

117TH CONGRESS
1ST SESSION

S. 316

To establish a temperature checks pilot program for air transportation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2021

Ms. CANTWELL (for herself and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish a temperature checks pilot program for air transportation, 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 “Fly Safe and Healthy
5 Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of the Transpor-
10 tation Security Administration.

1 (2) AIR TRANSPORTATION.—The term “air
2 transportation” has the meaning given that term in
3 section 40102 of title 49, United States Code.

4 (3) COVID–19 PUBLIC HEALTH EMERGENCY.—
5 The term “COVID–19 public health emergency”
6 means the public health emergency first declared on
7 January 31, 2020, by the Secretary of Health and
8 Human Services under section 319 of the Public
9 Health Service Act (42 U.S.C. 247d) with respect to
10 the 2019 Novel Coronavirus (COVID–19) and in-
11 cludes any renewal of such declaration pursuant to
12 such section 319.

13 (4) FEVER.—The term “fever” means 100.4
14 degrees Fahrenheit or higher, or the meaning given
15 that term pursuant to guidelines of the Centers for
16 Disease Control and Prevention related to COVID–
17 19.

18 (5) SECRETARY.—The term “Secretary” means
19 the Secretary of Transportation.

20 (6) STERILE AREA.—The term “sterile area”
21 has the meaning given that term in section 1540.5
22 of title 49, Code of Federal Regulations (or any suc-
23 cessor regulation).

1 (7) TEMPERATURE CHECK.—The term “tem-
2 perature check” means the screening of individuals
3 for a fever.

4 **SEC. 3. TEMPERATURE CHECKS PILOT PROGRAM.**

5 (a) IN GENERAL.—Not later than 30 days after the
6 enactment of this Act, the Administrator, in consultation
7 with the Secretary, the Secretary of Homeland Security,
8 the Secretary of Health and Human Services, and the Di-
9 rector of the Centers for Disease Control and Prevention,
10 shall establish a 120-day pilot program to conduct tem-
11 perature checks for domestic and international passengers,
12 individuals accompanying those passengers, crew mem-
13 bers, and other individuals who pass through airports and
14 airport security screening locations (referred to in this sec-
15 tion as the “pilot program”). The Administrator shall se-
16 lect airports that represent diverse operating conditions,
17 such as high, medium, and low passenger throughput, and
18 locations for the pilot program.

19 (b) SCREENING.—The pilot program shall require
20 screening of passengers, individuals accompanying those
21 passengers, crew members, and other individuals who pass
22 through airports and airport security screening locations
23 for fevers. An individual who is found to have a fever shall
24 be subject to secondary medical screening. An individual
25 who registers a fever during a temperature check con-

1 ducted under the pilot program shall be denied admission
2 to the sterile area of the airport.

3 (c) ELEMENTS.—In developing the pilot program, the
4 Administrator shall address—

5 (1) the types of technology that may be used to
6 conduct temperature checks;

7 (2) policies applicable to screening procedures;

8 (3) procedures for individuals who register a
9 fever, which shall include secondary screening by a
10 medical professional;

11 (4) mechanisms for protecting the privacy and
12 medical information of individuals subjected to tem-
13 perature checks;

14 (5) procedures for accommodating individuals
15 with disabilities or observing certain religious prac-
16 tices, as appropriate;

17 (6) procedures for exempting individuals who
18 may have a fever unrelated to COVID–19;

19 (7) training on the policies, procedures, and
20 equipment for employees responsible for imple-
21 menting the pilot program, to be completed prior to
22 initiation of such program; and

23 (8) policies to ensure a final decision regarding
24 access to the sterile area of an airport are made and
25 carried out by a supervisor.

1 (d) EQUIPMENT.—The Administrator only may con-
2 duct temperature checks under the program established
3 under this section using a device lawfully manufactured
4 and distributed, or a device manufactured and distributed
5 in accordance with guidance issued by the Secretary of
6 Health and Human Services, to measure the body tem-
7 perature of a person.

