

action” are substituted for “otherwise, such action shall be affirmed”, for clarity. The text of 49 App.:1355(b) (proviso) is omitted as unnecessary because of 5:559 (last sentence).

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-176 inserted “design organization certificates,” after “airman certificates,” in introductory provisions.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-176, title II, §227(a), Dec. 12, 2003, 117 Stat. 2531, provided that the amendment made by section 227(a) is effective on the last day of the 7-year period beginning on Dec. 12, 2003.

DEVELOPMENT OF ANALYTICAL TOOLS AND CERTIFICATION METHODS

Pub. L. 108-176, title VII, §706, Dec. 12, 2003, 117 Stat. 2582, provided that: “The Federal Aviation Administration shall conduct research to promote the development of analytical tools to improve existing certification methods and to reduce the overall costs for the certification of new products.”

§ 44703. Airman certificates

(a) GENERAL.—The Administrator of the Federal Aviation Administration shall issue an airman certificate to an individual when the Administrator finds, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position to be authorized by the certificate.

(b) CONTENTS.—(1) An airman certificate shall—

(A) be numbered and recorded by the Administrator of the Federal Aviation Administration;

(B) contain the name, address, and description of the individual to whom the certificate is issued;

(C) contain terms the Administrator decides are necessary to ensure safety in air commerce, including terms on the duration of the certificate, periodic or special examinations, and tests of physical fitness;

(D) specify the capacity in which the holder of the certificate may serve as an airman with respect to an aircraft; and

(E) designate the class the certificate covers.

(2) A certificate issued to a pilot serving in scheduled air transportation shall have the designation “airline transport pilot” of the appropriate class.

(c) PUBLIC INFORMATION.—

(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding any other provision of law, the information contained in the records of contents of any airman certificate issued under this section that is limited to an airman’s name, address, and ratings held shall be made available to the public after the 120th day following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century.

(2) OPPORTUNITY TO WITHHOLD INFORMATION.—Before making any information concerning an airman available to the public under paragraph (1), the airman shall be given an opportunity to elect that the information not be made available to the public.

(3) DEVELOPMENT AND IMPLEMENTATION OF PROGRAM.—Not later than 60 days after the

date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, the Administrator shall develop and implement, in cooperation with representatives of the aviation industry, a one-time written notification to airmen to set forth the implications of making information concerning an airman available to the public under paragraph (1) and to carry out paragraph (2). The Administrator shall also provide such written notification to each individual who becomes an airman after such date of enactment.

(d) APPEALS.—(1) An individual whose application for the issuance or renewal of an airman certificate has been denied may appeal the denial to the National Transportation Safety Board, except if the individual holds a certificate that—

(A) is suspended at the time of denial; or

(B) was revoked within one year from the date of the denial.

(2) The Board shall conduct a hearing on the appeal at a place convenient to the place of residence or employment of the applicant. The Board is not bound by findings of fact of the Administrator of the Federal Aviation Administration but is bound by all validly adopted interpretations of laws and regulations the Administrator carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law. At the end of the hearing, the Board shall decide whether the individual meets the applicable regulations and standards. The Administrator is bound by that decision.

(e) RESTRICTIONS AND PROHIBITIONS.—The Administrator of the Federal Aviation Administration may—

(1) restrict or prohibit issuing an airman certificate to an alien; or

(2) make issuing the certificate to an alien dependent on a reciprocal agreement with the government of a foreign country.

(f) CONTROLLED SUBSTANCE VIOLATIONS.—The Administrator of the Federal Aviation Administration may not issue an airman certificate to an individual whose certificate is revoked under section 44710 of this title except—

(1) when the Administrator decides that issuing the certificate will facilitate law enforcement efforts; and

(2) as provided in section 44710(e)(2) of this title.

(g) MODIFICATIONS IN SYSTEM.—(1) The Administrator of the Federal Aviation Administration shall make modifications in the system for issuing airman certificates necessary to make the system more effective in serving the needs of airmen and officials responsible for enforcing laws related to the regulation of controlled substances (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) and related to combating acts of terrorism. The modifications shall ensure positive and verifiable identification of each individual applying for or holding a certificate and shall address at least each of the following deficiencies in, and abuses of, the existing system:

(A) the use of fictitious names and addresses by applicants for those certificates.

(B) the use of stolen or fraudulent identification in applying for those certificates.

