

111TH CONGRESS
1ST SESSION

S. 1193

To amend title 49, United States Code, to enhance aviation safety, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 4, 2009

Ms. SNOWE (for herself and Ms. KLOBUCHAR) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To amend title 49, United States Code, to enhance aviation
safety, 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 “Aviation Safety En-
5 hancement Act of 2009”.

6 **SEC. 2. AVIATION SAFETY WHISTLEBLOWER INVESTIGA-**
7 **TION OFFICE.**

8 Section 106 of title 49, United States Code, is
9 amended by adding at the end the following:

1 “(s) AVIATION SAFETY WHISTLEBLOWER INVES-
2 TIGATION OFFICE.—

3 “(1) ESTABLISHMENT.—There is established in
4 the Department of Transportation an Aviation Safe-
5 ty Whistleblower Investigation Office (in this sub-
6 section referred to as the ‘Office’).

7 “(2) DIRECTOR.—

8 “(A) APPOINTMENT.—The head of the Of-
9 fice shall be the Director, who shall be ap-
10 pointed by the Secretary of Transportation.

11 “(B) QUALIFICATIONS.—The Director
12 shall have a demonstrated ability in investiga-
13 tions and knowledge of, or experience in, avia-
14 tion.

15 “(C) TERM.—The Director shall be ap-
16 pointed for a term of 5 years.

17 “(D) VACANCY.—Any individual appointed
18 to fill a vacancy in the position of the Director
19 occurring before the expiration of the term for
20 which the individual’s predecessor was ap-
21 pointed shall be appointed for the remainder of
22 that term.

23 “(3) COMPLAINTS AND INVESTIGATIONS.—

24 “(A) AUTHORITY OF DIRECTOR.—The Di-
25 rector shall—

1 “(i) receive complaints and informa-
2 tion submitted by employees of persons
3 holding operating certificates issued under
4 chapter 1 of title 14, Code of Federal Reg-
5 ulations, and employees of the Administra-
6 tion with respect to activities that may vio-
7 late an order, regulation, or standard of
8 the Administration or any other provision
9 of Federal law relating to aviation safety;

10 “(ii) assess complaints and informa-
11 tion submitted under clause (i) and deter-
12 mine whether a substantial likelihood ex-
13 ists that a violation of an order, regulation,
14 or standard of the Administration or any
15 other provision of Federal law relating to
16 aviation safety has occurred; and

17 “(iii) based on the assessment con-
18 ducted under clause (ii), submit written
19 recommendations to the Administrator for
20 further investigation or corrective actions.

21 “(B) DISCLOSURE OF IDENTITIES.—The
22 Director may not disclose the identity of an in-
23 dividual who submits a complaint or informa-
24 tion under subparagraph (A)(i) unless—

1 “(i) the individual provides written
2 consent to the disclosure; or

3 “(ii) the Director determines, in the
4 course of an investigation undertaken in
5 response to the complaint or information
6 submitted by the individual, that the dis-
7 closure is unavoidable.

8 “(C) INDEPENDENCE OF DIRECTOR.—The
9 Secretary of Transportation, the Administrator,
10 or any officer or employee of the Administra-
11 tion may not prevent or prohibit the Director
12 from—

13 “(i) initiating, carrying out, or com-
14 pleting any assessment of a complaint or
15 information submitted subparagraph
16 (A)(i); or

17 “(ii) reporting to Congress with re-
18 spect to any such assessment.

19 “(D) ACCESS TO INFORMATION.—In con-
20 ducting an assessment of a complaint or infor-
21 mation submitted under subparagraph (A)(i),
22 the Director shall have access to all records, re-
23 ports, audits, reviews, documents, papers, rec-
24 ommendations, and other material necessary to
25 determine whether a substantial likelihood ex-

1 ists that a violation of an order, regulation, or
2 standard of the Administration or any other
3 provision of Federal law relating to aviation
4 safety has occurred.

5 “(4) RESPONSES TO RECOMMENDATIONS.—The
6 Administrator shall—

7 “(A) submit a written response to a rec-
8 ommendation submitted by the Director under
9 subparagraph (A)(iii); and

10 “(B) retain records related to any inves-
11 tigations or corrective actions taken in response
12 to the recommendation.

13 “(5) INCIDENT REPORTS.—If the Director de-
14 termines there is a substantial likelihood that a vio-
15 lation of an order, regulation, or standard of the Ad-
16 ministration or any other provision of Federal law
17 relating to aviation safety has occurred and that the
18 potential violation requires immediate corrective ac-
19 tion, the Director shall expeditiously report the po-
20 tential violation to the Administrator and the In-
21 spector General of the Department of Transpor-
22 tation.

23 “(6) REPORTING OF CRIMINAL VIOLATIONS TO
24 INSPECTOR GENERAL.—If the Director has reason-
25 able grounds to believe that there has been a viola-

tion of Federal criminal law, the Director shall expeditiously report the violation to the Inspector General.

