

106TH CONGRESS  
1ST SESSION

# H. R. 780

To amend title 49, United States Code, to establish consumer protections for airline passengers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1999

Mr. DINGELL introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to establish consumer protections for airline passengers, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Passenger Entitlement  
5       and Competition Enhancement Act of 1999”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) airline passenger complaints, as reported by  
9       the Department of Transportation, have increased  
10       substantially and continue to rise;

1           (2) a series of recent events related to weather  
2           and management-labor relations have heightened  
3           concerns regarding airline passenger rights and wel-  
4           fare;

5           (3) airline passengers should have more infor-  
6           mation about their rights and the level of service to  
7           which they are entitled;

8           (4) the Airline Deregulation Act of 1978 was  
9           intended to open markets and result in increased  
10          competition and service for the United States public;

11          (5) airline competition benefits communities  
12          and consumers and is under the jurisdiction of, and  
13          should be promoted by, the Federal government;

14          (6) the Department of Transportation has pro-  
15          posed rules to address complaints of unfair exclu-  
16          sionary conduct engaged in by major air carriers  
17          against new entrant air carriers, including drastic  
18          price cuts and flooding the market with new low-fare  
19          capacity;

20          (7) unfair exclusionary conduct hurts consum-  
21          ers in the long run because it deprives the public of  
22          the benefits of competition and alternative carriers;

23          (8) due to mergers and alliances, there is in-  
24          creasing concentration within the airline industry

1 and most major hub airports are dominated by one  
2 carrier;

3 (9) the introduction of low-fare competition into  
4 certain markets has enabled more consumers to fly  
5 in those markets, resulting in enormous economic  
6 growth for those communities;

7 (10) although the deregulation of the domestic  
8 airline industry has led to lower fares for many air  
9 travelers, the promised benefits of airline deregula-  
10 tion have yet to be fully realized;

11 (11) the Secretary of Transportation would be  
12 aided by additional authority to promulgate and en-  
13 force standards of fair competition in the airline in-  
14 dustry under section 41712 of title 49, United  
15 States Code;

16 (12) studies by the General Accounting Office  
17 and independent entities show that concentration in  
18 the domestic airline industry continues to increase  
19 and that, where such concentration exists, consum-  
20 ers pay prices for air transportation more than 20  
21 percent higher than consumers traveling in competi-  
22 tive markets;

23 (13) in addition, the General Accounting Office  
24 has identified a number of issues that the Depart-  
25 ment of Transportation could address to lower bar-

1 riers to entry and increase competition in the airline  
2 market, such as slot restrictions and exclusive air-  
3 port gate leases;

4 (14) of the more than 3,100 domestic air car-  
5 rier slots at the 4 slot-controlled airports in the  
6 United States, known as “high density airports”—

7 (A) fewer than 45 slots are held collectively  
8 by new entrant air carriers; and

9 (B) foreign carriers hold approximately  
10 twice as many slots as new entrant air carriers;

11 (15) the Department of Transportation allowed  
12 the established air carriers to retain a large portion  
13 of their slots free-of-charge when the current “Buy-  
14 Sell Rule” was instituted in 1985;

15 (16) access to slot-controlled airports is crucial  
16 to establishing new air service in the heavily-traveled  
17 eastern and midwestern markets and if carriers are  
18 going to be able to increase services to markets  
19 served by small hub airports and medium hub air-  
20 ports, particularly in the Southeast and Midwest;  
21 and

22 (17) the National Commission to Ensure a  
23 Strong Competitive Airline Industry recommended  
24 that the Federal Aviation Administration review the  
25 rule that limits operations at high density airports

1 with the aim of either removing these artificial limits  
2 or raising them to the highest practicable level con-  
3 sistent with safety requirements.