(C) the use by an applicant of a post office box or "mail drop" as a return address to evade identification of the applicant's address.

(D) the use of counterfeit and stolen airman certificates by pilots.

(E) the absence of information about physical characteristics of holders of those certificates.

(2) The Administrator of the Federal Aviation Administration shall prescribe regulations to carry out paragraph (1) of this subsection and provide a written explanation of how the regulations address each of the deficiencies and abuses described in paragraph (1). In prescribing the regulations, the Administrator of the Federal Aviation Administration shall consult with the Administrator of Drug Enforcement, the Commissioner of Customs, other law enforcement officials of the United States Government, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(3) For purposes of this section, the term "acts of terrorism" means an activity that involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State, and appears to be intended to intimidate or coerce a civilian population to influence the policy of a government by intimidation or coercion or to affect the conduct of a government by assassination or kidnaping.

(4) The Administrator is authorized and directed to work with State and local authorities, and other Federal agencies, to assist in the identification of individuals applying for or holding airman certificates.

(h) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—

(1) IN GENERAL.—Subject to paragraph (14), before allowing an individual to begin service as a pilot, an air carrier shall request and receive the following information:

(A) FAA RECORDS.—From the Administrator of the Federal Aviation Administration, records pertaining to the individual that are maintained by the Administrator concerning—

(i) current airman certificates (including airman medical certificates) and associated type ratings, including any limitations to those certificates and ratings; and

(ii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person (except a branch of the United States Armed Forces, the National Guard, or a reserve component

of the United States Armed Forces) that has employed the individual as a pilot of a civil or public aircraft at any time during the 5-year period preceding the date of the employment application of the individual, or from the trustee in bankruptcy for such air carrier or person—

(i) records pertaining to the individual that are maintained by an air carrier (other than records relating to flight time, duty time, or rest time) under regulations set forth in—

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

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

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

(IV) section 125.401 of such title; and

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

(ii) other records pertaining to the individual's performance as a pilot that are maintained by the air carrier or person concerning—

(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

(III) any release from employment or resignation, termination, or disqualification with respect to employment.

(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(8) of this title, from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

(2) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier making a request for records under paragraph (1)—

(A) shall be required to obtain written consent to the release of those records from the individual that is the subject of the records requested; and

(B) may, notwithstanding any other provision of law or agreement to the contrary, require the individual who is the subject of the records to request to execute a release from liability for any claim arising from the furnishing of such records to or the use of such records by such air carrier (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

(3) 5-YEAR REPORTING PERIOD.—A person shall not furnish a record in response to a request made under paragraph (1) if the record was entered more than 5 years before the date of the request, unless the information concerns a revocation or suspension of an airman certificate or motor vehicle license that is in effect on the date of the request.

(4) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator and air carriers shall maintain

pilot records described in paragraphs (1)(A) and (1)(B) for a period of at least 5 years.

(5) RECEIPT OF CONSENT; PROVISION OF INFORMATION.—A person shall not furnish a record in response to a request made under paragraph (1) without first obtaining a copy of the written consent of the individual who is the subject of the records requested; except that, for purposes of paragraph (15), the Administrator may allow an individual designated by the Administrator to accept and maintain written consent on behalf of the Administrator for records requested under paragraph (1)(A). A person who receives a request for records under this subsection shall furnish a copy of all of such requested records maintained by the person not later than 30 days after receiving the request.

(6) RIGHT TO RECEIVE NOTICE AND COPY OF ANY RECORD FURNISHED.—A person who receives a request for records under paragraph (1) shall provide to the individual who is the subject of the records—

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

(B) in accordance with paragraph (10), a copy of such records, if requested by the individual.

(7) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—A person who receives a request under paragraph (1) or (6) may establish a reasonable charge for the cost of processing the request and furnishing copies of the requested records.

(8) STANDARD FORMS.—The Administrator shall promulgate—

(A) standard forms that may be used by an air carrier to request records under paragraph (1); and

(B) standard forms that may be used by an air carrier to—

(i) obtain the written consent of the individual who is the subject of a request under paragraph (1); and

(ii) inform the individual of—

(I) the request; and

(II) the individual right of that individual to receive a copy of any records furnished in response to the request.

(9) RIGHT TO CORRECT INACCURACIES.—An air carrier that maintains or requests and receives the records of an individual under paragraph (1) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records before making a final hiring decision with respect to the individual.

