

Public Law 98-499
98th Congress

An Act

Oct. 19, 1984
[S. 1146]

To amend the Federal Aviation Act of 1958 to provide for the revocation of the airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aviation Drug-Trafficking Control Act".

SEC. 2. (a) Section 609 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429) is amended by adding at the end thereof the following new subsection:

"TRANSPORTATION, DISTRIBUTION, AND OTHER ACTIVITIES RELATED TO CONTROLLED SUBSTANCES

"(c)(1) The Administrator shall issue an order revoking the airman certificates of any person upon conviction of such person of a crime punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance), if the Administrator determines that (A) an aircraft was used in the commission of the offense or to facilitate the commission of the offense, and (B) such person served as an airman, or was on board such aircraft, in connection with the commission of the offense or the facilitation of the commission of the offense. The Administrator shall have no authority under this paragraph to review the issue of whether an airman violated a State or Federal law relating to a controlled substance.

"(2) The Administrator shall issue an order revoking the airman certificates of any person if the Administrator determines that (A) such person knowingly engaged in an activity that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance), (B) an aircraft was used to carry out such activity or to facilitate such activity, and (C) such person served as an airman, or was on board such aircraft, in connection with such activity or the facilitation of such activity. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under paragraph (3) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity.

"(3) Prior to revoking an airman certificate under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon by the Administrator for his proposed action and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate is revoked by the Administrator under this subsection may appeal the Adminis-

Aviation Drug-Trafficking Control Act. Law enforcement. 49 USC app. 1301 note.

trator's order to the National Transportation Safety Board and the Board shall, after notice and a hearing on the record, affirm or reverse the Administrator's order. In the conduct of its hearings, the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within sixty days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board's order may obtain judicial review of such order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings.

Courts, U.S.

49 USC app.
1486.

"(4) For purposes of this subsection, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))."

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 609. Amendment, suspension, and revocation of certificates." is amended by adding at the end thereof

"(c) Transportation, distribution, and other activities related to controlled substances."

SEC. 3. Section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422(b)) is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) Except as provided in subparagraphs (B) and (C), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under subsection (c) of section 609 of this title during the five-year period beginning on the date of such revocation.

Ante, p. 2312.

"(B) The Administrator may issue an airman certificate to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if, in addition to the findings required by paragraph (1), the Administrator determines (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.

"(C) In any case in which the Administrator has revoked an airman certificate of a person under section 609(c) (1) or (2) as a result of any activity and—

Ante, p. 2312.

"(i) such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity; or

"(ii) in the case of a revocation under section 609(c)(1), the judgment of conviction on which the revocation is based is reversed on appeal;

the Administrator shall issue an airman certificate to such person if such person is otherwise qualified to serve as an airman under this section.”

SEC. 4. (a) Section 501(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401(e)) is amended by inserting “(1)” after “(e)” and by adding at the end thereof the following new paragraph:

“(2)(A) The Administrator shall issue an order revoking the certificate of registration issued to an owner under this section for an aircraft and each other certificate of registration held by such owner under this section, if the Administrator determines that—

“(i) such aircraft has been used to carry out an activity, or to facilitate an activity, that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance); and

“(ii) the use of the aircraft was permitted by such owner with the knowledge that the aircraft was intended to be used for an activity described in clause (i) of this subparagraph.

For purposes of this paragraph, an owner of an aircraft who is not an individual shall be considered to have permitted the use of an aircraft with knowledge that it was intended to be used for an activity described in clause (i) of this subparagraph only if a majority of the individuals who control such owner or who are involved in forming the major policy of such owner permitted the use of the aircraft with knowledge of such intended use. The Administrator shall not revoke, and the National Transportation Safety Board on appeal under subparagraph (B) shall not affirm the revocation of, a certificate under this paragraph on the basis of any activity if the holder of the certificate is acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity.

