Purpose: In the nature of a substitute.


S. 3730

To amend title 49, United States Code, to authorize and modernize the registered traveler program of the Transportation Security Administration, and for other purposes.

Referred to the Committee on ______________________ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. SULLIVAN (for himself and Ms. SINEMA)

Viz:

1. Strike all after the enacting clause and insert the following:

3 SECTION 1. SHORT TITLE.

This Act may be cited as the “Registered Traveler Act of 2020”.

6 SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Administrator of the Transportation Security Administration should support the continued operation of trusted passenger programs authorized
under section 109(a)(3) of the Aviation and Transportation Security Act (49 U.S.C. 114 note), including the registered traveler program established by the Transportation Security Administration pursuant to that authorization;

(2) the registered traveler program was established to foster collaboration between the Transportation Security Administration and private sector registered traveler services providers to drive innovations that strengthen security and enhance the traveler experience to improve commercial air travel while continuing to safeguard transportation and national security; and

(3) passengers, airports, and air carriers participating in the registered traveler program may receive significant security and efficiency benefits.

**SEC. 3. REGISTERED TRAVELER PROGRAM.**

(a) In General.—Subchapter I of chapter 449 of title 49, United States Code, is amended by inserting after section 44920 the following:

```
§ 44920a. Registered traveler program

"(a) In General.—An airport operator or air carrier may enter into a contract with a private entity to provide registered traveler services to registered traveler program participants, subject to standards established by the
```
Administrator of the Transportation Security Administra-
tion.

“(b) APPLICATIONS.—

“(1) SUBMISSION.—A private entity seeking to operate as a registered traveler services provider pursuant to a contract entered into under subsection (a) shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator may require, in-
cluding the endorsement of the airport operator or air carrier.

“(2) APPROVAL.—

“(A) IN GENERAL.—Not later than 60 days after the date of receipt of an application submitted by an entity under paragraph (1), the Administrator shall approve or deny the application.

“(B) STANDARDS.—The Administrator shall approve an application submitted by an entity under paragraph (1) if the Administrator determines that—

“(i) the entity is in compliance with section 536 of the Department of Homeland Security Appropriations Act, 2015 (49 U.S.C. 114 note);
“(ii) the level of security of the registered traveler services authorized by the Administrator and provided by the entity pursuant to a contract entered into under subsection (a) will be equal to or greater than the level of security of such services that would be provided by Federal Government personnel; and

“(iii) the entity meets such other standards as the Administrator may establish, including the standards issued under subsection (h).

“(C) Reports on denials of applications.—

“(i) In general.—If the Administrator denies an application submitted by an entity under paragraph (1), the Administrator shall provide to the entity, not later than 60 days after the date of the denial, a written report that sets forth—

“(I) the findings that served as the basis for the denial;

“(II) the results of any security analysis conducted in considering the application; and
“(III) recommendations on how the entity can address the reasons for the denial.

“(ii) Submission to Congress.—The Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a copy of any report provided to an entity under clause (i).

“(3) Treatment of Existing Registered Traveler Services Providers.—Notwithstanding paragraphs (1) and (2), a private entity providing registered traveler services as of the date of the enactment of this section may continue providing registered traveler services under the requirements established by the Administrator for the registered traveler program in existence before such date of enactment if the private entity comes into compliance with the standards issued under subsection (h) within a reasonable period of time after such date of enactment, as determined by the Administrator.

“(c) Oversight.—The Administrator shall—

“(1) develop policies, procedures, and capabilities that allow registered traveler services providers
to provide to registered traveler program participants the full extent of registered traveler services authorized by the Administrator;

“(2) set standards for how registered traveler services providers may verify the identity of registered traveler program participants and provide such other registered traveler services as the Administrator may authorize, including standards, as necessary, for alerting an agent of the Transportation Security Administration to handle any such participant that requires heightened screening or otherwise presents a risk to aviation security; and

“(3) conduct audits under subsection (d) of the performance of registered traveler services providers and allow such providers to correct any deficiencies identified during such audits, unless the Administrator determines it necessary to take enforcement action under subsection (d)(3)(B), (d)(4), or (e).