(10) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS.—Notwithstanding any other provision of law or agreement, an air carrier shall, upon written request from a pilot who is or has been employed by such carrier, make available, within a reasonable time, but not later than 30 days after the date of the request, to the pilot for review, any and all employment records referred to in paragraph (1)(B)(i) or (ii) pertaining to the employment of the pilot.

(11) PRIVACY PROTECTIONS.—An air carrier that receives the records of an individual under paragraph (1) may use such records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the pilot and the confidentiality of the records, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

(12) PERIODIC REVIEW.—Not later than 18 months after the date of the enactment of the Pilot Records Improvement Act of 1996, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be furnished under subparagraphs (A) and (B) of paragraph (1); or

(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

(13) REGULATIONS.—The Administrator shall prescribe such regulations as may be necessary—

(A) to protect—

(i) the personal privacy of any individual whose records are requested under paragraph (1) and disseminated under paragraph (15); and

(ii) the confidentiality of those records;

(B) to preclude the further dissemination of records received under paragraph (1) by the person who requested those records; and

(C) to ensure prompt compliance with any request made under paragraph (1).

(14) SPECIAL RULES WITH RESPECT TO CERTAIN PILOTS.—

(A) PILOTS OF CERTAIN SMALL AIRCRAFT.—Notwithstanding paragraph (1), an air carrier, before receiving information requested about an individual under paragraph (1), may allow the individual to begin service for a period not to exceed 90 days as a pilot of an aircraft with a maximum payload capacity (as defined in section 119.3 of title 14, Code of Federal Regulations) of 7,500 pounds or less, or a helicopter, on a flight that is not a scheduled operation (as defined in such section). Before the end of the 90-day period, the air carrier shall obtain and evaluate such information. The contract between the carrier and the individual shall contain a term that provides that the continuation of the individual's employment, after the last day of the 90-day period, depends on a satisfactory evaluation.

(B) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier, without obtaining information about an individual under paragraph (1)(B) from an air carrier or other person that no longer exists or from a foreign government or entity that employed

the individual, may allow the individual to begin service as a pilot if the air carrier required to request the information has made a documented good faith attempt to obtain such information.

(15) ELECTRONIC ACCESS TO FAA RECORDS.—For the purpose of increasing timely and efficient access to Federal Aviation Administration records described in paragraph (1), the Administrator may allow, under terms established by the Administrator, an individual designated by the air carrier to have electronic access to a specified database containing information about such records. The terms shall limit such access to instances in which information in the database is required by the designated individual in making a hiring decision concerning a pilot applicant and shall require that the designated individual provide assurances satisfactory to the Administrator that information obtained using such access will not be used for any purpose other than making the hiring decision.

(16) APPLICABILITY.—This subsection shall cease to be effective on the date specified in regulations issued under subsection (i).

(i) FAA PILOT RECORDS DATABASE.—

(1) IN GENERAL.—Before allowing an individual to begin service as a pilot, an air carrier shall access and evaluate, in accordance with the requirements of this subsection, information pertaining to the individual from the pilot records database established under paragraph (2).

(2) PILOT RECORDS DATABASE.—The Administrator shall establish an electronic database (in this subsection referred to as the “database”) containing the following records:

(A) FAA RECORDS.—From the Administrator—

(i) records that are maintained by the Administrator concerning current airman certificates, including airman medical certificates and associated type ratings and information on any limitations to those certificates and ratings;

(ii) records that are maintained by the Administrator concerning any failed attempt of an individual to pass a practical test required to obtain a certificate or type rating under part 61 of title 14, Code of Federal Regulations; and

(iii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person (except a branch of the Armed Forces, the National Guard, or a reserve component of the Armed Forces) that has employed an individual as a pilot of a civil or public aircraft, or from the trustee in bankruptcy for the air carrier or person—

(i) records pertaining to the individual that are maintained by the air carrier (other than records relating to flight time, duty time, or rest time) or person, including records under regulations set forth in—

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

(II) section 121.111(a) of such title;

(III) section 121.219(a) of such title;

(IV) section 125.401 of such title; and

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

(ii) other records pertaining to the individual's performance as a pilot that are maintained by the air carrier or person concerning—

(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

(III) any release from employment or resignation, termination, or disqualification with respect to employment.

