

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1956

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## AN ACT

To prohibit operators of civil aircraft of the United States from participating in the European Union's emissions trading scheme, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “European Union Emis-  
3 sions Trading Scheme Prohibition Act of 2011”.

4 **SEC. 2. PROHIBITION ON PARTICIPATION IN THE EURO-**  
5 **PEAN UNION’S EMISSIONS TRADING SCHEME.**

6 (a) **IN GENERAL.**—The Secretary of Transportation  
7 shall prohibit an operator of a civil aircraft of the United  
8 States from participating in the emissions trading scheme  
9 unilaterally established by the European Union in EU Di-  
10 rective 2003/87/EC of October 13, 2003, as amended, in  
11 any case in which the Secretary determines the prohibition  
12 to be, and in a manner that is, in the public interest, tak-  
13 ing into account—

14 (1) the impacts on U.S. consumers, U.S. car-  
15 riers, and U.S. operators;

16 (2) the impacts on the economic, energy, and  
17 environmental security of the United States; and

18 (3) the impacts on U.S. foreign relations, in-  
19 cluding existing international commitments.

20 (b) **PUBLIC HEARING.**—After determining that a  
21 prohibition under this section may be in the public inter-  
22 est, the Secretary must hold a public hearing at least 30  
23 days before imposing any prohibition.

24 (c) **REASSESSMENT OF DETERMINATION OF PUBLIC**  
25 **INTEREST.**—The Secretary—

1           (1) may reassess a determination under sub-  
2           section (a) that a prohibition under that subsection  
3           is in the public interest at any time after making  
4           such a determination; and

5           (2) shall reassess such a determination after—

6           (A) any amendment by the European  
7           Union to the EU Directive referred to in sub-  
8           section (a); or

9           (B) the adoption of any international  
10          agreement pursuant to section 3(1).

11          (C) enactment of a public law or issuance  
12          of a final rule after formal agency rulemaking,  
13          in the United State to address aircraft emis-  
14          sions.

15 **SEC. 3. NEGOTIATIONS.**

16          (a) IN GENERAL.—The Secretary of Transportation,  
17          the Administrator of the Federal Aviation Administration,  
18          and other appropriate officials of the United States Gov-  
19          ernment—

20               (1) should, as appropriate, use their authority  
21               to conduct international negotiations, including  
22               using their authority to conduct international nego-  
23               tiations to pursue a worldwide approach to address  
24               aircraft emissions, including the environmental im-  
25               pact of aircraft emissions; and

1           (2) shall, as appropriate and except as provided  
2           in subsection (b), take other actions under existing  
3           authorities that are in the public interest necessary  
4           to hold operators of civil aircraft of the United  
5           States harmless from the emissions trading scheme  
6           referred to under section 2.

7           (b) EXCLUSION OF PAYMENT OF TAXES AND PEN-  
8           ALTIES.—Actions taken under subsection (a)(2) may not  
9           include the obligation or expenditure of any amounts in  
10          the Airport and Airway Trust Fund established under sec-  
11          tion 9905 of the Internal Revenue Code of 1986, or  
12          amounts otherwise made available to the Department of  
13          Transportation or any other Federal agency pursuant to  
14          appropriations Acts, for the payment of any tax or penalty  
15          imposed on an operator of civil aircraft of the United  
16          States pursuant to the emissions trading scheme referred  
17          to under section 2.

1 **SEC. 4. DEFINITION OF CIVIL AIRCRAFT OF THE UNITED**  
2 **STATES.**

3 In this Act, the term “civil aircraft of the United  
4 States” has the meaning given the term under section  
5 40102(a) of title 49, United States Code.

Passed the Senate September 22 (legislative day,  
September 21), 2012.

Attest:

*Secretary.*

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