“(7) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of each year, the Director shall submit to Congress a report that contains—

“(A) information on the number of complaints and the information submitted to the Director under paragraph (3)(A)(i) during the preceding 12-month period;

“(B) summaries of the submissions described in subparagraph (A);

“(C) summaries of investigations and corrective actions recommended in response to the submissions described in subparagraph (A); and

“(D) summaries of the responses of the Administrator to the recommendations described in subparagraph (C).”.

SEC. 3. MODIFICATION OF CUSTOMER SERVICE INITIATIVE.

(a) FINDINGS.—Congress finds the following:

(1) Subsections (a) and (d) of section 40101 of title 49, United States Code, directs the Federal Aviation Administration (referred to in this section as the “Administration”) to make safety its highest priority.

1 (2) To ensure that there would be no appear-
2 ance of a conflict of interest for the Administration
3 in carrying out its safety responsibilities, Congress
4 amended section 40101(d) of such title in section
5 401 of the Federal Aviation Reauthorization Act of
6 1996 (Public Law 104–264; 110 Stat. 3244) to re-
7 move the responsibilities of the Administration to
8 promote airlines.

9 (3) Despite those directives from Congress re-
10 garding the priority of safety, the Administration—

11 (A) issued a vision statement in which the
12 Administration stated that the vision of the Ad-
13 ministration includes “being responsive to our
14 customers and accountable to the public”; and

15 (B) issued a customer service initiative in
16 2003, which required aviation inspectors to
17 treat air carriers and other aviation certificate
18 holders as “customers” rather than as regu-
19 lated entities.

20 (4) The initiative described in paragraph (3)
21 appears to have given regulated entities and Admin-
22 istration inspectors the impression that the manage-
23 ment of the Administration gives an unduly high pri-
24 ority to the satisfaction of regulated entities regard-

1 ing its inspection and certification decisions and
2 other lawful actions of its safety inspectors.

3 (5) As a result of the emphasis on customer
4 satisfaction, some managers of the Administration
5 have discouraged vigorous enforcement and replaced
6 inspectors whose lawful actions adversely affected an
7 air carrier.

8 (b) MODIFICATION OF INITIATIVE.—Not later than
9 90 days after the date of the enactment of this Act, the
10 Administrator of the Federal Aviation Administration
11 shall modify the customer service initiative, mission, vision
12 statements, and other statements of policy of the Adminis-
13 tration—

14 (1) to remove any reference to air carriers and
15 other entities regulated by the Administration as
16 “customers”;

17 (2) to clarify that in regulating safety, the only
18 customers of the Administration are individuals trav-
19 eling on aircraft; and

20 (3) to clarify that air carriers and other entities
21 regulated by the Administration do not have the
22 right to select the employees of the Administration
23 who will inspect their operations.

24 (c) SAFETY PRIORITY.—In carrying out the Adminis-
25 trator’s responsibilities, the Administrator shall ensure

1 that safety is given a higher priority than preventing the
 2 dissatisfaction of an air carrier or other entity regulated
 3 by the Administration with an employee of the Adminis-
 4 tration.

5 **SEC. 4. POST-EMPLOYMENT RESTRICTIONS FOR FLIGHT**
 6 **STANDARDS INSPECTORS.**

7 (a) IN GENERAL.—Section 44711 of title 49, United
 8 States Code, is amended by adding at the end the fol-
 9 lowing:

10 “(d) POST-EMPLOYMENT RESTRICTIONS FOR
 11 FLIGHT STANDARDS INSPECTORS.—A person holding an
 12 operating certificate issued under chapter 1 of title 14,
 13 Code of Federal Regulations, may not knowingly employ,
 14 or engage in employment negotiations or make a contrac-
 15 tual arrangement of employment with, an employee of the
 16 Federal Aviation Administration if the employee, in the
 17 preceding 2-year period—

18 “(1) served as, or was responsible for oversight
 19 of, a flight standards inspector of the Agency; and

20 “(2) had responsibility to inspect, or oversee in-
 21 spection of, the operations of the certificate holder.”.

22 (b) APPLICABILITY.—The amendment made by sub-
 23 section (a) shall apply with respect to individuals em-
 24 ployed, on or after the date of the enactment of this Act,
 25 by the Federal Aviation Administration.

1 **SEC. 5. ASSIGNMENT OF PRINCIPAL SUPERVISORY INSPEC-**
2 **TORS.**

3 (a) IN GENERAL.—An individual serving as a prin-
4 cipal supervisory inspector of the Federal Aviation Admin-
5 istration may not be responsible for overseeing the oper-
6 ations of the same air carrier for a continuous period of
7 more than 5 years.

8 (b) TRANSITIONAL PROVISION.—An individual serv-
9 ing as a principal supervisory inspector of the Administra-
10 tion with respect to an air carrier on the day before the
11 date of the enactment of this Act may be responsible for
12 overseeing the operations of that air carrier until the later
13 of—

14 (1) the last day of the 5-year period described
15 in subsection (a); or

16 (2) the last day of the 2-year period beginning
17 on such date of enactment.

