

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

# H. R. 4714

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## AN ACT

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 through 2014, 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; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “National Transportation Safety Board Reauthorization  
4 Act of 2010”.

5 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendments to title 49, United States Code.
- Sec. 3. Definitions.
- Sec. 4. General organization.
- Sec. 5. Administrative.
- Sec. 6. Disclosure, availability, and use of information.
- Sec. 7. Training.
- Sec. 8. Reports and studies.
- Sec. 9. Authorization of appropriations.
- Sec. 10. Accident investigation authority.
- Sec. 11. Marine casualty investigations.
- Sec. 12. Inspections and autopsies.
- Sec. 13. Discovery and use of cockpit and surface vehicle recordings and transcripts.
- Sec. 14. Family assistance.
- Sec. 15. Notification of marine casualties.
- Sec. 16. Use of board name, logo, initials, and seal.

6 **SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.**

7 Except as otherwise specifically provided, whenever in  
8 this Act an amendment or repeal is expressed in terms  
9 of an amendment to, or repeal of, a section or other provi-  
10 sion of law, the reference shall be considered to be made  
11 to a section or other provision of title 49, United States  
12 Code.

13 **SEC. 3. DEFINITIONS.**

14 Section 1101 is amended to read as follows:

15 **“§ 1101. Definitions**

16 “(a) ACCIDENT DEFINED.—In this chapter, the term  
17 ‘accident’—

1           “(1) means an event associated with the oper-  
2           ation of a vehicle, aircraft, or pipeline, which results  
3           in damage to or destruction of the vehicle, aircraft,  
4           or pipeline, or which results in the death of or seri-  
5           ous injury to any person, regardless of whether the  
6           initiating event is accidental or otherwise; and

7           “(2) may include an incident that does not in-  
8           volve destruction or damage of a vehicle, aircraft, or  
9           pipeline, but affects transportation safety, as the  
10          Board prescribes by regulation.

11          “(b) **APPLICABILITY OF DEFINITIONS IN OTHER**  
12 **LAWS.**—The definitions contained in section 2101(17a) of  
13 title 46 and section 40102(a) of this title apply to this  
14 chapter.”.

15 **SEC. 4. GENERAL ORGANIZATION.**

16          The last sentence of section 1111(d) is amended by  
17 striking “absent” and inserting “unavailable”.

18 **SEC. 5. ADMINISTRATIVE.**

19          (a) **GENERAL AUTHORITY.**—Section 1113(a) is  
20 amended—

21               (1) in paragraph (1)—

22                       (A) by inserting “and depositions” after  
23                       “hearings”; and

24                       (B) by striking “subpena” and inserting  
25                       “subpoena”; and

1           (2) in paragraph (2) by inserting before the  
2 first sentence the following: “In the interest of pro-  
3 moting transportation safety, the Board shall have  
4 the authority by subpoena to summon witnesses and  
5 obtain evidence relevant to an accident investigation  
6 conducted under this chapter.”.

7 (b) ADDITIONAL POWERS.—

8           (1) AUTHORITY OF BOARD TO ENTER INTO  
9 CONTRACTS AND OTHER AGREEMENTS WITH NON-  
10 PROFIT ENTITIES.—Section 1113(b)(1)(H) is  
11 amended by inserting “and other agreements” after  
12 “contracts”.

13           (2) AUTHORITY OF BOARD TO ENTER INTO AND  
14 PERFORM CONTRACTS, AGREEMENTS, LEASES, OR  
15 OTHER TRANSACTIONS.—Section 1113(b) is amend-  
16 ed—

17                   (A) by striking paragraph (1)(I) and in-  
18 serting the following:

19           “(I) negotiate, enter into, and perform con-  
20 tracts, agreements, leases, or other transactions with  
21 individuals, private entities, departments, agencies,  
22 and instrumentalities of the Government, State and  
23 local governments, and governments of foreign coun-  
24 tries on such terms and conditions as the Chairman  
25 of the Board considers appropriate to carry out the

1 functions of the Board and require that such entities  
2 provide appropriate consideration for the reasonable  
3 costs of any facilities, goods, services, or training  
4 provided by the Board.”; and

5 (B) by adding at the end the following:

6 “(3) LEASE LIMITATION.—The authority of the  
7 Board to enter into leases shall be limited to the  
8 provision of special use space related to an accident  
9 investigation, or for general use space, at an average  
10 annual rental cost of not more than \$300,000 for  
11 any individual property.”.