(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(8) of this title, from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

(3) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier—

(A) shall obtain the written consent of an individual before accessing records pertaining to the individual under paragraph (1); and

(B) may, notwithstanding any other provision of law or agreement to the contrary, require an individual with respect to whom the carrier is accessing records under paragraph (1) to execute a release from liability for any claim arising from accessing the records or the use of such records by the air carrier in accordance with this section (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

(4) REPORTING.—

(A) REPORTING BY ADMINISTRATOR.—The Administrator shall enter data described in paragraph (2)(A) into the database promptly to ensure that an individual's records are current.

(B) REPORTING BY AIR CARRIERS AND OTHER PERSONS.—

(i) IN GENERAL.—Air carriers and other persons shall report data described in paragraphs (2)(B) and (2)(C) to the Administrator promptly for entry into the database.

(ii) DATA TO BE REPORTED.—Air carriers and other persons shall report, at a minimum, under clause (i) the following data described in paragraph (2)(B):

(I) Records that are generated by the air carrier or other person after the date of enactment of this paragraph.

(II) Records that the air carrier or other person is maintaining, on such date of enactment, pursuant to subsection (h)(4).

(5) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator—

(A) shall maintain all records entered into the database under paragraph (2) pertaining to an individual until the date of receipt of notification that the individual is deceased; and

(B) may remove the individual's records from the database after that date.

(6) RECEIPT OF CONSENT.—The Administrator shall not permit an air carrier to access records pertaining to an individual from the database under paragraph (1) without the air carrier first demonstrating to the satisfaction of the Administrator that the air carrier has obtained the written consent of the individual.

(7) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS AND CORRECT INACCURACIES.—Notwithstanding any other provision of law or agreement, the Administrator, upon receipt of written request from an individual—

(A) shall make available, not later than 30 days after the date of the request, to the individual for review all records referred to in paragraph (2) pertaining to the individual; and

(B) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records.

(8) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—

(A) IN GENERAL.—The Administrator may establish a reasonable charge for the cost of processing a request under paragraph (1) or (7) and for the cost of furnishing copies of requested records under paragraph (7).

(B) CREDITING APPROPRIATIONS.—Funds received by the Administrator pursuant to this paragraph shall—

(i) be credited to the appropriation current when the amount is received;

(ii) be merged with and available for the purposes of such appropriation; and

(iii) remain available until expended.

(9) PRIVACY PROTECTIONS.—

(A) USE OF RECORDS.—An air carrier that accesses records pertaining to an individual under paragraph (1) may use the records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the individual and the confidentiality of the records accessed, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

(B) DISCLOSURE OF INFORMATION.—

(i) IN GENERAL.—Except as provided by clause (ii), information collected by the Administrator under paragraph (2) shall be exempt from the disclosure requirements of section 552 of title 5.

(ii) EXCEPTIONS.—Clause (i) shall not apply to—

(I) deidentified, summarized information to explain the need for changes in policies and regulations;

(II) information to correct a condition that compromises safety;

(III) information to carry out a criminal investigation or prosecution;

(IV) information to comply with section 44905, regarding information about threats to civil aviation; and

(V) such information as the Administrator determines necessary, if withholding the information would not be consistent with the safety responsibilities of the Federal Aviation Administration.

(10) PERIODIC REVIEW.—Not later than 18 months after the date of enactment of this paragraph, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be included in the database under paragraph (2); or

(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

(11) REGULATIONS FOR PROTECTION AND SECURITY OF RECORDS.—The Administrator shall prescribe such regulations as may be necessary—

(A) to protect and secure—

(i) the personal privacy of any individual whose records are accessed under paragraph (1); and

(ii) the confidentiality of those records; and

(B) to preclude the further dissemination of records received under paragraph (1) by the person who accessed the records.

(12) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier may allow an individual to begin service as a pilot, without first obtaining information described in paragraph (2)(B) from the database pertaining to the individual, if—

(A) the air carrier has made a documented good faith attempt to access the information from the database; and

(B) the air carrier has received written notice from the Administrator that the information is not contained in the database because the individual was employed by an air carrier or other person that no longer exists or by a foreign government or other entity that has not provided the information to the database.

(13) LIMITATIONS ON ELECTRONIC ACCESS TO RECORDS.—

(A) ACCESS BY INDIVIDUALS DESIGNATED BY AIR CARRIERS.—For the purpose of increasing timely and efficient access to records described in paragraph (2), the Administrator may allow, under terms established by the Administrator, an individual designated by an air carrier to have electronic access to the database.

