

(3), the words “permit, order, or regulation issued” are omitted as surplus. In clause (4), the words “conditions, and limitations” are omitted as being included in “terms”.

In subsection (b)(2), the word “agreement” is substituted for “treaty, convention, or agreement” for clarity and consistency in the revised title. The words “which may be in force” are omitted as surplus. The words “or countries” are omitted because of 1:1.

In subsection (c), before clause (1), the word “place” is substituted for “point”, and the word “passengers” is substituted for “persons”, for consistency in the revised title.

In subsection (d), the word “affect” is substituted for “limit, modify, or amend” to eliminate unnecessary words.

AMENDMENTS

2003—Subsec. (e), Pub. L. 108–176 added subsec. (e).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

§ 41704. Transporting property not to be transported in aircraft cabins

Under regulations or orders of the Secretary of Transportation, an air carrier shall transport as baggage the property of a passenger traveling in air transportation that may not be carried in an aircraft cabin because of a law or regulation of the United States. The carrier is liable to pay an amount not more than the amount declared to the carrier by that passenger for actual loss of, or damage to, the property caused by the carrier. The carrier may impose reasonable charges and conditions for its liability.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41704 .....	49 App.:1516.  49 App.:1551(b)(1)(E).	Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1116; added Aug. 5, 1974, Pub. L. 93–366, §205, 88 Stat. 418. Aug. 23, 1958, Pub. L. 85–726, 72 Stat. 731, §1601(b)(1)(E); added Oct. 4, 1984, Pub. L. 98–443, §3(e), 98 Stat. 1704.

The words “as may be necessary”, “which . . . lawfully”, and “by such person” are omitted as surplus. The words “The carrier is liable to pay an amount not more than” are substituted for “shall assume liability . . . within” for clarity. The words “to such person” are omitted as surplus. The words “The carrier may impose” are added for clarity. The words “terms and” are omitted as covered by “conditions”.

REFUNDS FOR DELAYED BAGGAGE

Pub. L. 114–190, title II, §2305, July 15, 2016, 130 Stat. 640, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [July 15, 2016], the Secretary of Transportation shall issue final regulations to require an air carrier or foreign air carrier to promptly provide to a passenger an automated refund for any ancillary fees paid by the passenger for checked baggage if—

“(1) the air carrier or foreign air carrier fails to deliver the checked baggage to the passenger—

“(A) not later than 12 hours after the arrival of a domestic flight; or

“(B) not later than 15 hours after the arrival of an international flight; and

“(2) the passenger has notified the air carrier or foreign air carrier of the lost or delayed checked baggage.

“(b) EXCEPTION.—If, as part of the rulemaking, the Secretary makes a determination on the record that a requirement under subsection (a) is not feasible and would adversely affect consumers in certain cases, the Secretary may modify 1 or both of the deadlines specified in subsection (a)(1) for such cases, except that—

“(1) the deadline relating to a domestic flight may not exceed 18 hours after the arrival of the domestic flight; and

“(2) the deadline relating to an international flight may not exceed 30 hours after the arrival of the international flight.”

§ 41705. Discrimination against handicapped individuals

(a) IN GENERAL.—In providing air transportation, an air carrier, including (subject to section 40105(b)) any foreign air carrier, may not discriminate against an otherwise qualified individual on the following grounds:

(1) the individual has a physical or mental impairment that substantially limits one or more major life activities.

(2) the individual has a record of such an impairment.

(3) the individual is regarded as having such an impairment.

(b) EACH ACT CONSTITUTES SEPARATE OFFENSE.—For purposes of section 46301, a separate violation occurs under this section for each individual act of discrimination prohibited by subsection (a).

(c) INVESTIGATION OF COMPLAINTS.—

(1) IN GENERAL.—The Secretary shall investigate each complaint of a violation of subsection (a).

(2) PUBLICATION OF DATA.—The Secretary shall publish disability-related complaint data in a manner comparable to other consumer complaint data.

(3) REVIEW AND REPORT.—The Secretary shall regularly review all complaints received by air carriers alleging discrimination on the basis of disability and shall report annually to Congress on the results of such review.

(4) TECHNICAL ASSISTANCE.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall—

(A) implement a plan, in consultation with the Department of Justice, the United States Architectural and Transportation Barriers Compliance Board, and the National Council on Disability, to provide technical assistance to air carriers and individuals with disabilities in understanding the rights and responsibilities set forth in this section; and

(B) ensure the availability and provision of appropriate technical assistance manuals to individuals and entities with rights or responsibilities under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 106–181, title VII, §707(a), Apr. 5, 2000, 114 Stat. 158; Pub. L. 108–176, title V, §503(d)(1), Dec. 12, 2003, 117 Stat. 2559.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
41705 .....	49 App.:1374(c).	Aug. 23, 1958, Pub. L. 85-726, 72 Stat. 731, § 404(c); added Oct. 2, 1986, Pub. L. 99-435, § 2(a), 100 Stat. 1080.

