS AGAINST  
2           NONCOMMERCIAL AIRMEN.—The Administrator shall  
3           expunge the record of a legal enforcement action in-  
4           volving the suspension of the airman certificate of,  
5           or a civil penalty assessed on, an airman not em-  
6           ployed by a commercial air carrier after 5 years, un-  
7           less the airman certificate of the airman was revoked  
8           after the airman exhausted all appeals.

9           “(2) CASES IN WHICH NO ENFORCEMENT AC-  
10          TION IS TAKEN.—The Administrator shall expunge  
11          the record of any investigation described in sub-  
12          section (b)(1) with respect to a covered certificate  
13          that does not lead to the denial, suspension, modi-  
14          fication, or revocation of the certificate not later  
15          than 90 days after the Administrator determines not  
16          to deny, suspend, modify, or revoke the certificate.

17          “(h) PROHIBITION ON PUBLICIZING PENDING EN-  
18          FORCEMENT ACTIONS.—The Administrator may not indi-  
19          cate in the publicly accessible records of a person with a  
20          covered certificate who is the subject of an investigation  
21          described in subsection (b)(1) any information that is dif-  
22          ferent from information in such records of an airman who  
23          is not under such an investigation.”.

1 **SEC. 7. EXPEDITING UPDATES TO NOTAM PROGRAM.**

2       The Administrator of the Federal Aviation Adminis-  
3 tration may not take any enforcement action after Decem-  
4 ber 31, 2014, against any individual for a violation for  
5 which a NOTAM (as defined in section 3 of the Pilot’s  
6 Bill of Rights (Public Law 112–153; 126 Stat. 1162; 49  
7 U.S.C. 44701 note)) is provided to the individual until the  
8 Administrator certifies that the Administrator has com-  
9 plied with the requirements of section 3 of the Pilot’s Bill  
10 of Rights to—

11           (1) the Committee on Appropriations and the  
12 Commerce, Science, and Transportation of the Sen-  
13 ate; and

14           (2) the Committee on Appropriations and the  
15 Committee on Transportation and Infrastructure of  
16 the House of Representatives.

17 **SEC. 8. APPLICABILITY OF FREEDOM OF INFORMATION**  
18 **ACT TO CONTRACT TOWERS AND OTHER**  
19 **CONTRACTORS OF THE FEDERAL AVIATION**  
20 **ADMINISTRATION.**

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

1 **“§ 47124. Applicability of Freedom of Information Act**  
2 **to contract towers and other contractors**  
3 **of the Federal Aviation Administration**

4 “(a) DEFINITIONS.—In this section:

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

10 “(2) COVERED FLIGHT RECORD.—The term  
11 ‘covered flight record’ means any flight data created,  
12 maintained, or controlled by any program of the  
13 Federal Aviation Administration, whether carried  
14 out by employees or contractors of the Federal Avia-  
15 tion Administration, including contract towers, flight  
16 service stations, and controller training programs.

17 “(b) APPLICABILITY OF FOIA.—Any covered flight  
18 record, whether in the possession of the Federal Aviation  
19 Administration, a contract tower, or another contractor of  
20 the Federal Aviation Administration that maintains cov-  
21 ered flight records, shall be—

22 “(1) considered an agency record for purposes  
23 of section 552(f)(2) of title 5, United States Code;  
24 and

25 “(2) subject to section 552 of title 5, United  
26 States Code (commonly known as the ‘Freedom of

1 Information Act'), to the same extent as if the  
2 record was maintained by the Federal Aviation Ad-  
3 ministration.

4 “(c) WITHHOLDING OF INFORMATION.—The Admin-  
5 istrator of the Federal Aviation Administration may with-  
6 hold information that would otherwise be required to be  
7 made available under subsection (a) only if the Adminis-  
8 trator determines, based on information in the possession  
9 of the Administrator, that the Administrator may withhold  
10 the information in accordance with section 552(b) of title  
11 5, United States Code.

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

18 “(e) REGULATIONS.—

19 “(1) IN GENERAL.—Not later than 180 days  
20 after the date of the enactment of the Pilot’s Bill of  
21 Rights 2, the Administrator of the Federal Aviation  
22 Administration shall promulgate regulations or guid-  
23 ance to ensure compliance with this section by the  
24 Federal Aviation Administration, contract towers,

1 and other contractors of the Federal Aviation Ad-  
2 ministration that maintain covered flight records.

3 “(2) COMPLIANCE BY APPLICABLE ENTITIES.—

4 “(A) IN GENERAL.—Compliance with this  
5 section by a contract tower or other contractor  
6 of the Federal Aviation Administration that  
7 maintains covered flight records shall be in-  
8 cluded as a material term in any contract be-  
9 tween the Federal Aviation Administration and  
10 the contract tower or contractor entered into or  
11 renewed on or after the date of the enactment  
12 of the Pilot’s Bill of Rights 2.

13 “(B) MODIFICATION OF CONTRACT OR  
14 AGREEMENT.—Not later than one year after  
15 the date of the enactment of the Pilot’s Bill of  
16 Rights 2, the Administrator of the Federal  
17 Aviation Administration shall secure a modifica-  
18 tion to include compliance with this section by  
19 each contract tower and other contractor of the  
20 Federal Aviation Administration that maintains  
21 covered flight records as a material term in any  
22 contract between the Federal Aviation Adminis-  
23 tration and the contract tower or contractor  
24 that will not otherwise be renegotiated, re-

1           newed, or modified before the date that is one  
2           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. Applicability of Freedom of Information Act to contract towers and  
other contractors of the Federal Aviation Administration.”.

7 **SEC. 9. LIMITATION OF LIABILITY FOR AVIATION MEDICAL**  
8 **EXAMINERS, PILOT EXAMINERS, AND DES-**  
9 **IGNATED AIRWORTHINESS REPRESENTA-**  
10 **TIVES.**

11       An individual serving as an aviation medical exam-  
12 iner, pilot examiner, or designated airworthiness rep-  
13 resentative designated to act as a representative of the Ad-  
14 ministrator of the Federal Aviation Administration under  
15 part 183 of title 14, Code of Federal Regulations, when  
16 carrying out those duties—

17           (1) is performing an activity necessary to safe-  
18 guard a uniquely Federal interest; and

19           (2) shall not be liable in a civil action for ac-  
20 tions performed in connection with those duties  
21 under any State law.