## 4 **TITLE I—PASSENGER** 5 **PROTECTIONS**

### 6 **SEC. 101. AIRLINE PASSENGER PROTECTION.**

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

#### 10 **“§ 41716. Air carrier passenger protection**

11 “(a) EMERGENCY PLANS.—

12 “(1) IN GENERAL.—An air carrier shall ensure  
13 access to necessary services and conditions, including  
14 food, water, restroom facilities, and emergency medi-  
15 cal services for all passengers boarded on a flight  
16 segment of the air carrier.

17 “(2) SUBMITTAL OF PLANS.—The Secretary of  
18 Transportation shall require each air carrier to sub-  
19 mit to the Secretary an emergency plan containing  
20 a detailed description of actions that will be taken  
21 by the carrier to comply with paragraph (1).

22 “(3) FAILURE TO SUBMIT PLANS.—The Sec-  
23 retary shall suspend the authority of an air carrier  
24 to provide air transportation if the carrier fails to  
25 submit a plan in accordance with paragraph (2).

1       The suspension shall continue until the carrier sub-  
2       mits the plan.

3           “(4) REGULATIONS.—Not later than 180 days  
4       after the date of enactment of this Act, the Sec-  
5       retary shall issue final regulations to require plans  
6       under paragraph (2).

7           “(b) NOTICE OF DELAYS.—An air carrier shall pro-  
8       vide to each passenger on a flight segment of the carrier  
9       sufficient and accurate notice, based on information rea-  
10      sonably available to the carrier, of any potential or actual  
11      significant delays in the departure or arrival of the flight  
12      segment. Whenever possible, such notice shall be provided  
13      before the passenger boards an aircraft.

14          “(c) EXCESSIVE DEPARTURE AND ARRIVAL  
15      DELAY.—

16           “(1) LIABILITY IMPOSED.—An air carrier shall  
17       be liable to each passenger on an aircraft for an ex-  
18       cessive departure or arrival delay of the aircraft.

19           “(2) AMOUNT OF LIABILITY.—

20           “(A) DELAYS OF MORE THAN 2 BUT LESS  
21       THAN 3 HOURS.—If the excessive departure or  
22       arrival delay is more than 2 but less than 3  
23       hours, the amount of liability under paragraph  
24       (1) shall be 200 percent of the price paid by the  
25       passenger for transportation by the air carrier.

1           “(B) DELAYS OF 3 HOURS OR MORE.—If  
2           the excessive departure or arrival delay is 3  
3           hours or more, the amount of liability under  
4           paragraph (1) shall be—

5                   “(i) the amount determined under  
6                   subparagraph (A), plus

7                   “(ii) an additional 100 percent of the  
8                   price paid by the passenger for such trans-  
9                   portation multiplied by the number of  
10                  hours (or portion thereof) that such period  
11                  exceeds 3 hours.

12           “(3) EXCESSIVE DEPARTURE OR ARRIVAL  
13           DELAY.—In paragraph (1), the term ‘excessive de-  
14           parture or arrival delay’ means a period of time in  
15           excess of 2 hours—

16                   “(A) in the case of departure delay, begin-  
17                   ning when the door of an aircraft is closed at  
18                   an airport and ending when the aircraft takes  
19                   off from the airport or when the door of the air-  
20                   craft is open for deplaning of passengers at the  
21                   airport; and

22                   “(B) in the case of arrival delay, beginning  
23                   upon touchdown of an aircraft at an airport  
24                   and ending when the door of the aircraft is  
25                   open for deplaning of passengers at the airport.

1           “(4) TREATMENT OF CERTAIN DELAYS.—Not-  
2       withstanding paragraph (3), a departure delay in ex-  
3       cess of 2 hours shall not be treated as an excessive  
4       departure delay for purposes of paragraph (1) if the  
5       Administrator of the Federal Aviation Administra-  
6       tion determines that the departure delay was the re-  
7       sult of—

8           “(A) an air traffic control directive and  
9       that the carrier did not receive notification that  
10      it would receive such directive prior to the  
11      scheduled departure time of the flight; or

12           “(B) a mechanical problem with the air-  
13      craft or other safety concern.