12 (3) AUTHORITY OF OTHER FEDERAL AGEN-  
13 CIES.—Section 1113(b)(2) is amended to read as  
14 follows:

15 “(2) AUTHORITY OF OTHER FEDERAL AGEN-  
16 CIES.—Notwithstanding any other provision of law,  
17 the head of a Federal department, agency, or instru-  
18 mentality may transfer to or receive from the Board,  
19 with or without reimbursement, supplies, personnel,  
20 services, and equipment (other than administrative  
21 supplies and equipment).”.

22 (c) CRITERIA ON PUBLIC HEARINGS.—

23 (1) IN GENERAL.—Section 1113 is amended by  
24 adding at the end the following:

25 “(i) PUBLIC HEARINGS.—

1           “(1) DEVELOPMENT OF CRITERIA.—The Board  
2 shall establish by regulation criteria to be used by  
3 the Board in determining, for each accident inves-  
4 tigation and safety study undertaken by the Board,  
5 whether or not the Board will hold a public hearing  
6 on the investigation or study.

7           “(2) FACTORS.—In developing the criteria, the  
8 Board shall give priority consideration to the fol-  
9 lowing factors:

10                   “(A) Whether the accident has caused sig-  
11 nificant loss of life.

12                   “(B) Whether the accident has caused sig-  
13 nificant property damage.

14                   “(C) Whether the accident may involve a  
15 national transportation safety issue.

16                   “(D) Whether a public hearing may pro-  
17 vide needed information to the Board.

18                   “(E) Whether a public hearing may offer  
19 an opportunity to educate the public on a safety  
20 issue.

21                   “(F) Whether a public hearing may in-  
22 crease both the transparency of the Board’s in-  
23 vestigative process and public confidence that  
24 such process is comprehensive, accurate, and  
25 unbiased.

1           “(G) Whether a public hearing is likely to  
2 significantly delay the conclusion of an inves-  
3 tigation and whether the possible adverse ef-  
4 fects of the delay on safety outweigh the bene-  
5 fits of a public hearing.”.

6           (2) ANNUAL REPORT.—Section 1117 is amend-  
7 ed—

8           (A) by striking “and” at the end of para-  
9 graph (5);

10           (B) by striking the period at the end of  
11 paragraph (6) and inserting “; and”; and

12           (C) by adding at the end the following:

13           “(7) an analysis of the Board’s implementation  
14 of the criteria established pursuant to section  
15 1113(i) during the prior calendar year, including an  
16 explanation of any instance in which the Board did  
17 not hold a public hearing for an investigation of an  
18 accident that has caused significant loss of life or  
19 property damage or that may involve a national  
20 transportation safety issue.”.

21           (d) ACCIDENTAL DEATH AND DISMEMBERMENT IN-  
22 SURANCE.—Section 1113 is further amended by adding  
23 at the end the following:

24           “(j) ACCIDENTAL DEATH AND DISMEMBERMENT IN-  
25 SURANCE.—

1           “(1) AUTHORITY TO PROVIDE INSURANCE.—  
2           The Board may procure accidental death and dis-  
3           memberment insurance for an employee of the  
4           Board who travels for an accident investigation or  
5           other activity of the Board outside the United States  
6           or inside the United States under hazardous cir-  
7           cumstances, as defined by the Board.

8           “(2) CREDITING OF INSURANCE BENEFITS TO  
9           OFFSET UNITED STATES TORT LIABILITY.—Any  
10          amounts paid to a person under insurance coverage  
11          procured under this subsection shall be credited as  
12          offsetting any liability of the United States to pay  
13          damages to that person under section 1346(b) of  
14          title 28, chapter 171 of title 28, chapter 163 of title  
15          10, or any other provision of law authorizing recov-  
16          ery based upon tort liability of the United States in  
17          connection with the injury or death resulting in the  
18          insurance payment.

19          “(3) TREATMENT OF INSURANCE BENEFITS.—  
20          Any amounts paid under insurance coverage pro-  
21          cured under this subsection shall not—

22                         “(A) be considered additional pay or allow-  
23                         ances for purposes of section 5536 of title 5; or



1           “(B) offset any benefits an employee may  
2           have as a result of government service, includ-  
3           ing compensation under chapter 81 of title 5.