(B) TERMS.—The terms established by the Administrator under subparagraph (A) for

allowing a designated individual to have electronic access to the database shall limit such access to instances in which information in the database is required by the designated individual in making a hiring decision concerning a pilot applicant and shall require that the designated individual provide assurances satisfactory to the Administrator that—

(i) the designated individual has received the written consent of the pilot applicant to access the information; and

(ii) information obtained using such access will not be used for any purpose other than making the hiring decision.

(14) **AUTHORIZED EXPENDITURES.**—Of amounts appropriated under section 106(k)(1), a total of \$6,000,000 for fiscal years 2010 through 2013 may be used to carry out this subsection.

(15) **REGULATIONS.**—

(A) **IN GENERAL.**—The Administrator shall issue regulations to carry out this subsection.

(B) **EFFECTIVE DATE.**—The regulations shall specify the date on which the requirements of this subsection take effect and the date on which the requirements of subsection (h) cease to be effective.

(C) **EXCEPTIONS.**—Notwithstanding subparagraph (B)—

(i) the Administrator shall begin to establish the database under paragraph (2) not later than 90 days after the date of enactment of this paragraph;

(ii) the Administrator shall maintain records in accordance with paragraph (5) beginning on the date of enactment of this paragraph; and

(iii) air carriers and other persons shall maintain records to be reported to the database under paragraph (4)(B) in the period beginning on such date of enactment and ending on the date that is 5 years after the requirements of subsection (h) cease to be effective pursuant to subparagraph (B).

(16) **SPECIAL RULE.**—During the one-year period beginning on the date on which the requirements of this section become effective pursuant to paragraph (15)(B), paragraph (7)(A) shall be applied by substituting “45 days” for “30 days”.

(j) **LIMITATIONS ON LIABILITY; PREEMPTION OF STATE LAW.**—

(1) **LIMITATION ON LIABILITY.**—No action or proceeding may be brought by or on behalf of an individual who has applied for or is seeking a position with an air carrier as a pilot and who has signed a release from liability, as provided for under subsection (h)(2) or (i)(3), against—

(A) the air carrier requesting the records of that individual under subsection (h)(1) or accessing the records of that individual under subsection (i)(1);

(B) a person who has complied with such request;

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

(D) an agent or employee of a person described in subparagraph (A) or (B);

in the nature of an action for defamation, invasion of privacy, negligence, interference with contract, or otherwise, or under any Federal or State law with respect to the furnishing or use of such records in accordance with subsection (h) or (i).

(2) **PREEMPTION.**—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using records in accordance with subsection (h) or (i).

(3) **PROVISION OF KNOWINGLY FALSE INFORMATION.**—Paragraphs (1) and (2) shall not apply with respect to a person who furnishes information in response to a request made under subsection (h)(1) or who furnished information to the database established under subsection (i)(2), that—

(A) the person knows is false; and

(B) was maintained in violation of a criminal statute of the United States.

(4) **PROHIBITION ON ACTIONS AND PROCEEDINGS AGAINST AIR CARRIERS.**—

(A) **HIRING DECISIONS.**—An air carrier may refuse to hire an individual as a pilot if the individual did not provide written consent for the air carrier to receive records under subsection (h)(2)(A) or (i)(3)(A) or did not execute the release from liability requested under subsection (h)(2)(B) or (i)(3)(B).

(B) **ACTIONS AND PROCEEDINGS.**—No action or proceeding may be brought against an air carrier by or on behalf of an individual who has applied for or is seeking a position as a pilot with the air carrier if the air carrier refused to hire the individual after the individual did not provide written consent for the air carrier to receive records under subsection (h)(2)(A) or (i)(3)(A) or did not execute a release from liability requested under subsection (h)(2)(B) or (i)(3)(B).

(k) **LIMITATION ON STATUTORY CONSTRUCTION.**—Nothing in subsection (h) or (i) shall be construed as precluding the availability of the records of a pilot in an investigation or other proceeding concerning an accident or incident conducted by the Administrator, the National Transportation Safety Board, or a court.