14      “(d) LOST BAGGAGE.—An air carrier may not limit  
15      its liability for provable direct or consequential damages  
16      resulting from the disappearance of, damage to, or delay  
17      in delivery of a passenger’s personal property, including  
18      luggage, in its custody to an amount less than \$2,500 per  
19      passenger.

20      “(e) OVERBOOKING.—An air carrier shall provide, at  
21      a minimum, to a passenger who is denied boarding invol-  
22      untarily from an oversold flight segment on which the pas-  
23      senger has a confirmed seat—

24           “(1) alternate transportation to the passenger’s  
25      final destination; and



1           “(2) if the scheduled arrival time of the alter-  
 2           nate transportation is not within 2 hours of the pas-  
 3           senger’s originally scheduled arrival time, a refund  
 4           or voucher for air transportation equal in value to  
 5           the amount paid by the passenger for the original  
 6           flight.

7           “(f) FLIGHT SEGMENT DEFINED.—In this section,  
 8           the term ‘flight segment’ means a flight segment in air  
 9           transportation.

10          “(g) FOREIGN AIR TRANSPORTATION.—Nothing in  
 11          this Act shall be construed to affect any treaty or other  
 12          provision of law regulating flight segments in foreign air  
 13          transportation.”.

14          (b) CONFORMING AMENDMENT.—The table of sec-  
 15          tions for such title is amended by inserting after the item  
 16          relating to section 41715 the following:

“41716. Air carrier passenger protection.”.

17       **SEC. 102. CIVIL PENALTIES.**

18          Section 46301(a) of title 49, United States Code, is  
 19          amended—

20               (1) in paragraph (6) by inserting “MAXIMUM  
 21               PENALTY FOR VIOLATIONS RELATING TO AIR SERV-  
 22               ICE TERMINATION NOTICES.—” before “Notwith-  
 23               standing”;

24               (2) by aligning paragraph (6) with paragraph  
 25               (5) of such section; and

1 (3) by adding at the end the following:

2 “(7) MAXIMUM PENALTY FOR VIOLATIONS RE-  
3 LATING TO PASSENGER ACCESS TO NECESSARY  
4 SERVICES AND CONDITIONS.—Notwithstanding para-  
5 graph (1), the maximum civil penalty for violating  
6 paragraph (1) or (2) of section 41716(a) shall be  
7 \$10,000 instead of \$1,000.”.

8 **SEC. 103. PASSENGER RIGHTS PUBLICATION.**

9 Not later than 180 days after the date of enactment  
10 of this Act, the Secretary shall, by rule—

11 (1) issue a statement that outlines consumer  
12 rights of air passengers, including each of the rights  
13 specified in section 41716 of title 49, United States  
14 Code, as added by section 2 of this Act; and

15 (2) requires an air carrier to provide the state-  
16 ment to each passenger of the carrier, by conspicu-  
17 ous written material included—

18 (A) on a safety placard given to the pas-  
19 senger on board an aircraft;

20 (B) on information available to the pas-  
21 senger at each ticket counter of the air carrier;  
22 and

23 (C) on or with the passenger’s ticket.

1           **TITLE II—AIR CARRIER**  
 2                           **COMPETITION**

3   **SEC. 201. REDISTRIBUTION OF SLOTS BY AUCTION.**

4           (a) IN GENERAL.—Subpart III of part A of subtitle  
 5   VII of title 49, United States Code, is amended by adding  
 6   at the end the following:

**“CHAPTER 455—SLOT AUCTIONS**

                          “Sec.

                          “45501. General authority to create, withdraw, and auction slots.

                          “45502. Auction.

                          “45503. Special rules.

                          “45504. Definitions.

7   **“§ 45501. General authority to create, withdraw, and**  
 8                           **auction slots**

9           “(a) IN GENERAL.—The Secretary of Transportation  
 10 shall allocate slots at each slot-controlled airport for as-  
 11 signment to new entrant air carriers and limited incum-  
 12 bent carriers in accordance with this chapter.