4           “(4) ENTITLEMENT TO OTHER INSURANCE.—  
5           Nothing in this subsection shall be construed as af-  
6           fecting the entitlement of an employee to insurance  
7           under section 8704(b) of title 5.”.

8   **SEC. 6. DISCLOSURE, AVAILABILITY, AND USE OF INFORMA-**  
9                                   **TION.**

10          (a) TRADE SECRETS, COMMERCIAL INFORMATION,  
11   AND FINANCIAL INFORMATION.—Section 1114(b) is  
12   amended—

13           (1) by striking the subsection heading and in-  
14           serting the following: “TRADE SECRETS, COMMER-  
15           CIAL INFORMATION, AND FINANCIAL INFORMA-  
16           TION”;

17           (2) in paragraph (1) in the matter preceding  
18           subparagraph (A)—

19                   (A) by inserting “submitted to the Board  
20                   in the course of a Board investigation or study  
21                   and” after “information”; and

22                   (B) by inserting “, or commercial or finan-  
23                   cial information if the information would other-  
24                   wise be withheld under section 552(b)(4) of title  
25                   5,” after “title 18”;

1           (3) in paragraph (2) by striking “paragraph (1)  
2           of this subsection” and inserting “subparagraphs  
3           (A) through (C) of paragraph (1)”; and

4           (4) by adding at the end the following:

5           “(4) ANNOTATION OF CONTROLLED INFORMA-  
6 TION.—Each person submitting to the Board trade se-  
7 crets, commercial information, financial information, or  
8 information that could be classified as controlled under the  
9 International Traffic in Arms Regulations shall appro-  
10 priately annotate the information to indicate the restricted  
11 nature of the information in order to facilitate proper han-  
12 dling of such materials by the Board. In this paragraph,  
13 the term ‘International Traffic in Arms Regulations’  
14 means those regulations contained in parts 120 through  
15 130 of title 22, Code of Federal Regulations (or any suc-  
16 cessor regulations).

17           “(5) DISCLOSURES TO PROTECT PUBLIC HEALTH  
18 AND SAFETY.—Disclosures of information under para-  
19 graph (1)(D) may include disclosures through accident in-  
20 vestigation reports, safety studies, and safety rec-  
21 ommendations.”.

22           (b) SURFACE VEHICLE RECORDINGS AND TRAN-  
23 SCRIPTS.—The second sentence of section 1114(d)(1) is  
24 amended by striking “that” after “information”.

1 (c) VESSEL RECORDINGS AND TRANSCRIPTS.—Sec-  
2 tion 1114 is amended—

3 (1) in subsection (a)(1) by striking “and (f)”  
4 and inserting “(e), and (g)”;

5 (2) in subsection (d)(1) by striking “or vessel”;

6 (3) by redesignating subsections (e) and (f) as  
7 subsections (f) and (g), respectively; and

8 (4) by inserting after subsection (d) the fol-  
9 lowing:

10 “(e) VESSEL RECORDINGS AND TRANSCRIPTS.—

11 “(1) CONFIDENTIALITY OF RECORDINGS AND  
12 TRANSCRIPTS.—The Board may not disclose publicly  
13 any part of a vessel’s voice or video recorder record-  
14 ing or transcript of oral communications by or  
15 among the crew, pilots, or docking masters of a ves-  
16 sel, vessel traffic services, or other vessels, or be-  
17 tween the vessel’s crew and company communication  
18 centers, related to a marine casualty investigated by  
19 the Board. However, the Board shall make public  
20 any part of a transcript or any written depiction of  
21 visual information the Board decides is relevant to  
22 the marine casualty—

23 “(A) if the Board holds a public hearing  
24 on the marine casualty, at the time of the hear-  
25 ing; or

1           “(B) if the Board does not hold a public  
2           hearing, at the time a majority of the other fac-  
3           tual reports on the marine casualty are placed  
4           in the public docket.

5           “(2) REFERENCES TO INFORMATION IN MAKING  
6           SAFETY RECOMMENDATIONS.—This subsection does  
7           not prevent the Board from referring at any time to  
8           voice or video recorder information in making safety  
9           recommendations.”.

10          (d) FOREIGN INVESTIGATIONS.—Section 1114(g) (as  
11          redesignated by subsection (c)(3) of this section) is  
12          amended—

13                 (1) in paragraph (1)(A) by striking “shall” and  
14                 inserting “may”; and

15                 (2) in paragraph (2) by inserting “, or other  
16                 relevant information authorized for disclosure under  
17                 this chapter,” after “information”.

