

CHAPTER 421—LABOR-MANAGEMENT PROVISIONS

SUBCHAPTER I—EMPLOYEE PROTECTION PROGRAM<sup>1</sup>

- Sec. 42101. Definitions. 42102. Payments to eligible protected employees. 42103. Duty to hire protected employees. 42104. Congressional review of regulations. 42105. Airline Employees Protective Account. 42106. Ending effective date.

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AMENDMENTS

2000—Pub. L. 106-181, title V, §519(b), Apr. 5, 2000, 114 Stat. 149, added heading for subchapter III and item 42121.

[SUBCHAPTER I—REPEALED]

[[§§ 42101 to 42106. Repealed. Pub. L. 105-220, title I, § 199(a)(6), Aug. 7, 1998, 112 Stat. 1059]

Section 42101, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1157, defined terms in subchapter.

Section 42102, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1158, related to payments to eligible protected employees.

Section 42103, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1159, related to duty to hire protected employees.

Section 42104, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1159; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389, related to congressional review of regulations.

Section 42105, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1160, related to Airline Employees Protective Account.

Section 42106, Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1160, provided ending effective date for subchapter.

SUBCHAPTER II—MUTUAL AID AGREEMENTS AND LABOR REQUIREMENTS OF AIR CARRIERS

§ 42111. Mutual aid agreements

An air carrier that will receive payments from another air carrier under an agreement between the air carriers for the time the one air carrier is not providing foreign air transportation, or is providing reduced levels of foreign air transportation, because of a labor strike must file a true copy of the agreement with the Secretary of Transportation and have it approved by the Secretary under section 41309 of this title. Notwithstanding section 41309, the Secretary shall approve the agreement only if it provides that—

(1) the air carrier will receive payments of not more than 60 percent of direct operating expenses, including interest expenses, but not depreciation or amortization expenses;

(2) benefits may be paid for not more than 8 weeks, and may not be for losses incurred during the first 30 days of a strike; and

<sup>1</sup> Subchapter I repealed by Pub. L. 105-220 without corresponding amendment of chapter analysis.

(3) on request of the striking employees, the dispute will be submitted to binding arbitration under the Railway Labor Act (45 U.S.C. 151 et seq.).

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 42111, 49 App.:1382(c), Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §412(c); added Oct. 24, 1978, Pub. L. 95-504, §29(a), 92 Stat. 1730; Feb. 15, 1980, Pub. L. 96-192, §11(2), 94 Stat. 39; Oct. 4, 1984, Pub. L. 98-443, §9(s), 98 Stat. 1708. Row 2: 49 App.:1551(b)(1)(C) (related to 49 App.:1382(c)), Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, §1601(b)(1)(C) (related to §412(c)); added Oct. 24, 1978, Pub. L. 95-504, §40(a), 92 Stat. 1745; Oct. 14, 1982, Pub. L. 97-309, §4(b), 96 Stat. 1454; Oct. 4, 1984, Pub. L. 98-443, §3(a), 98 Stat. 1703.

In this section, before clause (1), the text of 49 App.:1382(c)(1) is omitted as executed. The words "For purposes of this subsection, the term . . . (A) 'mutual aid agreement' means" are omitted because of the restatement. The words "contract or", "which are parties to such contract or agreement", and "during which" are omitted as surplus. The word "providing" is substituted for "engaging in" for consistency. The words "service in" are omitted as surplus. The words "No air carrier shall enter into any mutual aid agreement with any other air carrier" are omitted as surplus. In clause (1), the words "For purposes of this subsection, the term . . . (B) 'direct operating expenses' includes" are omitted because of the restatement. The words "for any period" and "during such period" are omitted as surplus. In clause (2), the words "under the agreement" and "during any labor strike" are omitted as surplus.

REFERENCES IN TEXT

The Railway Labor Act, referred to in par. (3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended, which is classified principally to chapter 8 (§151 et seq.) of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

§ 42112. Labor requirements of air carriers

(a) DEFINITIONS.—In this section—

(1) "copilot" means an employee whose duties include assisting or relieving the pilot in manipulating an aircraft and who is qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a copilot.

