



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**THE SENATE**

**PROOF**

**PARLIAMENTARY REPRESENTATION**

**Aviation Transport Security Amendment  
(Screening) Bill 2012, Second Reading**

**SPEECH**

**Wednesday, 15 August 2012**

BY AUTHORITY OF THE SENATE

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## SPEECH

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**Questioner**  
**Speaker** Fawcett, Sen David

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**Question No.**

**Senator FAWCETT** (South Australia) (09:42): I rise to address the Aviation Transport Security Amendment (Screening) Bill 2012. The bill implements a number of amendments to support the introduction of body scanners at Australian international airports.

Specifically, section 41A is inserted and it assumes—this is an important differentiation—the very fact that somebody has arrived and wants to travel means that they have consented to a search, with the exception of a frisk search, which people can explicitly refuse to consent to.

It amends section 44, to deal with people who are not able to pass through a screening point, and it inserts a number of sections that list but do not limit the type of equipment that can be used for screening. I will touch on that a little later because I think that is an important point to be made during the second reading debate—the impacts of technology which may not currently be intended but could potentially cause harm if routinely used for all folk, particularly frequent flyers or aircrew. The bill also repeals section 95A, which removes the right of a person to choose a frisk search over another screening procedure.

So why are we doing this? Ever since 9-11 we have been aware of the fact that aircraft can be used as weapons. Going right back to the seventies and various hijackings, we have seen that aircraft and air travel have been targets of various terror groups. The 2009 incident is probably the one that kicked this off: the Northwest Airlines flight from Amsterdam to Detroit. A man who became known as 'the underwear bomber' managed to take explosives on board hidden in his underwear. Because the explosives were not metallic, none of the existing procedures picked them up. Had he successfully detonated the explosives, the plane, carrying 290 people, would have perished.

So it is important in terms of protecting the travelling public and particularly providing them with the confidence to travel, which is a really important part of our economy. People's confidence to spend and people's confidence to travel go a long way to actually keeping things like our tourism industry, for example, viable as well as facilitating the safe and effective travel of people who need to move around our nation or indeed the globe for business or personal reasons.

There was a voluntary trial conducted in August and September of last year at Sydney and Melbourne airports in which some 20,000 scans were conducted in a three-week period to have a look at the efficacy of the machine but also the impact on the rate of clearance of people moving through. There have been two inquiries, one in the House and one in the Senate, looking into the scanning technology and its implementation. Of note also is the fact that in the US, even just recently, a similar device to that used in 2009 was detected, which shows that the threat is still extant. Even though it has taken us some years to go from that incident to now, the nonmetallic threat remains extant and so it is an important measure to continue with. The technology that has been proposed by the government is a millimetre-wave body scanner technology and the degree of exposure or risk to people is expected to be less than that of a mobile phone being used by someone else some metres away. So there is a low possibility and a low expectation that exposure to this kind of technology will be harmful to people.

I think it is important to note that, given that one of the clauses that is being inserted here lists but is not exclusive to technology, it means that the other kind of technology, which is more of an X-ray or an ionising technology, could potentially be used. It is used in some other countries. That one does expose people to doses of radiation. I have particular concerns there for people such as aircrew, who frequently will be exposed to this, or even security staff at airports who need to move between the general public areas and those secure areas. I will discuss those a bit later. But in terms of this legislation currently we are talking about the body-scanning technology, which is millimetre-wave scanner.

One of the issues is that some people are concerned about the no-opt-out rule. I understand those concerns. There are many areas where people may feel uncomfortable about security provisions. My experience and my expectation is that, if people wish to travel and they wish to feel safe, they need to recognise that we do have a set of rules and regulations that will apply uniformly. The fact that somebody could have the opportunity to opt out other than for a clear physical or medical reason, or the fact that they are an infant or a child, opens up a huge hole in the whole purpose of having the technology. If somebody had something to hide and they were happy that they had placed it on

their body in such a way that a frisk would not identify it then clearly they would choose to opt out. It would almost be pointless to have the technology investment in that if we allow people without good reason to opt out. So whilst I understand the concerns I am happy to support that provision.

The health impact is another concern people have raised. As I have said, the power density exposure for the technology that is being used is some several thousand times lower than that of a single mobile phone call. It is comparable to the passive exposure of a mobile phone being used several metres away. In fact, the US Transportation Security Administration has stated that the technology emits 10,000 times less radiofrequency energy than the average mobile phone call and the scans are well within the limits set by the Australian Radiation Protection and Nuclear Safety Agency.

My concern there, however, is not only that people who have to frequently travel—again, aircrew, security staff at airports and to a certain extent even frequent fliers—are exposed to this radiation but also that if the technology were changed, as this legislation allows for, it would expose people to doses of radiation. Aircrew in particular, because they are operating at high altitudes frequently, already have ongoing health concerns with exposure to radiation in the atmosphere. This on top of that, I believe, is an issue that should be considered.

My belief is that we have systems in place through both the selection processes and the personnel management of the airlines, particularly Australian based airlines, and also the ASIC cards—the security cards issued by CASA—to make sure the people who need to be airside are appropriately vetted and checked. Certainly my contention is that, where we have confidence in the company—for example, Qantas or Virgin, Australian-based companies—and their aircrew as well as our own Civil Aviation Safety Authority and the ASIC process, we should have an exemption for aircrew, even under this legislation. Certainly were the technology to change I believe it would be essential that we trust the other mechanisms we have in place about the security considerations of those people who are crewing the aircraft.

