

AMENDMENT TO
RULES COMMITTEE PRINT 118–11
OFFERED BY MR. SWALWELL OF CALIFORNIA

At the end of the bill, add the following:

1 **TITLE XIII—PROTECTION FROM**
2 **ABUSIVE PASSENGERS ACT**

3 **SEC. 1301. DEFINED TERM.**

4 In this title, the term “abusive passenger” means any
5 individual who, on or after the date of enactment of this
6 Act, engages in behavior that results in—

7 (1) the assessment of a civil penalty for—

8 (A) engaging in conduct prohibited under
9 section 46318 of title 49, United States Code;
10 or

11 (B) tampering with, interfering with, com-
12 promising, modifying, or attempting to cir-
13 cumvent any security system, measure, or pro-
14 cedure related to civil aviation security in viola-
15 tion of section 1540.105(a)(1) of title 49, Code
16 of Federal Regulations, if such violation is com-
17 mitted on an aircraft in flight (as defined in
18 section 46501(1) of title 49, United States
19 Code);

1 (2) a conviction for a violation of section 46503
2 or 46504 of title 49, United States Code; or

3 (3) a conviction for any other Federal offense
4 involving assaults, threats, or intimidation against a
5 crewmember on an aircraft in flight (as defined in
6 section 46501(1) of title 49, United States Code).

7 **SEC. 1302. REFERRALS.**

8 The Administrator of the Federal Aviation Adminis-
9 tration or the Attorney General shall provide the identity
10 (including the full name, full date of birth, and gender)
11 of all abusive passengers to the Administrator of the
12 Transportation Security Administration.

13 **SEC. 1303. BANNED FLIERS.**

14 (a) LIST.—The Administrator of the Transportation
15 Security Administration shall maintain a list of abusive
16 passengers.

17 (b) EFFECT OF INCLUSION ON LIST.—

18 (1) IN GENERAL.—Any individual included on
19 the list maintained pursuant to subsection (a) shall
20 be prohibited from boarding any commercial aircraft
21 flight until such individual is removed from such list
22 in accordance with the procedures established by the
23 Administrator pursuant to section 1304.

24 (2) OTHER LISTS.—The placement of an indi-
25 vidual on the list maintained pursuant to subsection

1 (a) shall not preclude the placement of such indi-
2 vidual on other lists maintained by the Federal Gov-
3 ernment and used by the Administrator of the
4 Transportation Security Administration pursuant to
5 sections 114(h) and 44903(j)(2)(C) of title 49,
6 United States Code, to prohibit such individual from
7 boarding a flight or to take other appropriate action
8 with respect to such individual if the Administrator
9 determines that such individual—

10 (A) poses a risk to the transportation sys-
11 tem or national security;

12 (B) poses a risk of air piracy or terrorism;

13 (C) poses a threat to airline or passenger
14 safety; or

15 (D) poses a threat to civil aviation or na-
16 tional security.

17 **SEC. 1304. POLICIES AND PROCEDURES FOR HANDLING**
18 **ABUSIVE PASSENGERS.**

19 Not later than 180 days after the date of enactment
20 of this Act, the Administrator of the Transportation Secu-
21 rity Administration shall develop, and post on a publicly
22 available website of the Transportation Security Adminis-
23 tration, policies and procedures for handling individuals
24 included on the list maintained pursuant to section
25 1303(a), including—

1 (1) the process for receiving and handling refer-
2 rals received pursuant to section 1302;

3 (2) the method by which the list of banned fli-
4 ers required under section 1303(a) will be main-
5 tained;

6 (3) specific guidelines and considerations for re-
7 moving an individual from such list based on the
8 gravity of each offense described in section 1301;

9 (4) the procedures for the expeditious removal
10 of the names of individuals who were erroneously in-
11 cluded on such list;

12 (5) the circumstances under which certain indi-
13 viduals rightfully included on such list may petition
14 to be removed from such list, including the proce-
15 dures for appealing a denial of such petition; and

16 (6) the process for providing to any individual
17 who is the subject of a referral under section 1302—

18 (A) written notification, not later than 5
19 days after receiving such referral, including an
20 explanation of the procedures and cir-
21 cumstances referred to in paragraphs (4) and
22 (5); and

23 (B) an opportunity to seek relief under
24 paragraph (4) during the 5-day period begin-
25 ning on the date on which the individual re-

1 ceived the notification referred to in subpara-
2 graph (A) to avoid being erroneously included
3 on the list of abusive passengers referred to in
4 section 1303(a).