(2) "pilot" means an employee who is—

(A) responsible for manipulating or who manipulates the flight controls of an aircraft when under way, including the landing and takeoff of an aircraft; and

(B) qualified to serve as, and has in effect an airman certificate authorizing the employee to serve as, a pilot.

(b) DUTIES OF AIR CARRIERS.—An air carrier shall—

(1) maintain rates of compensation, maximum hours, and other working conditions and relations for its pilots and copilots who are providing interstate air transportation in the 48 contiguous States and the District of Columbia to conform with decision number 83,

May 10, 1934, National Labor Board, notwithstanding any limitation in that decision on the period of its effectiveness;

(2) maintain rates of compensation for its pilots and copilots who are providing foreign air transportation or air transportation only in one territory or possession of the United States; and

(3) comply with title II of the Railway Labor Act (45 U.S.C. 181 et seq.) as long as it holds its certificate.

(c) **MINIMUM ANNUAL RATE OF COMPENSATION.**—A minimum annual rate under subsection (b)(2) of this section may not be less than the annual rate required to be paid for comparable service to a pilot or copilot under subsection (b)(1) of this section.

(d) **COLLECTIVE BARGAINING.**—This section does not prevent pilots or copilots of an air carrier from obtaining by collective bargaining higher rates of compensation or more favorable working conditions or relations.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1160.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
42112(a) .....	49 App.:1371(k)(5).	Aug. 23, 1958, Pub. L. 85-726, §401(k), 72 Stat. 756.
42112(b), (c) .....	49 App.:1371(k)(1), (2), (4).	
42112(d) .....	49 App.:1371(k)(3).	

In subsection (a), the words “properly” and “currently” are omitted as surplus.

In subsection (b), the word “providing” is substituted for “engaged in” for consistency in the revised title. In clause (1), the words “48 contiguous States and the District of Columbia” are substituted for “the continental United States (not including Alaska)” for clarity and consistency in the revised title. In clause (2), the words “overseas or” are omitted as obsolete. The word “only” is substituted for “wholly” for consistency. In clause (3), the words “as long as it holds” are substituted for “upon the holding” for clarity.

In subsection (c), the words “under subsection (b)(1) of this section” are substituted for “said decision 83 . . . engaged in interstate air transportation within the continental United States (not including Alaska)” to eliminate unnecessary words.

In subsection (d), the words “or other employees” are omitted as unnecessary because this section only applies to pilots and copilots.

REFERENCES IN TEXT

The Railway Labor Act, referred to in subsec. (b)(3), is act May 20, 1926, ch. 347, 44 Stat. 577, as amended. Title II of the Act was added by act Apr. 10, 1936, ch. 166, 49 Stat. 1189, and is classified generally to subchapter II (§181 et seq.) of chapter 8 of Title 45, Railroads. For complete classification of this Act to the Code, see section 151 of Title 45 and Tables.

SUBCHAPTER III—WHISTLEBLOWER PROTECTION PROGRAM

§ 42121. Protection of employees providing air safety information

(a) **DISCRIMINATION AGAINST AIRLINE EMPLOYEES.**—No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, condi-

tions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle or any other law of the United States;

(3) testified or is about to testify in such a proceeding; or

(4) assisted or participated or is about to assist or participate in such a proceeding.

(b) **DEPARTMENT OF LABOR COMPLAINT PROCEDURE.**—

(1) **FILING AND NOTIFICATION.**—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

(2) **INVESTIGATION; PRELIMINARY ORDER.**—

(A) **IN GENERAL.**—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary’s findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections

to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(B) REQUIREMENTS.—

(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(3) FINAL ORDER.—

(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—

(i) take affirmative action to abate the violation;

(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore

the terms, conditions, and privileges associated with his or her employment; and

(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding \$1,000.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reason-

able attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(c) **MANDAMUS.**—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(d) **NONAPPLICABILITY TO DELIBERATE VIOLATIONS.**—Subsection (a) shall not apply with respect to an employee of an air carrier, contractor, or subcontractor who, acting without direction from such air carrier, contractor, or subcontractor (or such person’s agent), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

(e) **CONTRACTOR DEFINED.**—In this section, the term “contractor” means a company that performs safety-sensitive functions by contract for an air carrier.

(Added Pub. L. 106–181, title V, §519(a), Apr. 5, 2000, 114 Stat. 145.)