13          “(b) APPLICATION PROCESS—

14                  “(1) REQUEST FOR SLOTS.—An air carrier with  
 15       appropriate Federal Aviation Administration safety  
 16       certification and Department of Transportation eco-  
 17       nomic certification may submit a request to the Sec-  
 18       retary for slots at a high density airport. The appli-  
 19       cation shall include—

20                          “(A) the markets to be served;

21                          “(B) the times requested;

1 “(C) information on the passenger demand  
2 for the service to be provided; and

3 “(D) such additional information as the  
4 Secretary may require.

5 “(2) ACTION ON REQUEST; FAILURE TO ACT.—  
6 Within 45 days after a request under paragraph (1)  
7 is received by the Secretary, the Secretary shall—

8 “(A) approve the request for processing if  
9 the Secretary believes that—

10 “(i) the applicant can operate the  
11 service for a period of not less than 180  
12 days; and

13 “(ii) the service will improve the com-  
14 petitive environment; or

15 “(B) return the request to the applicant  
16 for further information.

17 If the Secretary neither approves the request under  
18 subparagraph (A) nor returns the request under  
19 subparagraph (B) within the 45-day period begin-  
20 ning on the date it is received, then the request is  
21 deemed to have been approved on the 45th day.

22 “(c) ALLOCATION PROCESS.—

23 “(1) IF SLOTS ARE AVAILABLE.—If an applica-  
24 tion under subsection (b) is approved for processing,

1 the Secretary first shall allocate slots within 60 min-  
2 utes of the requested times if—

3 “(A) unused slots are available; or

4 “(B) slots may be awarded through the ex-  
5 emption process in accordance with the Federal  
6 Aviation Administration’s air traffic priorities.

7 “(2) IF SLOTS ARE UNAVAILABLE.—If an appli-  
8 cation under subsection (b) is approved for process-  
9 ing but the requested slots are not available for allo-  
10 cation under paragraph (1), then the Secretary may  
11 withdraw slots under subsection (d) for auction  
12 under section 45502 or create new slots.

13 “(d) WITHDRAWAL OF SLOTS FOR AUCTION.—

14 “(1) WITHDRAWAL OF EXISTING SLOT ASSIGN-  
15 MENTS.—The Secretary shall withdraw, from major  
16 carriers at each airport—

17 “(A) for the first auction under this sec-  
18 tion, not more than 10 percent of the  
19 auctionable slots assigned to such carriers at  
20 that airport; and

21 “(B) for any subsequent auction under this  
22 section, not more than 5 percent of the  
23 auctionable slots assigned to such carriers at  
24 that airport.

1           “(2) FREQUENCY.—Auctions under this section  
2       shall not be held more frequently than 24 months  
3       after the date of the preceding auction.

4           “(3) AUCTIONABLE SLOTS.—For purposes of  
5       this subsection, an auctionable slot is—

6           “(A) a slot assigned to an air carrier in  
7       1985 that is still assigned to that air carrier, or  
8       a slot received in even exchange with another  
9       air carrier for a slot assigned to that air carrier  
10      in 1985; and

11          “(B) any slot other than a slot used by a  
12      major carrier to provide direct service to an air-  
13      port that is a small or medium hub airport.

14          “(4) AUTHORITY TO WITHDRAW SLOTS FOR  
15      USE INCONSISTENT WITH OBJECTIVES.—The Sec-  
16      retary may withdraw an auctionable slot from a  
17      major air carrier at any time if the Secretary deter-  
18      mines in writing that the slot is being used by the  
19      carrier in a manner inconsistent with the objectives  
20      set forth in section 45502(c). Any slot so withdrawn  
21      may be reassigned by the Secretary at any subse-  
22      quent auction under this section.