(Pub. L. 103–272, § 1(e), July 5, 1994, 108 Stat. 1186; Pub. L. 106–181, title VII, § 715, Apr. 5, 2000, 114 Stat. 162; Pub. L. 107–71, title I, §§ 129, 138(b), 140(a), Nov. 19, 2001, 115 Stat. 633, 640, 641; Pub. L. 111–216, title II, § 203, Aug. 1, 2010, 124 Stat. 2352; Pub. L. 111–249, § 6(3), (4), Sept. 30, 2010, 124 Stat. 2629.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--|--|
| 44703(a) | 49 App.:1422(b)(1) (1st sentence, 2d sentence words before 6th comma). | Aug. 23, 1958, Pub. L. 85–726, § 602(b)(1), 72 Stat. 776; Oct. 19, 1984, Pub. L. 98–499, § 3, 98 Stat. 2313; Aug. 26, 1992, Pub. L. 102–345, § 4, 106 Stat. 926. |
| | 49 App.:1655(c)(1). | Oct. 15, 1966, Pub. L. 89–670, § 6(c)(1), 80 Stat. 938; Jan. 12, 1983, Pub. L. 97–449, § 7(b), 96 Stat. 2444. |

HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---|--|
| 44703(b) | 49 App.:1422(a) (11th-last words). 49 App.:1422(b)(1) (2d sentence words after 6th comma), (c). 49 App.:1655(c)(1). 49 App.:1422(b)(1) (3d sentence). | Aug. 23, 1958, Pub. L. 85-726, § 602(a) (9th-last words), (c), 72 Stat. 776. |
| 44703(c)(1) .. | 49 App.:1422(b)(1) (4th, 5th sentences, last sentence words before proviso). 49 App.:1655(c)(1). 49 App.:1422(b)(1) (last sentence proviso). 49 App.:1655(c)(1). | |
| 44703(c)(2) .. | 49 App.:1422(b)(1) (4th, 5th sentences, last sentence words before proviso). 49 App.:1655(c)(1). 49 App.:1422(b)(1) (last sentence proviso). 49 App.:1655(c)(1). | |
| 44703(d) | 49 App.:1422(b)(1) (last sentence proviso). 49 App.:1655(c)(1). 49 App.:1422(b)(1) (last sentence proviso). 49 App.:1655(c)(1). | |
| 44703(e) | 49 App.:1422(b)(2)(A), (B). | Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 602(b)(2)(A), (B); added Oct. 19, 1984, Pub. L. 98-499, § 3, 98 Stat. 2313; restated Nov. 18, 1988, Pub. L. 100-690, § 7204(a), 102 Stat. 4425. |
| 44703(f)(1) ... | 49 App.:1422(d). | Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 602(d); added Nov. 18, 1988, Pub. L. 100-690, § 7205(a), 102 Stat. 4426. |
| 44703(f)(2) ... | 49 App.:1401 (note). | Nov. 18, 1988, Pub. L. 100-690, § 7207(a) (1st sentence), (b), 102 Stat. 4427. |

In subsections (a)–(d), the word “Administrator” in section 602(a), (b)(1), and (c) of the Federal Aviation Act of 1958 (Public Law 85-726, 72 Stat. 776) is retained on authority of 49:106(g).

In subsection (a), the text of 49 App.:1422(b) (1st sentence) is omitted as surplus. The words “is qualified” are substituted for “possesses proper qualifications” to eliminate unnecessary words. The words “to be authorized by the certificate” are substituted for “for which the airman certificate is sought” for clarity.

In subsection (b)(1)(C), the words “conditions, and limitations” are omitted as being included in “terms”.

In subsection (b)(1)(E), the word “designate” is substituted for “be entitled with the designation of” to eliminate unnecessary words.

In subsection (c)(1), before clause (A), the words “may appeal . . . to” are substituted for “may file with . . . a petition for review of the Secretary of Transportation’s action” for consistency with section 1109 of the revised title. The words “the individual holds a certificate that” are substituted for “persons whose certificates” for clarity.

In subsection (c)(2), the words “conduct a hearing on the appeal” are substituted for “thereupon assign such petition for hearing” for consistency. The words “In the conduct of such hearing and in determining whether the airman meets the pertinent rules, regulations, or standards” are omitted as surplus. The word “Administrator” is substituted for “Federal Aviation Administration” because of 49:106(b) and (g). The words “meets the applicable regulations” are substituted for “meets the pertinent rules, regulations” because “rules” and “regulations” are synonymous and for consistency in the revised title.