“(d) Audits of Registered Traveler Services Providers.—

“(1) In General.—At least once every 5 years, the Administrator shall conduct an audit of each registered traveler services provider to determine if the provider is meeting the standards described in subsection (b)(2)(B).
“(2) Strategy required.—

“(A) In general.—In carrying out paragraph (1), the Administrator shall develop a strategy for conducting audits under that paragraph to determine if registered traveler services providers are meeting the standards described in subsection (b)(2)(B).

“(B) Elements.—The strategy required by subparagraph (A) may include the examination of a percentage of registered traveler services program participants who are screened under procedures of the Transportation Security Administration applicable to travelers who are not registered traveler services program participants.

“(3) Improvement plans.—

“(A) In general.—If the Administrator determines that a registered traveler services provider does not meet the standards described in subsection (b)(2)(B), the Administrator may develop an improvement plan with the provider to bring the provider into compliance with those standards within a reasonable period of time, as determined by the Administrator.
“(B) COMPLETION OF IMPROVEMENT PLANS.—If a registered traveler services provider for which an improvement plan was developed under subparagraph (A) does not come into compliance with the standards described in subsection (b)(2)(B) by the date required by the Administrator, the Administrator may—

“(i) provide the provider with additional time to come into compliance with those standards;

“(ii) take administrative action against the provider; or

“(iii) require the suspension or termination under subsection (e) of the provision of registered traveler services by the provider.

“(4) AUTHORITY FOR IMMEDIATE TERMINATION.—If, during an audit conducted under paragraph (1), the Administrator determines that a registered traveler services provider acted with gross negligence or has repeatedly failed to comply with any standard, regulation, directive, order, or law applicable to registered traveler services providers, the Administrator may require the immediate suspension
or termination of the provision of registered traveler services by the provider under subsection (e).

“(e) Termination or Suspension of Registered Traveler Services.—

“(1) In General.—The Administrator may require a registered traveler services provider to suspend or terminate, as appropriate, the provision of registered traveler services if the Administrator determines that the provider acted with gross negligence or has repeatedly failed to comply with any standard, regulation, directive, order, or law applicable to registered traveler services providers.

“(2) Report Required.—If the Administrator requires the termination or suspension of registered traveler services under paragraph (1), the Administrator shall, not later than 60 days after requiring the termination or suspension, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives a report that describes in detail—

“(A) the reasons the services were terminated or suspended;

“(B) if the services were suspended and not terminated, the actions the Administrator is
requiring the provider to take before the services may be reinstated; and

“(C) measures the Administrator is taking to improve the operation of registered traveler services providers in the future.

“(f) Screening Status Information.—The Administrator shall make available to registered traveler services providers, in electronic format, the screening status information of a registered traveler services participant that is available as of the date of the enactment of this section to registered traveler services providers through information contained on the paper and digital travel documents of the participant.

“(g) Innovative Registered Traveler Services and Technologies.—

“(1) In General.—The Administrator shall encourage registered traveler services providers to recommend to the Administrator innovations in registered traveler services and related technologies.

“(2) Response.—Upon the receipt of any recommendation from a registered traveler services provider under paragraph (1), the Administrator shall, to the extent practicable—

“(A) review and respond in writing to the provider within 60 days;
“(B) include in that response a description of the reasons of the Administrator for accepting or rejecting the recommendation of the provider;

“(C) if appropriate, test or conduct a pilot project with respect to the recommendation; and

“(D) if appropriate, implement the recommended service or technology.

“(h) PUBLICATION OF STANDARDS.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Administrator shall issue standards for registered traveler services providers under this section.

“(2) ELEMENTS.—The standards required by paragraph (1) shall include—

“(A) the requirements for ensuring that the level of security of the registered traveler services authorized by the Administrator and provided by a registered traveler services provider will be equal to or greater than the level of security of such services that would be provided by Federal Government personnel;

“(B) any other requirements established by the Administrator for the approval of an appli-
cation under subsection (b) to provide registered traveler services at an airport; and

“(C) a specification of the information that is required to be included in such an application.

“(3) UPDATES.—If the Administrator updates the standards issued under paragraph (1), the Administrator shall issue the updated standards not later than 60 days after updating the standards.