1   **“§ 45502. Auction**

2           “(a) GENERAL AUTHORITY.—The Secretary of  
3 Transportation shall assign a slot to a qualified applicant  
4 through the use of a system of competitive bidding.

5           “(b) USES TO WHICH BIDDING MAY APPLY.—A slot  
6 may be assigned under this subsection if the Secretary de-  
7 termines that the assignment of such slot will, or is rea-  
8 sonably likely to, increase competition among air carriers  
9 nationally, regionally, or in the markets affected by the  
10 slot assignment in accordance with section 45501(b).

11           “(c) DESIGN OF SYSTEMS OF COMPETITIVE BID-  
12 DING.—In identifying slots to be withdrawn for auction  
13 under section 45501(d)(1), in specifying eligibility and  
14 other characteristics of such slots, and in designing the  
15 methodologies for use under this subsection, the Secretary  
16 shall include safeguards to protect the public interest in  
17 the use of the slots and shall promote the following objec-  
18 tives:

19                   “(1) Increasing competition in the provision of  
20 air transportation in a way that benefits the public.

21                   “(2) Promoting economic opportunity and com-  
22 petition and ensuring that air transportation at com-  
23 petitive rates and levels of customer service is read-  
24 ily accessible to the American people by avoiding ex-  
25 cessive concentration of slots among major air car-  
26 riers.

1           “(3) Recovery for the public of a portion of the  
2           value of the slots made available by competitive bid-  
3           ding and the avoidance of unjust enrichment  
4           through the methods employed to award slots.

5           “(4) Efficient and intensive use of slots.

6           “(d) BIDDER QUALIFICATION.—No air carrier (other  
7           than a new entrant air carrier or a limited incumbent car-  
8           rier) may participate in a system of competitive bidding  
9           under this section. No license shall be granted to an appli-  
10          cant selected pursuant to this section unless the Secretary  
11          determines that the applicant is qualified to utilize the slot  
12          or slots to be so assigned.

13          “(e) RULES OF CONSTRUCTION.—Nothing in this  
14          section, or in the use of competitive bidding, shall—

15                 “(1) alter slots allocation criteria and proce-  
16                 dures established by the other provisions of this sub-  
17                 title;

18                 “(2) diminish the authority of the Secretary  
19                 under the other provisions of this subtitle to regulate  
20                 or reclaim slots;

21                 “(3) be construed to convey any rights, includ-  
22                 ing any expectation of renewal of a slot assignment,  
23                 that differ from the rights that apply to other slots  
24                 at the same airport that were not issued pursuant  
25                 to this section; or



1           “(4) be construed to prohibit the Secretary  
2           from issuing additional slots.

3           “(f) CONSIDERATION OF REVENUES IN PUBLIC IN-  
4           TEREST DETERMINATIONS.—

5           “(1) CONSIDERATION PROHIBITED.—In making  
6           a decision to assign slots pursuant to this section,  
7           and in prescribing regulations pursuant to this sec-  
8           tion, the Secretary may not base a finding of public  
9           interest, convenience, and necessity on the expecta-  
10          tion of Federal revenues from the use of a system  
11          of competitive bidding under this section.

12          “(2) CONSIDERATION LIMITED.—In prescribing  
13          regulations pursuant to this section, the Secretary  
14          may not base a finding of public interest, conven-  
15          ience, and necessity solely or predominantly on the  
16          expectation of Federal revenues from the use of a  
17          system of competitive bidding under this section.

18          “(3) CONSIDERATION OF DEMAND FOR  
19          SLOTS.—Nothing in this subsection shall be con-  
20          strued to prevent the Secretary from considering  
21          consumer demand for slots-based services.

22          “(g) TREATMENT OF REVENUES.—

23          “(1) GENERAL RULE.—Except as provided in  
24          paragraph (2), all proceeds from the use of a com-  
25          petitive bidding system under this subsection shall

1 be deposited in the Airport and Airway Trust Fund  
2 established under section 9502 of the Internal Reve-  
3 nue Code of 1986.