In subsection (d), before clause (1), the words “in his discretion” are omitted as surplus. In clause (2), the words “the terms of” and “entered into” are omitted as surplus. The words “government of a foreign country” are substituted for “foreign governments” for consistency in the revised title and with other titles of the United States Code.

In subsection (f)(1), before clause (A), the words “established under this chapter” and “to pilots” are omitted as surplus.

In subsection (f)(2), the words “Not later than September 18, 1989” and “final” are omitted as obsolete. The words “Administrator of Drug Enforcement” are substituted for “Drug Enforcement Administration of

the Department of Justice” because of section 5(a) of Reorganization Plan No. 2 of 1973 (eff. July 1, 1973, 87 Stat. 1092). The words “Commissioner of Customs” are substituted for “United States Customs Service” because of 19:2071.

REFERENCES IN TEXT

The date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, referred to in subsec. (c)(1), (3), is the date of enactment of Pub. L. 106-181, which was approved Apr. 5, 2000.

The date of the enactment of the Pilot Records Improvement Act of 1996, referred to in subsec. (h)(12), is the date of enactment of Pub. L. 104-264, which was approved Oct. 9, 1996.

The date of enactment of this paragraph, referred to in subsec. (i)(4)(B)(ii), (10), (15)(C), is the date of enactment of Pub. L. 111-216, which was approved Aug. 1, 2010.

CODIFICATION

The text of section 44936(f) to (h) of this title, which was transferred to the end of this section, redesignated as subsecs. (h) to (j), respectively, and amended by Pub. L. 107-71, §§ 138(b), 140(a), was based on Pub. L. 104-264, title V, § 502(a), Oct. 9, 1996, 110 Stat. 3259; amended Pub. L. 105-102, § 2(25), Nov. 20, 1997, 111 Stat. 2205; Pub. L. 105-142, § 1, Dec. 5, 1997, 111 Stat. 2650; Pub. L. 106-181, title V, § 508(b), Apr. 5, 2000, 114 Stat. 140.

AMENDMENTS

2010—Subsec. (h)(16). Pub. L. 111-216, § 203(a), added par. (16).

Subsec. (i). Pub. L. 111-216, § 203(b)(2), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 111-216, § 203(c)(1)(A), as amended by Pub. L. 111-249, § 6(3), substituted “Limitations” for “Limitation” in heading.

Pub. L. 111-216, § 203(b)(1), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (j)(1). Pub. L. 111-216, § 203(c)(1)(B)(i), (iii), as amended by Pub. L. 111-249, § 6(3), substituted “subsection (h)(2) or (i)(3)” for “paragraph (2)” in introductory provisions and “subsection (h) or (i)” for “subsection (h)” in concluding provisions.

Subsec. (j)(1)(A). Pub. L. 111-216, § 203(c)(1)(B)(ii), as amended by Pub. L. 111-249, § 6(3), inserted “or accessing the records of that individual under subsection (i)(1)” before semicolon.

Subsec. (j)(2). Pub. L. 111-216, § 203(c)(1)(C), as amended by Pub. L. 111-249, § 6(3), substituted “subsection (h) or (i)” for “subsection (h)”.

Subsec. (j)(3). Pub. L. 111-216, § 203(c)(1)(D), as amended by Pub. L. 111-249, § 6(3), inserted “or who furnished information to the database established under subsection (i)(2)” after “subsection (h)(1)” in introductory provisions.

Subsec. (j)(4). Pub. L. 111-216, § 203(c)(1)(E), as amended by Pub. L. 111-249, § 6(3), added par. (4).

Subsec. (k). Pub. L. 111-216, § 203(c)(2), as amended by Pub. L. 111-249, § 6(4), substituted “subsection (h) or (i)” for “subsection (h)”.

Pub. L. 111-216, § 203(b)(1), redesignated subsec. (j) as (k).

2001—Subsec. (g)(1). Pub. L. 107-71, § 129(1), in first sentence, substituted “needs of airmen” for “needs of pilots” and inserted “and related to combating acts of terrorism” before period at end.

Subsec. (g)(3), (4). Pub. L. 107-71, § 129(2), added pars. (3) and (4).

Subsecs. (h) to (j). Pub. L. 107-71, §§ 138(b), 140(a), amended section identically, redesignating subsecs. (f) to (h) of section 44936 of this title as subsecs. (h) to (j), respectively, of this section, and substituting “subsection (h)” for “subsection (f)” wherever appearing in subsecs. (i) and (j). See Codification note above.