18 (c) ISSUANCE OF ORDER.—Not later than 90 days
19 after the date of the enactment of this Act, the Adminis-
20 trator of the Federal Aviation Administration shall issue
21 an order to carry out this section.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Administrator
24 such sums as may be necessary to carry out this section.

1 **SEC. 6. IMPROVED VOLUNTARY DISCLOSURE REPORTING**
2 **SYSTEM.**

3 (a) **VOLUNTARY DISCLOSURE REPORTING PROGRAM**
4 **DEFINED.**—In this section, the term “Voluntary Dis-
5 closure Reporting Program” means the program established
6 by the Federal Aviation Administration through Advisory
7 Circular 00–58A, dated September 8, 2006.

8 (b) **VERIFICATION AND EVALUATION.**—The Adminis-
9 trator of the Federal Aviation Administration shall modify
10 the Voluntary Disclosure Reporting Program to require
11 inspectors to—

12 (1) verify that air carriers implement com-
13 prehensive solutions to correct the underlying causes
14 of the violations voluntarily disclosed by such air
15 carriers pursuant to the Program; and

16 (2) evaluate, before accepting a new report with
17 respect to a previously disclosed violation, whether
18 the air carrier implemented a comprehensive solution
19 with respect to the violation as required by para-
20 graph (1).

21 (c) **SUPERVISORY REVIEW OF VOLUNTARY SELF-**
22 **DISCLOSURES.**—The Administrator shall establish a proc-
23 ess by which each voluntary disclosure received from an
24 air carrier about the practices of that air carrier is re-
25 viewed and approved by a supervisor after the initial paper
26 review by an inspector.

1 **SEC. 7. NATIONAL REVIEW TEAM.**

2 (a) ESTABLISHMENT.—The Administrator of the
3 Federal Aviation Administration shall establish a National
4 Review Team, comprised of Federal Aviation Administra-
5 tion inspectors who are serving or have served as principal
6 supervisory inspectors.

7 (b) AUDITS.—The National Review Team shall con-
8 duct periodic, unannounced audits throughout the United
9 States of the operations and maintenance practices and
10 procedures of air carriers to evaluate the effectiveness of
11 the oversight of air carriers carried out by the Federal
12 Aviation Administration.

13 (c) SUPERVISION.—The National Review Team shall
14 be directly supervised by the Associate Administrator for
15 Aviation Safety.

16 (d) LIMITATION.—The Associate Administrator for
17 Aviation Safety shall prohibit a member of the National
18 Review Team from participating in any audit of an air
19 carrier under subsection (b) if the member has previously
20 had responsibility for inspecting, or overseeing the inspec-
21 tion of, the operations of that air carrier.

22 **SEC. 8. HEADQUARTERS REVIEW OF AIR TRANSPORTATION**
23 **OVERSIGHT SYSTEM DATABASE.**

24 (a) REVIEWS.—The Administrator of the Federal
25 Aviation Administration shall establish a process by which
26 the air transportation oversight system database of the

1 Federal Aviation Administration is reviewed by a team of
2 employees of the Administration on a monthly basis to en-
3 sure—

4 (1) the identification of any trends with respect
5 to compliance or noncompliance with the regulations,
6 advisory directives, policies, and procedures of the
7 Administration; and

8 (2) that appropriate actions are taken to cor-
9 rect any trends toward noncompliance identified
10 under paragraph (1).

11 (b) MONTHLY TEAM REPORTS.—

12 (1) IN GENERAL.—The team of employees con-
13 ducting a monthly review of the air transportation
14 oversight system database under subsection (a) shall
15 submit a report on the results of the review to the
16 Administrator, the Associate Administrator for Avia-
17 tion Safety, and the Director of the Flight Stand-
18 ards Service.

19 (2) CONTENTS.—Each report submitted under
20 paragraph (1) shall identify—

21 (A) any trends in with respect to compli-
22 ance or noncompliance identified under sub-
23 section (a)(1) by the team of employees con-
24 ducting the review required under subsection
25 (a); and

1 (B) any corrective actions taken or pro-
2 posed to be taken under subsection (a)(2) in re-
3 sponse to any trends toward noncompliance.

4 (c) QUARTERLY REPORTS TO CONGRESS.—The Ad-
5 ministrator shall submit a quarterly report to the Com-
6 mittee on Commerce, Science, and Transportation of the
7 Senate and the Committee on Transportation and Infra-
8 structure of the House of Representatives that—

9 (1) describes the results of the reviews of the
10 air transportation oversight system database con-
11 ducted under subsection (a); and

12 (2) includes copies of reports received under
13 subsection (b).

14 **SEC. 9. RULEMAKING.**

15 Not later than 90 days after the date of the enact-
16 ment of this Act, the Administrator of the Federal Avia-
17 tion Administration shall prescribe such regulations as
18 may be necessary to carry out this Act and the amend-
19 ments made by this Act.

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