

TRANSPARENT AIRFARES ACT OF 2014

JULY 24, 2014.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 4156]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 4156) to amend title 49, United States Code, to allow advertisements and solicitations for passenger air transportation to state the base airfare of the transportation, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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#### PURPOSE OF LEGISLATION

H.R. 4156, the “Airfare Transparency Act of 2014,” clarifies that it is not an unfair or deceptive practice to state in an advertisement or solicitation the base fare for passenger air transportation as long as the government-imposed taxes and fees and the total cost of the air transportation are clearly and separately disclosed in the advertisement or solicitation.

#### BACKGROUND AND NEED FOR LEGISLATION

Virtually all consumer products are sold at a base price, with taxes added on at the point of purchase. However, in January 2012, the United States Department of Transportation (DOT) fundamentally changed U.S. airline advertising practices by implementing a rule that prohibits air carriers and ticket agents from providing full disclosure of government imposed taxes and fees in advertised prices. DOT’s previous advertising rules had been in effect for 25 years. The DOT’s 2012 advertising rule requires air carriers and ticket agents to include all government imposed taxes and fees in the advertised price of a ticket. As a result, government imposed taxes and fees may not always be apparent to the traveling public.

H.R. 4156 will allow air carriers and ticket agents to display the actual cost of air travel in a clear and transparent way—enabling passengers to see the base airfare as well as the government-imposed taxes and fees. It does this by amending section 41712 of title 49, United States Code, to clarify that it is not an unfair or deceptive practice to display, in an advertisement or solicitation, the base fare for the air transportation as long as the taxes, fees and total cost are clearly and separately disclosed in the advertisement or solicitation.

#### HEARINGS

No hearings were held on H.R. 4156.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On March, 6, 2014, Rep. Bill Shuster introduced H.R. 4156, along with original cosponsors Representatives Peter DeFazio, Tom Graves, Rick Larsen, Frank LoBiondo, and Nick Rahall.

On April 9, 2014, the Committee on Transportation and Infrastructure met in open session and ordered the bill reported favorably to the House by voice vote with a quorum present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no record votes taken in connection with consideration of H.R. 4156 or ordering the measure reported. A motion to order H.R. 4156 reported favorably to the House was agreed to by voice vote with a quorum present.

## COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

## NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in the report.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 4156 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, April 18, 2014.*

Hon. BILL SHUSTER,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4156, the Transparent Airfares Act of 2014.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

DOUGLAS W. ELMENDORF.

Enclosure.

*H.R. 4156—Transparent Airfares Act of 2014*

H.R. 4156 would require the Department of Transportation (DOT) to promulgate a rule related to how prices for certain types of air transportation are advertised. Under current policies, DOT requires that advertised prices for air travel reflect the total price per passenger to be paid by customers, including government-imposed taxes and fees. Under H.R. 4156, sellers of air transportation could instead advertise base airfares, provided that advertisements also disclose the amount of additional government-imposed taxes and fees that customers would pay.

CBO estimates that enacting H.R. 4156 would have no significant effect on the federal budget. Based on information from DOT we estimate that any costs incurred to complete the proposed rule-making, which would be subject to the availability of appropriated funds, would be insignificant. H.R. 4156 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 4156 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to restore transparency to airline advertising by clarifying that it is not an unfair or deceptive practice to display, in an advertisement or solicitation, the base fare for the air transportation as long as the taxes, fees and total cost are clearly and separately disclosed in the advertisement or solicitation.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(j) of H. Res. 5, 113th Cong. (2013), the Committee finds that no provision of H.R. 4156 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULEMAKINGS

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee estimates that enacting H.R. 4156 would require the Secretary of Transportation, not later than 120 days after enactment, to issue final regulations to carry out the amendment made to section 41712 of title 49, United States Code.

#### FEDERAL MANDATE STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is in-

tended to preempt state, local, or tribal law. The Committee states that H.R. 4156 does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

#### APPLICABILITY OF LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104–1).

#### SECTION-BY-SECTION ANALYSIS OF LEGISLATION

*Section 1. Short title is the “Transparent Airfares Act of 2014”*

*Section 2. Full fare advertising*

Subsection (a) amends section 41712 of title 49, United States Code to clarify that it is not an unfair or deceptive practice to state in an advertisement or solicitation for passenger air transportation the base fare for the air transportation as long as the government imposed taxes and fees and total cost are clearly and separately disclosed in the advertisement or solicitation. This subsection also sets forth how the disclosure should be accomplished and defines the terms “base airfare” and “covered entity”.

Subsection (b) clarifies that air carriers and ticket agents must still disclose the total cost of the air transportation, including government imposed taxes and fees, prior to the purchase of the ticket.

Subsection (c) requires the Secretary of Transportation to issue final regulations carrying out the amendment in subsection (a) not later than 120 days after enactment.

Subsection (d) sets forth the effective date of the amendments and Act.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

#### **TITLE 49, UNITED STATES CODE**

\* \* \* \* \*

#### **SUBTITLE VII—AVIATION PROGRAMS**

\* \* \* \* \*

#### **PART A—AIR COMMERCE AND SAFETY**

\* \* \* \* \*

**SUBPART II—ECONOMIC REGULATION**

\* \* \* \* \*

**CHAPTER 417—OPERATIONS OF CARRIERS**

\* \* \* \* \*

**SUBCHAPTER I—REQUIREMENTS**

\* \* \* \* \*

**§ 41712. Unfair and deceptive practices and unfair methods of competition**

(a) \* \* \*

\* \* \* \* \*

(d) *FULL FARE ADVERTISING.*—

(1) *IN GENERAL.*—*It shall not be an unfair or deceptive practice under subsection (a) for a covered entity to state in an advertisement or solicitation for passenger air transportation the base airfare for the air transportation if the covered entity clearly and separately discloses—*

*(A) the government-imposed taxes and fees associated with the air transportation; and*

*(B) the total cost of the air transportation.*

(2) *FORM OF DISCLOSURE.*—

*(A) IN GENERAL.*—*For purposes of paragraph (1), the information described in paragraphs (1)(A) and (1)(B) shall be disclosed in the advertisement or solicitation in a manner that clearly presents the information to the consumer.*

*(B) INTERNET ADVERTISEMENTS AND SOLICITATIONS.*—*For purposes of paragraph (1), with respect to an advertisement or solicitation for passenger air transportation that appears on an Internet Web site, the information described in paragraphs (1)(A) and (1)(B) may be disclosed through a link or pop-up, as such terms may be defined by the Secretary, that displays the information in a manner that is easily accessible and viewable by the consumer.*

(3) *DEFINITIONS.*—*In this subsection, the following definitions apply:*

*(A) BASE AIRFARE.*—*The term “base airfare” means the cost of passenger air transportation, excluding government-imposed taxes and fees.*

*(B) COVERED ENTITY.*—*The term “covered entity” means an air carrier, including an indirect air carrier, foreign carrier, ticket agent, or other person offering to sell tickets for passenger air transportation or a tour or tour component that must be purchased with air transportation.*

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