4 “(2) DEPOSIT AND USE OF AUCTION ESCROW  
5 ACCOUNTS.—Any deposits the Secretary may require  
6 for the qualification of any person to bid in a system  
7 of competitive bidding pursuant to this subsection  
8 shall be deposited in an interest bearing account at  
9 a financial institution designated for purposes of this  
10 subsection by the Secretary (after consultation with  
11 the Secretary of the Treasury). Within 45 days fol-  
12 lowing the conclusion of the competitive bidding—

13 “(A) the deposits of successful bidders  
14 shall be paid to the Treasury;

15 “(B) the deposits of unsuccessful bidders  
16 shall be returned to such bidders; and

17 “(C) the interest accrued to the account  
18 shall be returned to each successful and unsuc-  
19 cessful bidder in the ratio that the amount de-  
20 posited by the bidder bears to the total amount  
21 deposited by all bidders, except that before re-  
22 turning such amounts the Secretary shall de-  
23 duct a sum equal to the administrative expenses  
24 incurred by the Secretary in conducting the

1           auction and shall transfer such sum to the Air-  
2           port and Airway Trust Fund.

3           “(h) EVALUATION.—Not later than 180 days after  
4 the initiation of competitive bidding under this section, the  
5 Secretary shall conduct a public inquiry and submit to the  
6 Congress a report—

7           “(1) containing a statement of the revenues ob-  
8           tained, and a projection of the future revenues, from  
9           the use of competitive bidding systems under this  
10          section;

11          “(2) describing the methodologies established  
12          by the Secretary pursuant to subsections (c) and  
13          (d);

14          “(3) comparing the relative advantages and dis-  
15          advantages of such methodologies in terms of attain-  
16          ing the objectives described in such subsections; and

17          “(4) recommending any statutory changes that  
18          are needed to improve the competitive bidding proc-  
19          ess.

20   **“§ 45503. Special rules**

21          “(a) RESALE OR REVERSION OF PURCHASED  
22 SLOTS.—

23          “(1) RESALE.—A slot assigned by competitive  
24          bidding under section 45502 may be—

1           “(A) sold by the air carrier to which it was  
2           assigned only to a new entrant air carrier or  
3           limited incumbent carrier within 24 months of  
4           the slot acquisition; or

5           “(B) leased to any new entrant air carrier  
6           or limited incumbent carrier.

7           “(2) REVERSION.—A slot assigned by competi-  
8           tive bidding under section 45502 that is lost by the  
9           air carrier to which it was assigned under section  
10          93.227 of title 14 of the Code of Federal Regula-  
11          tions shall be returned to the Federal Aviation Ad-  
12          ministration.

13          “(b) OTHER EXISTING SLOTS.—

14               “(1) EXPIRATION.—Any slot not withdrawn for  
15               assignment under this chapter shall continue in ef-  
16               fect until the earlier of—

17                       “(A) the date on which it is subsequently  
18                       withdrawn for such assignment; or

19                       “(B) the date on which it expires or is  
20                       withdrawn according to the terms of its assign-  
21                       ment.

22           “(2) FUTURE REVENUES.—Any amount paid  
23           for assignment or use of an expired slot shall be  
24           treated in accordance with the provisions of section  
25           45502(h) as if received under that section.

1   **“§ 45504. Definitions**

2       “In this chapter, the following definitions apply:

3           “(1) HIGH DENSITY AIRPORT.—The term ‘high  
4       density airport’ has the meaning given it by section  
5       41714(h)(2).

6           “(2) NEW ENTRANT AIR CARRIER; LIMITED IN-  
7       CUMBENT CARRIER.—The terms ‘new entrant air  
8       carrier’ and ‘limited incumbent carrier’ have the  
9       meaning given such terms by section 93.213 of title  
10      14, Code of Federal Regulations, except that the  
11      term does not include an air carrier at a high den-  
12      sity airport that has a substantial marketing ar-  
13      rangement, as determined by the Secretary, with an-  
14      other air carrier holding more than 10 percent of the  
15      slots at the airport or an air carrier that is owned  
16      or controlled, in whole or in part, by such a carrier.