5 **SEC. 1305. CONGRESSIONAL BRIEFING.**

6 Not later than 1 year after the date of enactment
7 of this Act, the Administrator of the Transportation Secu-
8 rity Administration shall brief the Committee on Com-
9 merce, Science, and Transportation of the Senate and the
10 Committee on Homeland Security of the House of Rep-
11 resentatives regarding the policies and procedures devel-
12 oped pursuant to section 1304.

13 **SEC. 1306. ANNUAL REPORT.**

14 The Administrator of the Transportation Security
15 Administration shall submit an annual report to the Com-
16 mittee on Commerce, Science, and Transportation of the
17 Senate and the Committee on Homeland Security of the
18 House of Representatives that contains nonpersonally
19 identifiable information regarding the composition of the
20 list required under section 1303(a), including—

- 21 (1) the number of individuals included on such
22 list;
- 23 (2) the age and sex of the individuals included
24 on such list;

1 (3) the underlying offense or offenses of the in-
2 dividuals included on such list;

3 (4) the period of time each individual has been
4 included on such list;

5 (5) the number of individuals rightfully in-
6 cluded on such list who have petitioned for removal
7 and the status of such petitions;

8 (6) the number of individuals erroneously in-
9 cluded on such list and the time required to remove
10 such individuals from such list; and

11 (7) the number of individuals erroneously in-
12 cluded on such list who have been prevented from
13 traveling.

14 **SEC. 1307. INSPECTOR GENERAL REVIEW.**

15 Not less frequently than once every 3 years, the In-
16 specter General of the Department of Homeland Security
17 shall review and report to the Committee on Commerce,
18 Science, and Transportation of the Senate and the Com-
19 mittee on Homeland Security of the House of Representa-
20 tives regarding the administration and maintenance of the
21 list required under sections 1303 and 1304, including an
22 assessment of any disparities based on race or ethnicity
23 in the treatment of petitions for removal.

1 **SEC. 1308. INELIGIBILITY FOR TRUSTED TRAVELER PRO-**
2 **GRAMS.**

3 Except under policies and procedures established by
4 the Secretary of Homeland Security, all abusive pas-
5 sengers shall be permanently ineligible to participate in—

6 (1) the Transportation Security Administra-
7 tion's PreCheck program; or

8 (2) United States Customs and Border Protec-
9 tion's Global Entry program.

10 **SEC. 1309. LIMITATION.**

11 (a) IN GENERAL.—The inclusion of a person's name
12 on a list described in section 1303(a) may not be used
13 as the basis for denying any right or privilege under Fed-
14 eral law except for the rights and privileges described in
15 sections 1303(b), 1304, and 1308.

16 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
17 tion may be construed to limit the dissemination, or bar
18 the consideration, of the facts and circumstances that
19 prompt placement of a person on the list described in sec-
20 tion 1303(a).

21 **SEC. 1310. PRIVACY.**

22 Personally identifiable information used to create the
23 list required under section 1303(a)—

24 (1) shall be exempt from disclosure under sec-
25 tion 552(b)(3) of title 5, United States Code; and

1 (2) shall not be made available by any Federal,
2 State, Tribal, or local authority pursuant to any
3 Federal, State, Tribal, or local law requiring public
4 disclosure of information or records.

5 **SEC. 1311. SAVINGS PROVISION.**

6 Nothing in this title may be construed to limit the
7 authority of the Transportation Security Administration
8 or of any other Federal agency to undertake measures to
9 protect passengers, flight crew members, or security offi-
10 cers under any other provision of law.

