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AN ACT concerning body imaging scanners in airports and supplementing Titles 27 and 32 of the Revised Statutes.

Prohibits use of body imaging scanners to screen passengers and airline crew members.

PRIME Sponsor \_\_\_\_\_ / \_\_\_\_\_

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Same as \_\_\_\_\_ 08/09      Same as \_\_\_\_\_ 10/11

Suggested allocation: §1 C.32:1-35.27g; §2 C.27:25A-24.1; §3 eff date

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AN ACT concerning body imaging scanners in airports and supplementing Titles 27 and 32 of the Revised Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. a. The use of body imaging scanning equipment in an airport operated by the Port Authority of New York and New Jersey to screen passengers and airline pilots and crew members is prohibited in this State.

b. Any person who operates body imaging scanning equipment either in direct contact with a passenger, pilot, or crew member, or remotely views images from the equipment, shall be liable for a civil penalty of \$1,000 for each occurrence. A municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this section, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Attorney General, or the law enforcement agency that has jurisdiction, as the case may be, as plaintiff. The penalty recovered shall be paid by the Attorney General or law enforcement agency into the treasury of the State.

c. No local, State, or federal government employee shall have immunity from any civil liability resulting from the operation of such body imaging scanning equipment even if the violation occurred while acting within the scope of employment.

d. As used in this section, "body imaging scanning equipment" includes, but is not limited to, equipment that uses backscatter technology or millimeter wave technology.

2. a. The use of body imaging scanning equipment in an airport operated by the South Jersey Transportation Authority to screen passengers and airline pilots and crew members is prohibited in this State.

b. Any person who operates body imaging scanning equipment either in direct contact with a passenger, pilot, or crew member, or remotely views images from the equipment, shall be liable for a civil penalty of \$1,000 for each occurrence. A municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this section, if the violation has occurred within the territorial jurisdiction of the court. The proceedings shall be summary and in accordance with the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Attorney General, or the law enforcement agency that has jurisdiction, as the case may be, as plaintiff. The penalty recovered shall be paid by the Attorney General or law enforcement agency into the treasury of the State.

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c. No local, State, or federal government employee shall have immunity from any civil liability resulting from the operation of such body imaging scanning equipment even if the violation occurred while acting within the scope of employment.

d. As used in this section, "body imaging scanning equipment" includes, but is not limited to, equipment that uses backscatter technology or millimeter wave technology.

3. Section 1 of this act shall take effect upon the enactment into law by the State of New York of legislation having a substantially identical effect with this act, but if the State of New York shall have already enacted such legislation, this act shall take effect immediately; section 2 of this act shall take effect immediately.

#### STATEMENT

This bill prohibits the use of body imaging scanning equipment in airports to screen passengers, airline pilots, and crew members. The provisions of the bill apply to Newark Liberty International Airport and Teterboro Airport, which are operated by the Port Authority of New York and New Jersey, and to Atlantic City International Airport, which is operated by the South Jersey Transportation Authority.

The bill specifically provides as follows:

- Any person who operates body imaging scanning equipment either in direct contact with a passenger, pilot, or crew member, or remotely views images from the equipment, shall be liable for a civil penalty of \$1,000 for each occurrence. Body imaging scanning equipment includes, but is not limited to, equipment that uses backscatter technology or millimeter wave technology.
- A municipal court shall have jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of this bill, if the violation has occurred within the territorial jurisdiction of the court. Process shall be in the nature of a summons or warrant and shall issue only at the suit of the Attorney General, or the law enforcement agency that has jurisdiction, as the case may be, as plaintiff. The penalty shall be sued for and recovered in a summary manner and shall be paid into the treasury of the State.
- No local, State, or federal government employee shall have immunity from any civil liability resulting from the operation of such body imaging scanning equipment even if the violation occurred while acting within the scope of employment.
- The bill takes effect immediately; however, because the Port Authority of New York and New Jersey is an interstate authority, the provisions affecting the airports operated by the

authority cannot go into effect until such time as New York State enacts similar legislation.

This bill is in response to the recently implemented policy of the federal Transportation Security Administration to employ advanced imaging technology in major airports in the country to screen air travelers for both metallic and non-metallic threats that may be concealed under a person's clothing. Many members of the public have raised concerns that the use of the imaging equipment unnecessarily exposes travelers to radiation and the images produced constitute an invasion of a person's privacy.

This bill is part of a package of three bills designed by the sponsor to protect the privacy of the traveling public.

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