17          “(3) MAJOR CARRIER.—The term ‘major car-  
18      rier’ means an air carrier to which part 121 of such  
19      title applies.

20          “(4) MEDIUM HUB AIRPORT.—The term ‘me-  
21      dium hub airport’ means an airport that each year  
22      has at least 0.25 percent, but less than 1.00 percent,  
23      of the total annual boardings in the United States.

24          “(5) SLOT.—The term ‘slot’ has the meaning  
25      given that term by section 41714(h)(4).

1           “(6) SMALL HUB AIRPORT.—The term ‘small  
2           hub airport’ has the meaning given that term by sec-  
3           tion 41731(a)(5).”.

4           (b) CLERICAL AMENDMENT.—The analysis for such  
5 subtitle is amended by inserting after the item relating  
6 to chapter 453 the following:

“455. SLOT AUCTIONS ..... 45501”.

7   **SEC. 202. PENALTIES FOR UNFAIR METHODS OF COMPETI-**  
8                                   **TION.**

9           Section 46301(a) of title 49, United States Code, as  
10 amended by section 102 of this Act, is amended by adding  
11 at the end the following:

12           “(8) MAXIMUM PENALTY FOR ENGAGING IN UN-  
13           FAIR METHODS OF COMPETITION.—Notwithstanding  
14           section 46301(a)(1), the maximum civil penalty for  
15           violating section 41712 by engaging, with respect to  
16           air transportation on any route, in an unfair method  
17           of competition, as defined by regulation issued under  
18           Docket Number OST–98–3713 or any other regula-  
19           tion issued by the Department of Transportation,  
20           shall be \$10,000.”.

21   **SEC. 203. DISCLOSURE OF ROUTE COMPETITION AND CON-**  
22                                   **SUMER VALUE INFORMATION.**

23           (a) REPORTS RANKING AIR CARRIER ROUTES BY AV-  
24           ERAGE COST TO PASSENGERS.—

1           (1) IN GENERAL.—The Secretary shall submit  
2           to Congress, and make available to the public, a  
3           quarterly report containing a ranking of the 10 do-  
4           mestic routes with the highest average cost to the  
5           passenger and the 10 domestic routes with the low-  
6           est average cost to the passenger. The report shall  
7           identify the airlines that operate on each of those  
8           routes.

9           (2) REQUIREMENTS.—In developing reports  
10          under this subsection, the Secretary shall consider  
11          such factors and criteria as the Secretary considers  
12          appropriate.

13          (b) REPORTS RANKING LARGE HUB AIRPORTS BY  
14          MARKET CONCENTRATION.—The Secretary shall submit  
15          to Congress, and make available to the public, a quarterly  
16          report ranking the large hub airports by market con-  
17          centration using the measure known as the Herfindahl-  
18          Hirschmann Index and identifying the market share of  
19          each airline operating at each of those airports.

20          (c) DEADLINE.—The Secretary shall begin submit-  
21          ting reports under this section not later than 180 days  
22          after the date of enactment of this Act.

23       **SEC. 204. FACILITIES ACCESS.**

24          (a) STUDY.—The Secretary of Transportation shall  
25          conduct a study on the ability of and proposals for new

1 entrant carriers, and carriers with less than 5 percent of  
2 the departures at a major hub airport, to obtain perma-  
3 nent gates and other facilities at the airport on terms sub-  
4 stantially equivalent to the terms provided to incumbent  
5 carriers at the airport.

6 (b) REPORT.—Not later than 1 year after the date  
7 of enactment of this Act, the Secretary shall transmit to  
8 Congress a report containing the results of the study con-  
9 ducted under subsection (a), including an assessment of  
10 any impact of proposals referred to in subsection (a) on  
11 State and local units of government.

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