

Calendar No. 282

106TH CONGRESS
1ST SESSION**S. 383****[Report No. 106-162]**

To establish a national policy of basic consumer fair treatment for airline passengers.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 6, 1999

Mr. WYDEN (for himself, Mr. MCCAIN, Ms. SNOWE, Mr. BRYAN, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

SEPTEMBER 22, 1999

Reported by Mr. LOTT (for Mr. MCCAIN), with an amendment in the nature of a substitute

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To establish a national policy of basic consumer fair treatment for airline passengers.

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 “Airline Passenger
5 Fairness Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) The number of airline passengers on United
4 States carriers is expected to grow from about 600
5 million per year today to about 1 billion by the year
6 2008.

7 (2) Since 1978 the number of certified large air
8 carriers has decreased from 30 to 10. In 1998, 6 of
9 the United States' largest air carriers sought to
10 enter into arrangements that would result in 3 large
11 networks comprising approximately 70 percent of
12 the domestic market.

13 (3) Only $\frac{2}{3}$ of all communities in the United
14 States that had scheduled air service in 1978 still
15 have it today, and $\frac{1}{2}$ of those remaining are served
16 by smaller airlines feeding hub airports.

17 (4) The Department of Transportation's Do-
18 mestic Airline Fares Consumer Report for the 3rd
19 Quarter of 1997 listed 75 major city pairs where
20 fares increased by 30 percent or more year-over-
21 year, while total traffic in these city pairs decreased
22 by 863,500 passengers, or more than 20 percent.

23 (5) A 1998 Department of Transportation
24 study found that large United States air carriers
25 charge twice as much at their large hub airports
26 where there is no low fare competition as they

1 charge at a hub airport where a low fare competitor
2 is present. The General Accounting Office found
3 that fares range from 12 percent to 71 percent high-
4 er at hubs dominated by one carrier or a consor-
5 tium.

6 (6) Complaints filed with the Department of
7 Transportation about airline travel have increased
8 by more than 25 percent over the previous year, and
9 complaints against large United States air carriers
10 have increased from 6,394 in 1997 to 7,994 in
11 1998.

12 (7) The 1997 National Civil Aviation Review
13 Commission reported that recent data indicate the
14 problem of delay in flights is getting worse, and that
15 the number of daily aircraft delays of 15 minutes or
16 longer was nearly 20 percent higher in 1996 than in
17 1995.

18 (8) The 1997 National Civil Aviation Review
19 Commission forecast that United States domestic
20 and international passenger enplanements are ex-
21 pected to increase 52 percent between 1996 and
22 2006, and the Federal Aviation Administration fore-
23 casts annual growth in revenue passenger miles will
24 average 4.2 percent.

1 (9) A 1998 Department of Transportation study
 2 found that the large United States air carriers
 3 charge about 60 percent more to passengers trav-
 4 eling to or from small communities than they charge
 5 to passengers traveling between large communities.

6 (10) The Congress has directed the Secretary of
 7 Transportation to prohibit unfair and deceptive
 8 practices in the airline industry.

9 **SEC. 3. FAIR PRACTICES FOR AIRLINE PASSENGERS.**

10 Section 41712 of title 49, United States Code, is
 11 amended—

12 (1) by striking “On the initiative” and inserting
 13 “(a) DUTY OF THE SECRETARY.—On the initiative”;
 14 and

15 (2) by adding at the end thereof the following:
 16 “(b) SPECIFIC PRACTICES.—For purposes of sub-
 17 section (a), the terms ‘unfair or deceptive practice’ and
 18 ‘unfair method of competition’ include, in the case of a
 19 certificated air carrier, an air carrier’s failure—

20 “(1) to inform a ticketed passenger, upon re-
 21 quest, whether the flight on which the passenger is
 22 ticketed is oversold;

23 “(2) to permit a passenger holding a confirmed
 24 reserved space on a flight to use portions of that
 25 passenger’s ticket for travel, rather than the entire

1 ticket, regardless of the reason any other portion of
2 the ticket is not used;

3 “(3) to deliver a passenger’s checked baggage
4 within 24 hours after arrival of the flight on which
5 the passenger travelled and on which the passenger
6 checked the baggage, except for reasonable delays in
7 delivery of such baggage;

8 “(4) to provide a consumer full access to all
9 fares for that air carrier, regardless of the tech-
10 nology the consumer uses to access the fares if such
11 information is requested by that consumer;

12 “(5) to provide notice to each passenger holding
13 a confirmed reserved space on a flight with reason-
14 able prior notice when a scheduled flight will be de-
15 layed for any reason (other than reasons of national
16 security);

17 “(6) to inform passengers accurately and truth-
18 fully of the reason for the delay, cancellation, or di-
19 version of a flight;

20 “(7) to refund the full purchase price of an un-
21 used ticket if the passenger requests a refund within
22 48 hours after the ticket is purchased;

23 “(8) to disclose to consumers information that
24 would enable them to make informed decisions about

1 the comparative value of frequent flyer programs
 2 among airlines, including—

3 “(A) the number of seats redeemable on
 4 each flight; and

5 “(B) the percentage of successful and
 6 failed redemptions on each airline and on each
 7 flight.

8 “(c) REPORT.—The Secretary shall include informa-
 9 tion about violations of subsection (a) by certificated air
 10 carriers in the Department of Transportation’s monthly
 11 Air Travel Consumer Report.