“(i) PUBLIC HEALTH STANDARDS.—A registered traveler program participant shall be required to meet or exceed any public health standards that the Administrator requires all other travelers in air transportation to meet.

“(j) WORKFORCE PROVISION.—The Administrator may not replace, reduce, or otherwise diminish the workforce of the Transportation Security Administration at any airport security checkpoint solely based on the presence of a registered traveler services provider at the checkpoint.

“(k) RULES OF CONSTRUCTION.—Nothing in this section may be construed—

“(1) to diminish the authority of the Administrator under this title to establish and enforce regulations for transportation security or to conduct
compliance verification with respect to those regulations;

“(2) to limit the authority of the Administrator to take any lawful action or remedy against a registered traveler services provider to address security vulnerabilities or impose penalties for violations of this title;

“(3) to supersede, interfere, or diminish the authority of the Administrator to physically screen passengers, or conduct other security functions authorized by law, in air transportation before the entry of passengers into the sterile area of an airport;

“(4) to diminish the authority of the Administrator under this title to provide real-time operational control of passenger screening;

“(5) to excuse a registered traveler services provider from complying with all procedures established by the Administrator for registered traveler program participants that require heightened screening or otherwise present a risk to aviation security; or

“(6) to permit the Administrator to provide access to a database of the Secure Flight program or classified information to a registered traveler services provider.

“(l) DEFINITIONS.—In this section:
14

“(1) Registered traveler program participant.—The term ‘registered traveler program participant’ means an individual who voluntarily chooses to participate in registered traveler services that are provided by a registered traveler services provider.

“(2) Registered traveler services.—

“(A) In general.—The term ‘registered traveler services’ includes the following:

“(i) Identity verification.—The use of identity verification procedures or technologies, including the use of biometrics, to securely verify the identity of a registered traveler program participant who has approached or entered an airport security checkpoint or any other area under the control or authority of the Administrator.

“(ii) Quick access to physical screening.—Expedited access to the area for physical screening, as determined by the Administrator, through an employee of the registered traveler services provider or an automated process operated by the provider.
“(iii) ADDITIONAL SERVICES.—Such other additional services at the airport security checkpoint or any other area under the control or authority of the Administrator as the Administrator may authorize, including innovative identity verification and screening approaches implemented under subsection (g).

“(B) AREA FOR PHYSICAL SCREENING.—For purposes of subparagraph (A)(ii), the term ‘area for physical screening’ means an area, including a lane within an airport security checkpoint or any other area, at which an individual and the personal property of the individual are screened by an agent of the Transportation Security Administration.

“(3) REGISTERED TRAVELER SERVICES PROVIDER.—The term ‘registered traveler services provider’ means a private entity that has entered into a contract with an airport operator or air carrier under subsection (a) to provide registered traveler services to registered traveler program participants.”.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amend-
ed by inserting after the item relating to section 44920
the following:

“44920a. Registered traveler program.”

3 SEC. 4. REPORT ON REGISTERED TRAVELER PROGRAM.

(a) In General.—Not later than 18 months after
the date of the enactment of this Act, the Comptroller
General of the United States shall submit to the Com-
mittee on Commerce, Science, and Transportation of the
Senate and the Committee on Homeland Security of the
House of Representatives a report on the registered trav-
er program under section 44920a of title 49, United
States Code, as added by section 3.

(b) Elements.—The report required by subsection
(a) shall include—

(1) an assessment of—

(A) the extent of the compliance by the
Transportation Security Administration with
the requirements of section 44920a of title 49,
United States Code, as added by section 3;

(B) the level of security, effectiveness, and
efficiency of identity verification and other reg-
istered traveler services provided by registered
traveler services providers under such section
44920a and whether that level of security is
equal to or greater than the level of security, ef-
ficacy, and efficiency of such services that
would be provided by personnel of the Transportation Security Administration; and

(C) the effectiveness of oversight by the Transportation Security Administration of registered traveler services providers; and

(2) recommendations for how to improve the registered traveler program.

(c) FORM OF REPORT.—The report required by subsection (a) shall be submitted in unclassified form but may include a classified annex.