At the end of the day, as 9-11 indicated, if people who are flying the aircraft have ill intent, it is not often because they are carrying a weapon on board; the aircraft is the weapon. So, given that the pilots are in control of what potentially could be a weapon, to scan them seems a little superfluous. Particularly in the light of the checks that they have already undergone, I believe this is one measure that could and should be implemented to make sure that we expedite the movement of people through those security points but

that we are also addressing where the real threat is. I note, for example, that countries who have a high threat of hijack or terrorist incidents, such as Israel, do not actually use the same kind of technology. They have much more of a profile based approach to identifying threats and then dealing appropriately with people through questioning and other measures. Therefore, the reverse, those whom we have already seen vetted, trained and taken into a very strict system such as airline training and employment, should be able to pass without that kind of scrutiny.

Privacy concerns are another issue people have raised. I am satisfied from my reading of the explanation from the department that this particular device, unlike some overseas, will not record and transmit or store images of people. What is displayed and then discarded after the assessment is a cartoon like character which indicates if there is an object that is a source of alarm. Essentially, it is a generic cartoon character with an indication of where the issue is. That is not stored, it is not transmitted—nor is the underlying raw image. So I do not believe there are privacy concerns that need to be addressed.

The efficacy of the machines is another issue. In the Sydney and Melbourne trials, there were some 23,000 scans undertaken, and 57 per cent of the passengers were able to immediately proceed through security. But that is a higher alarm rate than walk-through metal detectors. People might say that is good, but it is picking things up like boots with buckles, loose coins, hairclips, watches and jewellery. So part of it comes down to better educating people about what they need to remove. We may end up with a situation you would be more likely to see in Heathrow, for example, where there is significant effort before people go through the scanner to advise them of the things that they need to remove from their pockets and place in trays. This would cut down on false alarms—the downside of which, obviously, is that there is a requirement then for follow-up, whether that is people emptying out their pockets or having further checks, which slows the rate of people facilitated through the security checks.

So I believe we need to monitor the efficacy of the machines in terms of the genuine alarm and false alarm rates as well as the flow of people through the machines, hence my call to consider 'known passenger' programs where people submit themselves to early identification by security agencies in Australia or overseas such that their reason for movement, their background and their security are known upfront. I imagine most frequent flyers for business would be happy to participate in such a program. It also means that you could facilitate a large number of people far more rapidly through security than under the current approach, which assumes that everyone, even the pilot

flying the aircraft, needs to be checked. There is a balance to be had there. Again, there is no such thing as zero risk; you are always balancing risk and probability. But profiling in other jurisdictions has been proved to have a high rate of success, and I believe voluntary engagement through something like a 'known traveller' program is a good way to address any residual concerns about the efficacy of the machines in terms of facilitation rates.

Another concern that has been raised is about implanted devices such as pacemakers et cetera. However, the machines have less radiation than a mobile phone, and implanted devices all have an EMC, an electromagnetic compatibility, to be able to work with radioactive devices such as mobile phones. Certainly, the department here and authorities overseas have indicated that there is no concern about implanted devices like pacemakers.

I do raise a concern, though about the context of the security. On one hand, we have legislation coming in and expenditure on things such as scanning machines, with no exception for people like pilots, who already have ASICs and have had security checks; but, on the other hand, those kind of exceptions are allowed in other areas of airports to which people have access. During estimates I have asked questions, and I have not received answers, about the access of people such as cleaners, caterers and even mechanics. My understanding from having worked in the industry is that many of these groups can simply scan themselves through a security point, as in swipe a card, enter the secure airside area with their vehicles and, without any personal checks or scans, even of their tool kits or cleaning equipment, access the aircraft.

So, if we are concerned that there be no pathway for getting a weapon or an explosive device on board an aircraft and we are going to be bringing in legislation that has a no-opt-out provision and requires everyone, including pilots and cabin crew, to go through a scan every time they go on the aircraft, then surely common sense dictates that we should be applying a more even handed approach and making sure that everyone who has access to an aircraft has been through the appropriate clearance. If ground based people have access without that kind of process, what possible justification can there be for folks such as aircrew, who already have ASICs, to have to undergo a scan? My sense is that we need some additional provisions at the aircrew end to allow easier access and we probably need to tighten things up on the ground side to make sure that we have suitable security throughout the whole system.

The opposition are not going to oppose this bill, but I do maintain that we need to monitor the efficacy

of the machines and the facilitation rates. If there is any attempt to introduce X-ray technology, we must make provision for aircrew and even frequent flyers with a 'known traveller' opt-in type program of security checks to be exempt from mandatory screening. We need to have appropriate security at all points of access to the secure area.

The government also needs to think carefully about how it is charging for these kinds of measures. We are increasingly seeing charges being levied on airports and therefore transferred to the airlines and hence to the passengers. There is something like a \$40 million per year charge by airports to partly recover airport policing costs. But at the same time that we are concerned about the country's security the government is cutting funding to Customs. So, on one hand, we are seeing Customs and Quarantine reduce the number of cargo and baggage inspections and, on the other hand, we are seeing cost increases in areas such as this.

All of those costs have an impact on the viability of airlines' operations and on the attractiveness of Australia as a destination and, at a time when we have a strong dollar and we are seeing a lot of people travelling overseas in preference to holidaying in Australia because the exchange rate is good, a lot of our tourism operators here are really struggling. The more we put charges onto the airports—even things like the carbon tax—the harder the struggle becomes. It will cost Qantas some \$110 million in 2012-13 and will add some \$45 million to Virgin Australia's costs. So, by layering these costs upon the industry, we are making Australia a very unattractive place. I believe the government needs to take heed of its own words—for it is asking for productivity and to make Australia an attractive place to do business—and reconsider the cost that it is imposing on industry unnecessarily and indeed, in the case of the carbon tax, unnecessarily on the whole of the Australian economy.

The coalition will not be opposing this bill. We support the requirement for security, but my personal belief is that there are some things we could be doing better and some things we need to monitor carefully about the implementation of this legislation.