“(B) Prior to revoking any certificate of registration under this subsection, the Administrator shall advise the holder thereof of the charges or any reasons relied upon by the Administrator for his proposed action and shall provide the holder of the certificate of registration an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate of registration is revoked by the Administrator under this subsection may appeal the Administrator's order to the National Transportation Safety Board and the Board shall, after notice and a hearing on the record, affirm or reverse the Administrator's order. In the conduct of its hearings, the National Transportation Safety Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the National Transportation Safety Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that safety in air commerce or air transportation requires the immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within 60 days after being so advised by the Administrator. The person substantially affected by the National Transportation Safety Board's order may obtain judicial review of such order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings.

“(C) For purposes of this paragraph, the term ‘controlled substance’ has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

“(D) Except as provided in subparagraphs (E) and (F), the Administrator shall not issue a certificate of registration to any person who has had a certificate revoked under subparagraph (A) of this paragraph during the five-year period beginning on the date of such revocation.

“(E) The Administrator may issue a certificate of registration for an aircraft to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if the Administrator determines that such aircraft is otherwise eligible for registration under this section and (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.

“(F) In any case in which the Administrator has revoked the certificate of registration as a result of any activity and such person is subsequently acquitted of all charges contained in an indictment or information which relate to controlled substances and which arise from such activity, the Administrator shall issue a certificate of registration to such person if such person is otherwise qualified for such a certificate under this section.”

(b) Section 304(a)(9)(A) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(9)(A)) is amended by inserting before the semicolon at the end thereof the following: “and the revocation of any certificate of registration under section 501(e)(2) of such Act”.

Ante, p. 2314.

SEC. 5. (a) Section 902 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472) is amended by adding at the end thereof the following new subsection:

“TRANSPORTING CONTROLLED SUBSTANCES WITHOUT AIRMAN
CERTIFICATE

“(q) Any person who knowingly and willfully serves in any capacity as an airman without an airman certificate authorizing him to serve in such capacity, in connection with the transportation by aircraft of any controlled substance, where (1) such transportation is punishable by death or imprisonment for a term exceeding one year under a State or Federal law or is provided in connection with any act that is punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance), and (2) such person has knowledge of such transportation, shall be subject to a fine not exceeding \$25,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment. For purposes of this subsection, the term ‘controlled substance’ has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).”

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

“Sec. 902. Criminal penalties.”

is amended by adding at the end thereof

“(q) Transporting controlled substances without airman certificate.”.

SEC. 6. Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(b)) is amended—

(1) by striking out “(b) Any person who” and inserting in lieu thereof “(b)(1) Except as provided in paragraph (2), any person who”;

(2) by striking out “uses or attempts to use” and inserting in lieu thereof “sells, uses, attempts to use, or possesses with the intent to use”; and

(3) by adding at the end thereof the following new paragraph:

“(2)(A) Any person who violates paragraph (1) of this subsection (other than by selling a fraudulent certificate) with the intent to commit a crime punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to a controlled substance (other than any law relating to simple possession of a controlled substance) shall be subject to a fine not exceeding \$25,000 or to imprisonment not exceeding five years, or both.

“(B) Any person who violates paragraph (1) of this subsection by selling a fraudulent certificate with the knowledge that the purchaser intends to use such certificate in connection with the commission of a crime punishable by death or imprisonment for a term exceeding one year under a State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance) shall be subject to a fine not exceeding \$25,000 or to imprisonment not exceeding five years, or both.

“(C) For purposes of this paragraph, the term ‘controlled substance’ has the meaning given such term by section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).”.

SEC. 7. This Act and the amendments made by this Act shall apply with respect to acts and violations occurring after the date of enactment of this Act.

Approved October 19, 1984.

Effective date.
49 USC app. 1401
note.

LEGISLATIVE HISTORY—S. 1146 (H.R. 1580):

HOUSE REPORTS: No. 98-883 accompanying H.R. 1580 (Comm. on Public Works and Transportation) and No. 98-1085 (Comm. of Conference).

SENATE REPORT No. 98-228 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 129 (1983): Sept. 27, considered and passed Senate.

Vol. 130 (1984): July 24, H.R. 1580 considered and passed House; S. 1146, amended, passed in lieu.

Oct. 2, Senate agreed to conference report.

Oct. 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 42 (1984): Oct. 19, Presidential statement.