18          (e) PARTY REPRESENTATIVES TO NTSB INVESTIGA-  
19          TIONS.—

20                 (1) IN GENERAL.—Section 1114 is further  
21                 amended by adding at the end the following:

22                 “(h) PARTY REPRESENTATIVES TO NTSB INVES-  
23                 TIGATIONS.—

24                         “(1) PROHIBITION ON DISCLOSURE OF INFOR-  
25                         MATION.—A party representative to an accident or

1 marine casualty investigation of the Board is prohib-  
2 ited from disclosing, orally or in written form, inves-  
3 tigative information, as defined by the Board, to  
4 anyone who is not an employee of the Board or who  
5 is not a party representative to such investigation,  
6 except—

7 “(A) as provided in paragraph (2); or

8 “(B) at the conclusion of the fact finding  
9 stage of an investigation, which the investi-  
10 gator-in-charge shall announce by formal post-  
11 ing of a notice in the publicly available inves-  
12 tigation docket.

13 “(2) EXCEPTION.—If the investigator-in-charge  
14 determines that a disclosure of information related  
15 to an accident or marine casualty investigation is  
16 necessary to prevent additional accidents or marine  
17 casualties, to address a perceived safety deficiency,  
18 or to assist in the conduct of the investigation, the  
19 investigator-in-charge may at any time authorize in  
20 writing a party representative to disclose such infor-  
21 mation under conditions approved by the investi-  
22 gator-in-charge. Such conditions shall ensure that,  
23 until the posting of a formal notice described in  
24 paragraph (1)(B), or until the information disclosed  
25 pursuant to this paragraph becomes publicly avail-

1 able by any other means, neither the entity rep-  
2 resented by the party representative nor any other  
3 person may use such information in preparation for  
4 the prosecution of any claim or defense in litigation  
5 in connection with the accident or marine casualty  
6 being investigated or to make or deny any insurance  
7 claim in connection with such accident or marine  
8 casualty.

9 “(3) COMPLIANCE.—The Board shall require  
10 any individual who is a party representative to an  
11 investigation of the Board to sign a party agreement  
12 that includes language informing the individual of  
13 the prohibition in paragraph (1).

14 “(4) REPRESENTATIVES OF FEDERAL AGEN-  
15 CIES.—Paragraph (3) shall not apply to an indi-  
16 vidual who is a representative of the Secretary of  
17 Transportation, the Secretary of the department in  
18 which the Coast Guard is operating, or any other  
19 Federal department, agency, or instrumentality par-  
20 ticipating in the investigation and deemed by the  
21 Board to be performing a law enforcement or similar  
22 function.

23 “(5) COMPLIANCE WITH FAA STATUTORY OBLI-  
24 GATIONS.—Nothing in this subsection prohibits the

1 Federal Aviation Administration from fulfilling stat-  
2 utory obligations to ensure safe operations.

3 “(6) PARTY REPRESENTATIVE DEFINED.—In  
4 this subsection, the term ‘party representative’  
5 means an individual representing a party to an in-  
6 vestigation pursuant to section 831.11 of title 49,  
7 Code of Federal Regulations, as in effect on the date  
8 of enactment of this subsection.”.

9 (2) CIVIL PENALTY.—Section 1151 is amend-  
10 ed—

11 (A) in the section heading by striking  
12 “**Aviation enforcement**” and inserting  
13 “**Enforcement**”; and

14 (B) by inserting “1114(h),” before  
15 “1132,” in each of subsections (a), (b)(1), and  
16 (c).

17 (3) CONFORMING AMENDMENT.—The analysis  
18 for chapter 11 is amended by striking the item relat-  
19 ing to section 1151 and inserting the following:

“1151. Enforcement.”.

20 (f) GAO STUDY OF PARTY PROCESS.—

21 (1) IN GENERAL.—The Comptroller General  
22 shall conduct a study on the use of party representa-  
23 tives in investigations conducted by the National  
24 Transportation Safety Board.

