

Imposing monetary penalties

If a traveller makes a false or deceptive statement to a preclearance officer about the goods he or she is bringing into the U.S.A., the preclearance officer could administer U.S. monetary penalties against the goods unless Canada chooses to institute proceedings for an offence under Canadian law that is punishable by a monetary penalty or imprisonment.

If a traveller is caught providing a false declaration in relation to the possession of illegal drugs, a preclearance officer must refer the matter to a Canadian officer who would determine whether Canada wishes to take criminal enforcement action against the passenger. If Canada is not interested in prosecuting, the U.S. officer may impose a monetary penalty for the false declaration, thereby providing the U.S. with a deterrent to the importation of illegal substances.

Advance passenger information for intransit passengers only

The Preclearance Act would enable U.S. preclearance officers to receive and use limited information on intransit air passengers, who will not formally enter Canada, from air carriers in advance of passenger arrival. Advance information will not be provided for passengers using preclearance operations.

The Act would require that airlines provide information for only those passengers that wish to use intransit facilities. This information would include passport and ticket reservation data and other similar information that would be available or could be obtained by preclearance officers when passengers arrive.

Advance access to passenger information, now widely used in the U.S.A. and the United Kingdom, helps border-control officers to streamline passenger processing in an era of increasing passenger traffic and declining resources. The 99% of travellers who are low risk can then be separated and processed more quickly and efficiently.

Immunity

The Act ensures that the U.S. can be sued for torts committed by its officers for anything that is done within the scope of their duties, i.e. for personal injuries and property damage. The proposed legislation would provide the preclearance officer with protection for anything that is done within the scope of the Act.

U.S. preclearance officers are not immune from criminal court proceedings.

This immunity scheme would, under reciprocal U.S. legislation, apply to Canadian preclearance officers working in preclearance areas in the U.S.A.