

111TH CONGRESS  
2D SESSION

# S. 4037

To impose a criminal penalty for unauthorized recording or distribution of images produced using advanced imaging technology during screenings of individuals at airports and upon entry to Federal buildings, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 16, 2010

Mr. SCHUMER (for himself, Mr. KERRY, Mr. AKAKA, Mr. DURBIN, Mr. NELSON of Nebraska, Mr. MENENDEZ, Ms. KLOBUCHAR, Mr. WHITEHOUSE, Mrs. SHAHEEN, and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To impose a criminal penalty for unauthorized recording or distribution of images produced using advanced imaging technology during screenings of individuals at airports and upon entry to Federal buildings, 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 “Security Screening  
5 Confidential Data Privacy Act”.

1 **SEC. 2. CRIMINAL PENALTY FOR UNAUTHORIZED RECORD-**  
 2 **ING OR DISTRIBUTION OF SECURITY**  
 3 **SCREENING IMAGES.**

4 (a) IN GENERAL.—Part I of title 18, United States  
 5 Code, is amended by adding at the end the following:

6 **“CHAPTER 124—UNAUTHORIZED RECORD-**  
 7 **ING AND DISTRIBUTION OF SECURITY**  
 8 **SCREENING IMAGES**

“Sec.

“2731. Criminal penalty for unauthorized recording and distribution of security screening images.

9 **“§ 2731. Criminal penalty for unauthorized recording**  
 10 **and distribution of security screening im-**  
 11 **ages**

12 “(a) IN GENERAL.—Except as specifically provided  
 13 in subsection (b), it shall be unlawful for an individual—

14 “(1) to photograph or otherwise record an  
 15 image produced using advanced imaging technology  
 16 during the screening of an individual at an airport  
 17 or upon entry into any building owned or operated  
 18 by the Federal Government without express author-  
 19 ization pursuant to a Federal law or regulation; or

20 “(2) to distribute any such image to any indi-  
 21 vidual who is not authorized pursuant to a Federal  
 22 law or regulation to receive the image.

23 “(b) EXCEPTIONS.—

1           “(1) RECORDINGS TO BE USED IN CRIMINAL  
2 PROSECUTION.—The prohibition under subsection  
3 (a) shall not apply to an individual who, during the  
4 course and within the scope of the individual’s em-  
5 ployment, records or distributes an image described  
6 in subsection (a) solely to be used in a criminal in-  
7 vestigation or prosecution.

8           “(2) LIABILITY OF JOURNALISTS.—The prohi-  
9 bition under subsection (a) shall not apply to a jour-  
10 nalist that publishes an image described in that sub-  
11 section if the journalist has a good faith belief that  
12 the image was not recorded or distributed in viola-  
13 tion of that prohibition.

14           “(c) PENALTY.—An individual who violates the pro-  
15 hibition in subsection (a) shall be fined under this title,  
16 imprisoned for not more than 1 year, or both.

17           “(d) DEFINITIONS.—In this section:

18           “(1) ADVANCED IMAGING TECHNOLOGY.—The  
19 term ‘advanced imaging technology’—

20           “(A) means a device that creates a visual  
21 image of an individual showing the surface of  
22 the skin and revealing other objects on the  
23 body; and

24           “(B) may include devices using backscatter  
25 x-rays or millimeter waves and devices referred

1 to as ‘whole-body imaging technology’ or ‘body  
2 scanning’.

3 “(2) JOURNALIST.—The term ‘journalist’—

4 “(A) means a person who—

5 “(i) with the primary intent to inves-  
6 tigate events and procure material in order  
7 to disseminate to the public news or infor-  
8 mation concerning local, national, or inter-  
9 national events or other matters of public  
10 interest, regularly gathers, prepares, col-  
11 lects, photographs, records, writes, edits,  
12 reports, or publishes on such matters by—

13 “(I) conducting interviews;

14 “(II) making direct observation  
15 of events; or

16 “(III) collecting, reviewing, or  
17 analyzing original writings, state-  
18 ments, communications, reports,  
19 memoranda, records, transcripts, doc-  
20 uments, photographs, recordings,  
21 tapes, materials, data, or other infor-  
22 mation whether in paper, electronic,  
23 or other form;

1           “(ii) has such intent at the inception  
2           of the process of gathering the news or in-  
3           formation sought; and

4           “(iii) obtains the news or information  
5           sought in order to disseminate the news or  
6           information by means of print (including  
7           newspapers, books, wire services, news  
8           agencies, or magazines), broadcasting (in-  
9           cluding dissemination through networks,  
10          cable, satellite carriers, broadcast stations,  
11          or a channel or programming service for  
12          any such media), mechanical, photo-  
13          graphic, electronic, or other means;

14          “(B) includes a supervisor, employer, par-  
15          ent company, subsidiary, or affiliate of a person  
16          described in subparagraph (A); and

17          “(C) does not include any person who is—

18                 “(i) a foreign power or an agent of a  
19                 foreign power, as those terms are defined  
20                 in section 101 of the Foreign Intelligence  
21                 Surveillance Act of 1978 (50 U.S.C.  
22                 1801);

23                 “(ii) a member or affiliate of a foreign  
24                 terrorist organization designated under

1 section 219(a) of the Immigration and Na-  
2 tionality Act (8 U.S.C. 1189(a));

3 “(iii) any person whose property and  
4 interests in property are blocked pursuant  
5 to Executive Order 13224 (66 Fed. Reg.  
6 49079; relating to blocking property and  
7 prohibiting transacting with persons who  
8 commit, threaten to commit, or support  
9 terrorism), Executive Order 12947 (60  
10 Fed. Reg. 5079; prohibiting transactions  
11 with terrorists who threaten to disrupt the  
12 Middle East peace process), or any other  
13 executive order relating to terrorism;

14 “(iv) committing or attempting to  
15 commit the crime of terrorism, as that of-  
16 fense is defined in section 2331(5) or  
17 2332b(g)(5) of title 18, United States  
18 Code;

19 “(v) committing or attempting to  
20 commit the crime of providing material  
21 support or resources, as that term is de-  
22 fined in section 2339A(b)(1) of title 18,  
23 United States Code, to a terrorist organi-  
24 zation; or

1                   “(vi) aiding, abetting, or conspiring in  
2                   illegal activity with a person described in  
3                   clause (i), (ii), (iii), (iv), or (v).”.

4           (b) TECHNICAL AND CONFORMING AMENDMENT.—

5 The table of chapters for part I of title 18, United States  
6 Code, is amended by inserting after the item relating to  
7 chapter 123 the following:

“124. Unauthorized recording and distribution of security screening im-  
ages ..... 2731”.