1           (2) CONTENTS.—In conducting the study, the  
2 Comptroller General shall examine, at a minimum—

3           (A) whether the composition of the party  
4 representatives should be broadened to include  
5 on-going representatives from other entities  
6 that could provide independent, technically  
7 qualified representatives to a Board investiga-  
8 tion;

9           (B) whether the participation of party rep-  
10 resentatives in a Board investigation results in  
11 any unfair advantages for the entities rep-  
12 resented by the party representatives while the  
13 Board is conducting the investigation;

14           (C) whether the use of party representa-  
15 tives leads to bias in the outcome of a Board  
16 investigation; and

17           (D) whether Board investigations would be  
18 compromised in any way absent the participa-  
19 tion and expertise of party representatives.

20           (3) REPORT TO CONGRESS.—Not later than 18  
21 months after the date of enactment of this Act, the  
22 Comptroller General shall submit to the Committee  
23 on Transportation and Infrastructure of the House  
24 of Representatives and the Committee on Commerce,  
25 Science, and Transportation of the Senate a report



1 on the results of the study conducted under this sub-  
2 section, including any recommendations for improve-  
3 ments in the Board’s use of the party representative  
4 process.

5 **SEC. 7. TRAINING.**

6 Section 1115(d) is amended—

7 (1) by inserting “theory and techniques and on  
8 transportation safety methods to advance Board  
9 safety recommendations” before the period at the  
10 end of the first sentence;

11 (2) by inserting “or who influence the course of  
12 transportation safety through support or adoption of  
13 Board safety recommendations” before the period at  
14 the end of the second sentence; and

15 (3) by inserting “under section 1118(c)(2)” be-  
16 fore the period at the end of the third sentence.

17 **SEC. 8. REPORTS AND STUDIES.**

18 (a) **STUDIES AND INVESTIGATIONS.**—Section  
19 1116(b) is amended—

20 (1) in paragraph (1) by striking “carry out”  
21 and inserting “conduct”; and

22 (2) by striking paragraph (3) and inserting the  
23 following:

24 “(3) prescribe requirements for persons report-  
25 ing accidents, as defined in section 1101(a), that

1       may be investigated by the Board under this chap-  
2       ter;”.

3       (b) URGENT SAFETY RECOMMENDATIONS AND IN-  
4       TERIM MEASURES.—Section 1116 is amended by adding  
5       at the end the following:

6       “(c) URGENT SAFETY RECOMMENDATIONS AND IN-  
7       TERIM MEASURES.—

8               “(1) LIMITATION ON STATUTORY CONSTRUC-  
9       TION.—Nothing in this section shall restrict the  
10       Board from—

11               “(A) making urgent safety recommenda-  
12       tions, as identified by the Board during an on-  
13       going safety investigation or study, to any de-  
14       partment, agency, or instrumentality of the  
15       Federal Government, a State or local govern-  
16       mental authority, or a person concerned with  
17       transportation safety; or

18               “(B) recommending interim measures, as  
19       identified by the Board, to a department, agen-  
20       cy, instrumentality, authority, or person de-  
21       scribed in subparagraph (A) to mitigate risks to  
22       transportation safety pending implementation  
23       of more comprehensive responses by the depart-  
24       ment, agency, instrumentality, authority, or  
25       person.

1           “(2) INCLUSION IN FINAL ACCIDENT RE-  
2           PORTS.—If the Board makes an urgent safety rec-  
3           ommendation or recommends an interim measure  
4           before completing a relevant final accident report, if  
5           any, the urgent safety recommendation or interim  
6           measure shall also be reflected in the final accident  
7           report.”.

8           (c) EVALUATION AND AUDIT.—Section 1138(a) is  
9           amended by striking “conducted at least annually, but  
10          may be”.

11 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

12          (a) IN GENERAL.—Section 1118(a) is amended to  
13          read as follows:

14          “(a) IN GENERAL.—There is authorized to be appro-  
15          priated for the purposes of this chapter—

16                 “(1) \$107,583,000 for fiscal year 2011;

17                 “(2) \$115,347,000 for fiscal year 2012;

18                 “(3) \$122,187,000 for fiscal year 2013; and

19                 “(4) \$124,158,000 for fiscal year 2014.