2000—Subsecs. (c) to (g). Pub. L. 106-181 added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-249, §6, Sept. 30, 2010, 124 Stat. 2628, provided that the amendments made by section 6 of Pub. L. 111-249 are effective as of Aug. 1, 2010, and as if included in Pub. L. 111-216 as enacted.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

IMPROVED PILOT LICENSES

Pub. L. 108-458, title IV, §4022, Dec. 17, 2004, 118 Stat. 3723, provided that:

“(a) IN GENERAL.—Not later than one year after the date of enactment of this Act [Dec. 17, 2004], the Administrator of the Federal Aviation Administration shall begin to issue improved pilot licenses consistent with the requirements of title 49, United States Code, and title 14, Code of Federal Regulations.

“(b) REQUIREMENTS.—Improved pilots licenses issued under subsection (a) shall—

“(1) be resistant to tampering, alteration, and counterfeiting;

“(2) include a photograph of the individual to whom the license is issued; and

“(3) be capable of accommodating a digital photograph, a biometric identifier, or any other unique identifier that the Administrator considers necessary.

“(c) TAMPERING.—To the extent practical, the Administrator shall develop methods to determine or reveal whether any component or security feature of a license issued under subsection (a) has been tampered, altered, or counterfeited.

“(d) USE OF DESIGNEES.—The Administrator may use designees to carry out subsection (a) to the extent feasible in order to minimize the burdens on pilots.”

CREDITING OF LAW ENFORCEMENT FLIGHT TIME

Pub. L. 106-424, §14, Nov. 1, 2000, 114 Stat. 1888, provided that: “In determining whether an individual meets the aeronautical experience requirements imposed under section 44703 of title 49, United States Code, for an airman certificate or rating, the Secretary of Transportation shall take into account any time spent by that individual operating a public aircraft as defined in section 40102 of title 49, United States Code, if that aircraft is—

“(1) identifiable by category and class; and

“(2) used in law enforcement activities.”

§ 44704. Type certificates, production certificates, airworthiness certificates, and design organization certificates

(a) TYPE CERTIFICATES.—

(1) ISSUANCE, INVESTIGATIONS, AND TESTS.—The Administrator of the Federal Aviation Administration shall issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection when the Administrator finds that the aircraft, aircraft engine, propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title. On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety.

(2) SPECIFICATIONS.—The Administrator may—

(A) specify in regulations those appliances that reasonably require a type certificate in the interest of safety;

(B) include in a type certificate terms required in the interest of safety; and

(C) record on the certificate a numerical specification of the essential factors related to the performance of the aircraft, aircraft engine, or propeller for which the certificate is issued.

(3) SPECIAL RULES FOR NEW AIRCRAFT AND APPLIANCES.—Except as provided in paragraph (4), if the holder of a type certificate agrees to permit another person to use the certificate to manufacture a new aircraft, aircraft engine, propeller, or appliance, the holder shall provide the other person with written evidence, in a form acceptable to the Administrator, of that agreement. Such other person may manufacture a new aircraft, aircraft engine, propeller, or appliance based on a type certificate only if such other person is the holder of the type certificate or has permission from the holder.

(4) LIMITATION FOR AIRCRAFT MANUFACTURED BEFORE AUGUST 5, 2004.—Paragraph (3) shall not apply to a person who began the manufacture of an aircraft before August 5, 2004, and who demonstrates to the satisfaction of the Administrator that such manufacture began before August 5, 2004, if the name of the holder of the type certificate for the aircraft does not appear on the airworthiness certificate or identification plate of the aircraft. The holder of the type certificate for the aircraft shall not be responsible for the continued airworthiness of the aircraft. A person may invoke the exception provided by this paragraph with regard to the manufacture of only one aircraft.

(b) SUPPLEMENTAL TYPE CERTIFICATES.—

(1) ISSUANCE.—The Administrator may issue a type certificate designated as a supplemental type certificate for a change to an aircraft, aircraft engine, propeller, or appliance.

(2) CONTENTS.—A supplemental type certificate issued under paragraph (1) shall consist of the change to the aircraft, aircraft engine, propeller, or appliance with respect to the previously issued type certificate for the aircraft, aircraft engine, propeller, or appliance.

(3) REQUIREMENT.—If the holder of a supplemental type certificate agrees to permit an-