EFFECTIVE DATE

Subchapter applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

SUBPART III—SAFETY

**CHAPTER 441—REGISTRATION AND RECORDATION OF AIRCRAFT**

Sec.	
44101.	Operation of aircraft.
44102.	Registration requirements.
44103.	Registration of aircraft.
44104.	Registration of aircraft components and dealers’ certificates of registration.
44105.	Suspension and revocation of aircraft certificates.
44106.	Revocation of aircraft certificates for controlled substance violations.
44107.	Recordation of conveyances, leases, and security instruments.
44108.	Validity of conveyances, leases, and security instruments.
44109.	Reporting transfer of ownership.
44110.	Information about aircraft ownership and rights.
44111.	Modifications in registration and recordation system for aircraft not providing air transportation.
44112.	Limitation of liability.
44113.	Definitions.

AMENDMENTS

2004—Pub. L. 108–297, §6(b), Aug. 9, 2004, 118 Stat. 1097, added item 44113.

**§ 44101. Operation of aircraft**

(a) **REGISTRATION REQUIREMENT.**—Except as provided in subsection (b) of this section, a person may operate an aircraft only when the aircraft is registered under section 44103 of this title.

(b) **EXCEPTIONS.**—A person may operate an aircraft in the United States that is not registered—

- (1) when authorized under section 40103(d) or 41703 of this title;
- (2) when it is an aircraft of the national defense forces of the United States and is identi-

fied in a way satisfactory to the Administrator of the Federal Aviation Administration; and

(3) for a reasonable period of time after a transfer of ownership, under regulations prescribed by the Administrator.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1161.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
44101(a) .....	49 App.:1401(a) (1st sentence words before proviso less words between parentheses).	Aug. 23, 1958, Pub. L. 85–726, §501(a), 72 Stat. 771.
44101(b) .....	49 App.:1401(a) (1st sentence words between parentheses, proviso, last sentence). 49 App.:1655(c)(1).	Oct. 15, 1966, Pub. L. 89–670, §6(c)(1), 80 Stat. 936; Jan. 12, 1963, Pub. L. 97–449, §7(b), 96 Stat. 2444.

In this section, the word “navigate” is omitted as being included in the definition of “operate aircraft” in section 40102(a) of the revised title.

In subsection (a), the words “Except as provided in subsection (b) of this section” are added for clarity. The words “a person may . . . an aircraft only when the aircraft is registered under section 44103 of this title” are substituted for “It shall be unlawful . . . any aircraft eligible for registration if such aircraft is not registered by its owner as provided in this section, or . . . any aircraft not eligible for registration” for clarity and to eliminate unnecessary words.

In subsection (b), before clause (1), the words “A person may operate an aircraft in the United States that is not registered” are substituted for “may be operated and navigated without being so registered” and “may . . . permit the operation and navigation of aircraft without registration” for clarity. In clause (2), the words “identified in a way” are substituted for “identified, by the agency having jurisdiction over them, in a manner” to eliminate unnecessary words.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–297, §7, Aug. 9, 2004, 118 Stat. 1097, provided that: “This Act [see Short Title of 2004 Amendment note set out under section 40101 of this title], including any amendments made by this Act, shall take effect on the date the Cape Town Treaty (as defined in section 44113 of title 49, United States Code) enters into force with respect to the United States and shall not apply to any registration or recordation that was made before such effective date under chapter 441 of such title or any legal rights relating to such registration or recordation.” [The Cape Town Treaty entered into force with respect to the United States on Mar. 1, 2006. See 71 F.R. 8457.]

REGULATIONS

Pub. L. 108–297, §4, Aug. 9, 2004, 118 Stat. 1096, provided that:

“(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall issue regulations necessary to carry out this Act [see Short Title of 2004 Amendment note set out under section 40101 of this title], including any amendments made by this Act.

“(b) **CONTENTS OF REGULATIONS.**—Regulations to be issued under this Act shall specify, at a minimum, the requirements for—

- “(1) the registration of aircraft previously registered in a country in which the Cape Town Treaty is in effect; and
- “(2) the cancellation of registration of a civil aircraft of the United States based on a request made in accordance with the Cape Town Treaty.