20          Such sums shall remain available until expended.”.

21          (b) FEES, REFUNDS, REIMBURSEMENTS, AND AD-  
22          VANCES.—Section 1118(c) is amended—

23                 (1) by striking the subsection heading and in-  
24                 serting the following: “FEES, REFUNDS, REIM-  
25                 BURSEMENTS, AND ADVANCES”;

1 (2) in paragraph (1)—

2 (A) by striking “and reimbursements” and  
3 inserting “reimbursements, and advances”; and

4 (B) by striking “services” and inserting  
5 “activities, services, and facilities”;

6 (3) in paragraph (2)—

7 (A) in the matter preceding subparagraph  
8 (A) by striking “or reimbursement” and insert-  
9 ing “reimbursement, or advance”; and

10 (B) in each of subparagraphs (A) and (B)  
11 by striking “activities” and all that follows be-  
12 fore the semicolon and inserting “activities,  
13 services, or facilities for which the fee, refund,  
14 reimbursement, or advance is associated”;

15 (4) by redesignating paragraph (3) as para-  
16 graph (4);

17 (5) by inserting after paragraph (2) the fol-  
18 lowing:

19 “(3) ANNUAL RECORD OF COLLECTIONS.—The  
20 Board shall maintain an annual record of collections  
21 received under paragraph (2).”; and

22 (6) in paragraph (4) (as redesignated by para-  
23 graph (4) of this subsection) by inserting “or ad-  
24 vance” after “fee”.

1 **SEC. 10. ACCIDENT INVESTIGATION AUTHORITY.**

2 (a) IN GENERAL.—Section 1131(a)(1) is amended—

3 (1) in the matter preceding subparagraph (A)  
4 by striking “cause or probable cause” and inserting  
5 “causes or probable causes”;

6 (2) in subparagraph (C) by striking “a fatality  
7 or substantial property damage” and inserting “a  
8 fatality (other than a fatality involving a trespasser)  
9 or substantial property damage”;

10 (3) in subparagraph (E) by striking “and” at  
11 the end;

12 (4) in subparagraph (F) by striking the period  
13 at the end and inserting “; and”; and

14 (5) by adding at the end the following:

15 “(G) an accident in response to an international  
16 request and delegation under appropriate inter-  
17 national conventions, coordinated through the De-  
18 partment of State and accepted by the Board.”.

19 (b) AUTHORITIES OF OTHER AGENCIES.—The sec-  
20 ond sentence of section 1131(a)(3) is amended by insert-  
21 ing “or relevant to” after “developed about”.

22 (c) ACCIDENTS NOT INVOLVING GOVERNMENT MIS-  
23 FEASANCE OR NONFEASANCE.—Section 1131(c) is  
24 amended by adding at the end the following:

25 “(3) AUTHORITY OF BOARD REPRESENTA-  
26 TIVE.—In the case of a delegation of authority

1 under paragraph (1), the Secretary, or a person des-  
2 ignated by the Secretary, shall have the authority of  
3 the Board, on display of appropriate credentials and  
4 written notice of inspection authority, to enter prop-  
5 erty where the aircraft accident has occurred or  
6 wreckage from the accident is located and to gather  
7 evidence in support of a Board investigation, in ac-  
8 cordance with rules the Board may prescribe.”.

9 (d) INCIDENT INVESTIGATIONS.—Section 1131 is  
10 amended by adding at the end the following:

11 “(f) INCIDENT INVESTIGATIONS.—

12 “(1) MEMORANDUM OF UNDERSTANDING.—Not  
13 later than 90 days after the issuance of final regula-  
14 tions under section 1101(a)(2), the Chairman of the  
15 Board shall seek to enter into a memorandum of un-  
16 derstanding with the Secretary of Transportation  
17 and the head of each modal administration of the  
18 Department of Transportation that sets forth—

19 “(A) an understanding of the conditions  
20 under which the Board will conduct an incident  
21 investigation that involves the applicable mode  
22 of transportation; and

23 “(B) the roles and responsibilities of the  
24 parties to the memorandum when the Board is  
25 conducting an incident investigation.

1           “(2) UPDATES AND RENEWALS.—Each memo-  
2           randum of understanding required under paragraph  
3           (1) shall be updated and renewed not less than once  
4           every 5 years, unless parties to the memorandum  
5           agree that updating the memorandum is unneces-  
6           sary.

7           “(3) BOARD AUTHORITY.—Nothing in this  
8           paragraph negates the authority of the Board to in-  
9           vestigate an incident.

10           “(4) INCIDENT DEFINED.—In this subsection,  
11           the term ‘incident’ means an incident described in  
12           regulations issued under section 1101(a)(2).”.