12 “(d) CONFIRMED RESERVED SPACE.—The term ‘con-
 13 firmed reserved space’ shall mean a space on a specific
 14 date and on a specific flight and class of service of a car-
 15 rier which has been requested by a passenger and which
 16 the carrier or its agent has verified, by appropriate nota-
 17 tion on the ticket or in any other manner provided by the
 18 carrier, as being reserved for the accommodation of the
 19 passenger.”.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Airline Customer Serv-*
 22 *ice Commitment Act”.*

23 **SEC. 2. AIRLINE CUSTOMER SERVICE REPORTS.**

24 (a) SECRETARY TO REPORT PLANS RECEIVED.—Each
 25 air carrier that provides scheduled passenger air transpor-

1 *tation and that is a member of the Air Transport Associa-*
 2 *tion, all of which have entered into the voluntary customer*
 3 *service commitments established by the Association on June*
 4 *17, 1999, (hereinafter referred to as the “Airline Customer*
 5 *Service Commitment”), shall provide a copy of its indi-*
 6 *vidual customer service plan to the Secretary of Transpor-*
 7 *tation by September 15, 1999. The Secretary, upon receipt*
 8 *of the individual plans, shall report to the Senate Com-*
 9 *mittee on Commerce, Science, and Transportation and to*
 10 *the House of Representatives Committee on Transportation*
 11 *and Infrastructure the receipt of each such plan and trans-*
 12 *mit a copy of each plan.*

13 *(b) IMPLEMENTATION.—The Inspector General of the*
 14 *Department of Transportation shall monitor the implemen-*
 15 *tation of any plan submitted to the Secretary under sub-*
 16 *section (a) and evaluate the extent to which each such car-*
 17 *rier has met its commitments under its plan. Each such*
 18 *carrier shall provide such information to the Inspector Gen-*
 19 *eral as may be necessary for the Inspector General to pre-*
 20 *pare the report required by subsection (c).*

21 *(c) REPORTS TO THE CONGRESS.—*

22 *(1) INTERIM REPORT.—The Inspector General*
 23 *shall submit a report of the Inspector General’s find-*
 24 *ings under subsection (a) to the Senate Committee on*
 25 *Commerce, Science, and Transportation and the*

1 *House of Representatives Committee on Transpor-*
 2 *tation and Infrastructure by June 15, 2000, that in-*
 3 *cludes a status report on completion, publication, and*
 4 *implementation of the Airline Customer Service Com-*
 5 *mitment and the individual airline plans to carry it*
 6 *out.*

7 (2) *FINAL REPORT; RECOMMENDATIONS.—*

8 (A) *IN GENERAL.—The Inspector General*
 9 *shall submit a final report to the Senate Com-*
 10 *mittee on Commerce, Science, and Transpor-*
 11 *tation and the House of Representatives Com-*
 12 *mittee on Transportation and Infrastructure by*
 13 *December 31, 2000, on the effectiveness of the*
 14 *Airline Customer Service Commitment and the*
 15 *individual airline plans to carry it out. The re-*
 16 *port may include any recommendation the In-*
 17 *spector General finds appropriate to improve*
 18 *consumer protections afforded to commercial air*
 19 *passengers.*

20 (B) *SPECIFIC CONTENT.—In the final re-*
 21 *port under subparagraph (A), the Inspector Gen-*
 22 *eral shall—*

23 (i) *evaluate each carrier’s plan for*
 24 *whether it is consistent with the voluntary*
 25 *commitments established by the Air Trans-*

port Association in the Airline Customer
Service Commitment;

(ii) evaluate each carrier as to the extent to which, and the manner in which, it has performed in carrying out its plan;

(iii) identify, by air carrier, how it has implemented each commitment covered by its plan; and

(iv) provide an analysis, by air carrier, of the methods of meeting each commitment, and in such analysis provide information that allows consumers to make decisions on the quality of air transportation provided by such carriers.

**SEC. 3. INCREASED FINANCIAL RESPONSIBILITY FOR LOST
BAGGAGE.**

The Secretary of Transportation shall initiate a rule making within 30 days after the date of enactment of this Act to increase the domestic baggage liability limit in part 254 of title 14, Code of Federal Regulations.

**SEC. 4. INCREASED PENALTY FOR VIOLATION OF AVIATION
CONSUMER PROTECTION LAWS.**

Section 46301(a) of title 49, United States Code, is amended by adding at the end thereof the following:

1 “(7) *CONSUMER PROTECTION.*—*For a violation*
 2 *of section 41310, 41712, any rule or regulation pro-*
 3 *mulgated thereunder, or any other rule or regulation*
 4 *promulgated by the Secretary of Transportation that*
 5 *is intended to afford protection to commercial air*
 6 *transportation consumers, the maximum civil penalty*
 7 *prescribed by subsection (a) may not exceed \$2,500*
 8 *for each violation.*”.

9 **SEC. 5. COMPTROLLER GENERAL INVESTIGATION.**

10 *The Comptroller General of the United States shall*
 11 *study the potential effects on aviation consumers, including*
 12 *the impact on fares and service to small communities, of*
 13 *a requirement that air carriers permit a ticketed passenger*
 14 *to use any portion of a multiple-stop or round-trip air fare*
 15 *for transportation independent of any other portion without*
 16 *penalty. The Comptroller General shall submit a report,*
 17 *based on the study, to the Senate Committee on Commerce,*
 18 *Science, and Transportation and the House of Representa-*
 19 *tives Committee on Transportation and Infrastructure by*
 20 *June 15, 2000.*

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