8 (e) PROCUREMENT AND COORDINATION.—

9 (1) IN GENERAL.—The Administrator, in co-
10 ordination with the Commissioner of U.S. Customs
11 and Border Protection, shall procure temperature
12 screening equipment and implement best practices
13 for conducting passenger temperature checks under
14 the pilot program.

15 (2) RULE OF CONSTRUCTION.—Paragraph (1)
16 shall not be construed as requiring the pilot program
17 to be conducted at U.S. Customs and Border Pro-
18 tection screening locations.

19 (f) PARTNERSHIPS.—

20 (1) IN GENERAL.—The Administrator may
21 enter into partnerships or contracts with private en-
22 tities, universities or other academic institutions, na-
23 tional laboratories, public health authorities, or other
24 entities to develop, evaluate, or improve technology

1 for purposes of detecting fevers or conducting sec-
2 ondary medical screening under the pilot program.

3 (2) AIRPORTS.—The Administrator may part-
4 ner with airports that have temperature screening
5 programs to develop best practices, share data, and
6 implement the pilot program, but may not require
7 airports to share in the costs of the pilot program
8 except by mutual agreement.

9 (g) TREATMENT OF INDIVIDUALS PROHIBITED IN
10 THE STERILE AREA.—

11 (1) PASSENGERS.—The pilot program shall re-
12 quire air carriers to permit a passenger who is pro-
13 hibited from flying because they have a fever or as
14 a result of a secondary medical screening to resched-
15 ule or cancel the flight the passenger was ticketed
16 for at no cost to the passenger.

17 (2) EMPLOYEES AND CONTRACTORS.—Any air-
18 port or airline employee or contractor that is prohib-
19 ited from entering the sterile area of the airport be-
20 cause they have a fever or as a result of a secondary
21 medical screening under the pilot program shall be
22 subject to the leave policies and procedures of such
23 individual's employer.

24 (h) PROGRAM FOR REMAINDER OF COVID-19 PUB-
25 LIC HEALTH EMERGENCY.—Not later than 90 days after

1 the completion of the pilot program, based on the results
2 of the pilot program and the most up-to-date and best
3 available public health information, data, and evidence-
4 based or evidence-informed scientific information, the Ad-
5 ministrator, in coordination with the Secretary, the Sec-
6 retary of Homeland Security, the Secretary of Health and
7 Human Services, and the Director of the Centers for Dis-
8 ease Control and Prevention, shall issue policy for deploy-
9 ing a temperature check program at airports and airport
10 security screening locations through the end of the
11 COVID–19 public health emergency for domestic and
12 international passengers, individuals accompanying those
13 passengers, crew members, and other individuals who pass
14 through airports and airport security screening locations.

15 (i) **AUTHORITY.**—The Administrator shall issue regu-
16 lations to implement the temperature check program
17 under subsection (h), including with respect to secondary
18 screening requirements.

19 **SEC. 4. INCLUSION OF INFORMATION ABOUT TRAVELING**
20 **DURING PUBLIC HEALTH EMERGENCIES IN**
21 **PASSENGER NOTIFICATION SYSTEM.**

22 (a) **IN GENERAL.**—The Secretary shall revise section
23 175.25 of title 49, Code of Federal Regulations, to require
24 the inclusion in the passenger notification system during
25 the COVID–19 public health emergency of—

1 (1) relevant guidelines relating to safe traveling
2 in air transportation;

3 (2) a message discouraging any individual who
4 has a fever from traveling in air transportation; and

5 (3) a notification that each passenger and any
6 individual accompanying a passenger into the sterile
7 area of the airport will undergo a temperature check
8 if the pilot program established under section 3 is in
9 effect in that airport.

10 (b) TIMELINES.—The Secretary shall—

11 (1) revise section 175.25 of title 49, Code of
12 Federal Regulations, in accordance with the require-
13 ments of subsection (a) not later than 30 days after
14 the date of enactment of this Act; and

15 (2) provide for the implementation of such revi-
16 sions not later than 90 days after such date of en-
17 actment.

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