13 **SEC. 11. MARINE CASUALTY INVESTIGATIONS.**

14           (a) IN GENERAL.—Chapter 11 is amended by insert-  
15           ing after section 1132 the following:

16 **“§ 1132a. Marine casualty investigations**

17           “(a) DELEGATION OF AUTHORITY TO COAST  
18           GUARD.—

19           “(1) IN GENERAL.—In an investigation of a  
20           major marine casualty under section 1131(a)(1)(E),  
21           the Board, with the consent of the Secretary of the  
22           department in which the Coast Guard is operating,  
23           may delegate to the Commandant of the Coast  
24           Guard full authority to obtain the facts of the cas-  
25           ualty. In the case of such a delegation, the Com-

1 mandant, acting through the Commandant's on-  
2 scene representative, shall have the full authority of  
3 the Board.

4 “(2) REQUIRED TRAINING, EXPERIENCE, AND  
5 QUALIFICATIONS.—The Board may not make a dele-  
6 gation under paragraph (1) unless the Board deter-  
7 mines that the Commandant's on-scene representa-  
8 tives have sufficient training, experience, and quali-  
9 fications in investigation, marine casualty recon-  
10 struction, evidence collection and preservation,  
11 human factors, and documentation to act in accord-  
12 ance with the best investigation practices of Federal  
13 and non-Federal entities.

14 “(b) PARTICIPATION OF COMMANDANT IN MARINE  
15 INVESTIGATIONS.—The Board shall provide for the par-  
16 ticipation of the Commandant of the Coast Guard in an  
17 investigation by the Board of a major marine casualty  
18 under section 1131(a)(1)(E) if such participation is nec-  
19 essary to carry out the duties and powers of the Com-  
20 mandant, except that the Commandant may not partici-  
21 pate in establishing the probable cause of the marine cas-  
22 ualty (other than as provided in section 1131(b)).”.

23 (b) CONFORMING AMENDMENT.—The analysis for  
24 chapter 11 is amended by inserting after the item relating  
25 to section 1132 the following:

“1132a. Marine casualty investigations.”.



1 **SEC. 12. INSPECTIONS AND AUTOPSIES.**

2 (a) ENTRY AND INSPECTION.—Section 1134(a) is  
3 amended in the matter preceding paragraph (1)—

4 (1) by striking “officer or employee” and in-  
5 sserting “officer, employee, or Federal designee”; and

6 (2) by inserting “in the conduct of any accident  
7 investigation or study” after “National Transpor-  
8 tation Safety Board”.

9 (b) INSPECTION, TESTING, PRESERVATION, AND  
10 MOVING OF AIRCRAFT AND PARTS.—Section 1134(b) is  
11 amended to read as follows:

12 “(b) INSPECTION, TESTING, PRESERVATION, AND  
13 MOVING OF AIRCRAFT AND PARTS.—

14 “(1) INSPECTION AND TESTING.—In inves-  
15 tigating an aircraft accident under this chapter, the  
16 Board may—

17 “(A) inspect and test, to the extent nec-  
18 essary, any civil aircraft, aircraft engine, pro-  
19 peller, appliance, or property on an aircraft in-  
20 volved in an accident in air commerce;

21 “(B) seize or otherwise obtain any record-  
22 ing device and recording pertinent to the acci-  
23 dent; and

24 “(C) require specific information only  
25 available from the manufacturer to enable the  
26 Board to read and interpret any flight param-

1           eter or navigation storage device or media on  
2           board the aircraft involved in the accident.

3           “(2) MOVING OF AIRCRAFT AND PARTS.—Any  
4           civil aircraft, aircraft engine, propeller, appliance, or  
5           property on an aircraft involved in an accident in air  
6           commerce shall be preserved, and may be moved,  
7           only as provided by regulations of the Board.

8           “(3) TRADE SECRETS, COMMERCIAL INFORMA-  
9           TION, AND FINANCIAL INFORMATION.—The provi-  
10          sions of section 1114(b) shall apply to materials pro-  
11          vided under paragraph (1)(C) and properly identi-  
12          fied as trade secrets, commercial information, or fi-  
13          nancial information.”.