In this section, before clause (1), the words “on the following grounds” are substituted for “by reason of such handicap” and “For purposes of paragraph (1) of this subsection the term ‘handicapped individual’ means any individual who” because of the restatement.

## REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(4), is the date of enactment of Pub. L. 106-181, which was approved Apr. 5, 2000.

## AMENDMENTS

2003—Subsec. (b). Pub. L. 108-176 substituted “section 46301” for “section 46301(a)(3)(E)”.

2000—Pub. L. 106-181 designated existing provisions as subsec. (a), inserted heading, substituted “carrier, including (subject to section 40105(b)) any foreign air carrier,” for “carrier” in introductory provisions, and added subsecs. (b) and (c).

## EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

## EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

## TRAINING POLICIES REGARDING ASSISTANCE FOR PERSONS WITH DISABILITIES

Pub. L. 114-190, title II, § 2107, July 15, 2016, 130 Stat. 622, provided that:

“(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act [July 15, 2016], the Comptroller General of the United States shall submit to Congress a report assessing required air carrier personnel and contractor training programs regarding the assistance of persons with disabilities, including—

“(1) variations in training programs between air carriers;

“(2) instances since 2005 where the Department of Transportation has requested that an air carrier take corrective action following a review of the air carrier’s training programs; and

“(3) actions taken by air carriers following requests described in paragraph (2).

“(b) BEST PRACTICES.—After the date the report is submitted under subsection (a), the Secretary of Transportation, based on the findings of the report, shall develop, make publicly available, and appropriately disseminate to air carriers such best practices as the Secretary considers necessary to improve the reviewed training programs.”

## ESTABLISHMENT OF HIGHER INTERNATIONAL STANDARDS

Pub. L. 106-181, title VII, § 707(c), Apr. 5, 2000, 114 Stat. 158, provided that: “The Secretary [of Transportation] shall work with appropriate international organizations and the aviation authorities of other nations to bring about the establishment of higher standards for accommodating handicapped passengers in air transportation, particularly with respect to foreign air carriers that code-share with air carriers.”

## RESTRICTIONS ON AIR TRANSPORTATION OF PEANUTS; SCIENTIFIC STUDY ON EFFECT OF AIRBORNE PARTICLES ON PASSENGERS

Pub. L. 106-69, title III, § 346, Oct. 9, 1999, 113 Stat. 1023, provided that: “Hereafter, none of the funds made

available under this Act or any other Act, may be used to implement, carry out, or enforce any regulation issued under section 41705 of title 49, United States Code, including any regulation contained in part 382 of title 14, Code of Federal Regulations, or any other provision of law (including any Act of Congress, regulation, or Executive order or any official guidance or correspondence thereto), that requires or encourages an air carrier (as that term is defined in section 40102 of title 49, United States Code) to, on intrastate or interstate air transportation (as those terms are defined in section 40102 of title 49, United States Code)—

“(1) provide a peanut-free buffer zone or any other related peanut-restricted area; or

“(2) restrict the distribution of peanuts,

until 90 days after submission to the Congress and the Secretary of a peer-reviewed scientific study that determines that there are severe reactions by passengers to peanuts as a result of contact with very small airborne peanut particles of the kind that passengers might encounter in an aircraft.”

Similar provisions were contained in Pub. L. 105-277, div. A, § 101(g) [title III, § 372], Oct. 21, 1998, 112 Stat. 2681-439, 2681-479.

**§ 41706. Prohibitions against smoking on passenger flights**

(a) SMOKING PROHIBITION IN INTERSTATE AND INTRASTATE AIR TRANSPORTATION.—An individual may not smoke—

(1) in an aircraft in scheduled passenger interstate or intrastate air transportation; or

(2) in an aircraft in nonscheduled passenger interstate or intrastate air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator of the Federal Aviation Administration).

(b) SMOKING PROHIBITION IN FOREIGN AIR TRANSPORTATION.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit smoking—

(1) in an aircraft in scheduled passenger foreign air transportation; and

(2) in an aircraft in nonscheduled passenger foreign air transportation, if a flight attendant is a required crewmember on the aircraft (as determined by the Administrator or a foreign government).

(c) LIMITATION ON APPLICABILITY.—

(1) IN GENERAL.—If a foreign government objects to the application of subsection (b) on the basis that subsection (b) provides for an extraterritorial application of the laws of the United States, the Secretary shall waive the application of subsection (b) to a foreign air carrier licensed by that foreign government at such time as an alternative prohibition negotiated under paragraph (2) becomes effective and is enforced by the Secretary.

(2) ALTERNATIVE PROHIBITION.—If, pursuant to paragraph (1), a foreign government objects to the prohibition under subsection (b), the Secretary shall enter into bilateral negotiations with the objecting foreign government to provide for an alternative smoking prohibition.

(d) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1141; Pub. L. 106-181, title VII, § 708(a), Apr. 5, 2000, 114