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107TH CONGRESS
1ST SESSION

S. 633

To provide for the review and management of airport congestion, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 27, 2001

Mrs. HUTCHISON (for herself and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To provide for the review and management of airport congestion, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Aviation Delay Prevention Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) AIR CARRIER.—The term ''air carrier'' has the meaning given that term in section 40102(a)(2) of title 49, United States Code.

(2) ENPLANEMENT.—The term ''enplanement'' means the annual number of passenger enplanements, as determined by the Secretary of Transportation, based on the most recent data available.

(3) LARGE HUB AIRPORT.—The term ''large hub airport'' has the meaning given that term in section 47134(d)(2) of title 49, United States Code.

(4) ON-TIME DEPARTURE.—The term ''on-time departure'' means with respect to a scheduled passenger flight that the flight is airborne within 20 minutes of the time it is scheduled to depart.

(5) OVERSCHEDULING.—The term ''overscheduling'' means the practice by an air carrier or air carriers of scheduling the time for the departure of flights at an airport in excess of the number of flights that the airport can accommodate for departure at that time.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SEC. 3. FAA STUDY AND REPORT.

(a) IN GENERAL.—Not later than the date that is 1 year after the date of enactment of this Act, and each year thereafter for 5 years, the Secretary shall complete a review and report to the Committee on Commerce,

Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives regarding air carrier overscheduling at large hub airports.

(b) SCOPE OF REVIEW AND REPORT.—The review and report described in subsection (a) shall include the following:

(1) The hourly departure and arrival capacity at each large hub airport, including variation of capacity based on air traffic control and other factors.

(2) The hours when departures and arrivals at each large hub airport are overscheduled and the airport operates above capacity.

(3) An analysis of the congestion mitigation authority of the Secretary and recommendations for providing the Secretary with additional authority to alleviate airport congestion and overscheduling and to expedite construction related to the expansion of airport capacity.

SEC. 4. LIMITED EXEMPTION FROM ANTITRUST LAWS.

(a) IN GENERAL.—Subchapter I of chapter 417 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 41722. Limited exemption from the antitrust laws

''(a) DEFINITION.—In this section, the term 'antitrust laws' has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

''(b) COOPERATIVE SCHEDULING AGREEMENTS.—

''(1) AUTHORITY.—An air carrier may file with the Secretary of Transportation a request for authority for a group of 2 or more air carriers to discuss cooperative scheduling arrangements, if the sole purpose of the discussions is to reach an agreement between the air carriers to reduce overscheduling and flight delays during hours of peak operation and during periods of inclement weather at any large hub airport. The Secretary shall grant or deny the request within 30 days after it is received.

''(2) AGREEMENT.—An air carrier shall file with the Secretary of Transportation, for the approval by the Secretary, a true copy of an agreement reached under paragraph (1).

''(c) APPROVAL BY THE SECRETARY.—

''(1) IN GENERAL.—Within 60 days after receiving a copy of an agreement under subsection (b), the Secretary of Transportation shall approve the agreement and issue an order containing that approval, if the Secretary finds that the agreement—

"(A) will reduce congestion at the affected airport;

"(B) will not reduce service to small communities; and

"(C) is not adverse to the public interest.

"(2) GROUNDS FOR DISAPPROVAL.—

"(A) The Secretary shall disapprove or revoke approval of an agreement filed under subsection (b), if after review, the Secretary finds that any discussion or agreement entered into as a result of that filing substantially reduces or eliminates competition.

"(B) Notwithstanding subparagraph (A), the Secretary may approve a request or an agreement filed under subsection (b) if the Secretary finds that—

"(i) the request or agreement is necessary to meet a serious transportation need or to achieve important public benefits; and

"(ii) the transportation need cannot be met or the benefits cannot be achieved by reasonably available alternatives that are materially less anticompetitive.

''(3) NOTICE AND OPPORTUNITY TO RESPOND; HEARINGS.—

''(A) NOTICE AND OPPORTUNITY TO RESPOND.—When a request or an agreement is filed with the Secretary under subsection (b), the Secretary shall give the Attorney General written notice of, and an opportunity to submit written comments about, the filing.

''(B) HEARING.—On the initiative of the Secretary, or at the request of the Attorney General, the Secretary may conduct a hearing to decide if a request or agreement filed under subsection (b) should receive or retain approval.

''(d) EXEMPTION AUTHORIZED.—When the Secretary finds that it is required by the public interest, the Secretary, as part of an order issued under subsection (c)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the activities approved in the order.

''(e) DOT PARTICIPATION.—The Secretary shall ensure that the Department is represented at any such meetings authorized under this section.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417, of title 49, United States Code, is

amended by inserting after the item relating to section 41721 the following new item:

''41722. Limited exemption from the antitrust laws.''.

SEC. 5. EXPEDITED COORDINATED ENVIRONMENTAL REVIEW PROCESS.

The Secretary of Transportation shall develop and implement an expedited coordinated environmental review process for airport capacity-enhancement projects that—

(1) provides for coordination among the Federal, regional, State, and local agencies concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) provides for an expedited and coordinated process in the conduct of environmental and judicial reviews that ensures that the reviews are done concurrently and not consecutively; and

(3) provides for a date certain for completing all environmental reviews.

SEC. 6. CHIEF OPERATING OFFICER.

Section 106(r)(2) of title 49, United States Code, is amended to read as follows:

''(2) COMPENSATION.—The Chief Operating Officer shall be paid at an annual rate of basic pay determined by the Secretary of Transportation be-

fore the appointment and without regard to any other provision of law. The Chief Operating Officer shall be subject to the post-employment provisions of section 207 of title 18 as if the position of Chief Operating Officer were described in section 207(c)(2)(A)(i) of that title.''.

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