14          (c) AVOIDING UNNECESSARY INTERFERENCE; PRE-  
15          SERVING EVIDENCE.—Section 1134(c) is amended to read  
16          as follows:

17          “(c) AVOIDING UNNECESSARY INTERFERENCE; PRE-  
18          SERVING EVIDENCE.—

19                 “(1) INSPECTION AND TESTING.—In carrying  
20                 out subsection (a)(1), an officer or employee may—

21                         “(A) examine or test any vehicle, vessel,  
22                         rolling stock, track, or pipeline component;

23                         “(B) seize or otherwise obtain any record-  
24                         ing device and recording pertinent to the acci-  
25                         dent; and

1           “(C) require the production of specific in-  
2           formation only available from the manufacturer  
3           to enable the Board to read and interpret any  
4           operational parameter or navigation storage de-  
5           vice or media on board the vehicle, vessel, or  
6           rolling stock involved in the accident.

7           “(2) TRADE SECRETS, COMMERCIAL INFORMA-  
8           TION, AND FINANCIAL INFORMATION.—The provi-  
9           sions of section 1114(b) shall apply to materials pro-  
10          vided under paragraph (1)(C) and properly identi-  
11          fied as trade secrets, commercial information, or fi-  
12          nancial information.

13          “(3) CONDUCT OF EXAMINATIONS AND  
14          TESTS.—An examination or test under paragraph  
15          (1)(A) shall be conducted in a way that—

16                 “(A) does not interfere unnecessarily with  
17                 transportation services provided by the owner  
18                 or operator of the vehicle, vessel, rolling stock,  
19                 track, or pipeline component; and

20                 “(B) to the maximum extent feasible, pre-  
21                 serves evidence related to the accident, con-  
22                 sistent with the needs of the investigation and  
23                 with the cooperation of that owner or oper-  
24                 ator.”.

1 **SEC. 13. DISCOVERY AND USE OF COCKPIT AND SURFACE**  
2 **VEHICLE RECORDINGS AND TRANSCRIPTS.**

3 Section 1154(a)(1)(A) is amended by striking “;  
4 and” and inserting “; or”.

5 **SEC. 14. FAMILY ASSISTANCE.**

6 (a) FAMILY ASSISTANCE IN COMMERCIAL AVIATION  
7 ACCIDENTS.—Section 41113(b)(7) is amended by insert-  
8 ing before the period at the end the following: “, and that  
9 at least 60 days before the planned destruction of any un-  
10 claimed possession of a passenger a reasonable attempt  
11 will be made to notify the family of the passenger”.

12 (b) FAMILY ASSISTANCE IN COMMERCIAL AVIATION  
13 ACCIDENTS INVOLVING FOREIGN CARRIERS.—Section  
14 41313(c)(7) is amended by inserting before the period at  
15 the end the following: “, and that at least 60 days before  
16 the planned destruction of any unclaimed possession of a  
17 passenger a reasonable attempt will be made to notify the  
18 family of the passenger”.

19 **SEC. 15. NOTIFICATION OF MARINE CASUALTIES.**

20 Not later than 6 months after the date of enactment  
21 of this Act, the National Transportation Safety Board and  
22 the Secretary of the department in which the Coast Guard  
23 is operating shall jointly prescribe regulations to ensure  
24 the prompt notification and reporting of marine casualties  
25 by the Coast Guard to the Board.

1 **SEC. 16. USE OF BOARD NAME, LOGO, INITIALS, AND SEAL.**

2 Section 709 of title 18, United States Code, is  
3 amended—

4 (1) by inserting “or” at the end of the para-  
5 graph immediately preceding the paragraph that be-  
6 gins “Shall be punished as follows:”; and

7 (2) by inserting the following before the para-  
8 graph that begins “Shall be punished as follows:”:

9 “Whoever, except with the written permission of the  
10 Chairman of the National Transportation Safety Board,  
11 knowingly uses the words ‘National Transportation Safety  
12 Board’, the logo of the Board, the initials ‘NTSB’, or the  
13 official seal of the Board, or any colorable imitation of  
14 such words, logo, initials, or seal, in connection with any  
15 advertisement, circular, book, pamphlet, or other publica-  
16 tion, or any play, motion picture, broadcast, telecast, or  
17 other production, in a manner reasonably calculated to  
18 convey the impression that such advertisement, circular,  
19 book, pamphlet, or other publication, or such play, motion  
20 picture, broadcast, telecast, or other production, is ap-

1 proved, endorsed, or authorized by the National Transpor-  
2 tation Safety Board;”.

Passed the House of Representatives September 28,  
2010.

Attest:

*Clerk.*



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

# **H. R. 4714**

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## **AN ACT**

To amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2011 through 2014, and for other purposes.