

116TH CONGRESS
2D SESSION

S. 3967

To reform Federal Aviation Administration safety requirements for
commercial air tour operators, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 16, 2020

Mr. SCHATZ (for himself and Ms. HIRONO) introduced the following bill; which
was read twice and referred to the Committee on Commerce, Science, and
Transportation

A BILL

To reform Federal Aviation Administration safety require-
ments for commercial air tour operators, 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 “Air Tour and Sky-
5 diving Safety Improvement Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Federal
3 Aviation Administration.

4 (2) AIR CARRIER.—The term “air carrier” has
5 the meaning given that term in section 40102 of
6 title 49, United States Code.

7 (3) COMMERCIAL OPERATOR.—The term “com-
8 mercial operator” has the meaning given that term
9 in section 1.1. of title 14, Code of Federal Regula-
10 tions.

11 (4) COMMERCIAL AIR TOUR OPERATOR.—The
12 term “commercial air tour operator” has the mean-
13 ing given that term for purposes of part 136 of title
14 14, Code of Federal Regulations.

15 (5) PARACHUTE OPERATION.—The term “para-
16 chute operation” has the meaning given that term
17 for purposes of part 105 and section 119.1(e)(6) of
18 title 14, Code of Federal Regulations.

19 **SEC. 3. SAFETY REQUIREMENTS FOR COMMERCIAL AIR**
20 **TOUR OPERATORS.**

21 (a) SAFETY REFORMS.—Not later than 180 days
22 after the date of the enactment of this Act, the Adminis-
23 trator shall issue new or revised regulations that provide
24 the following:

1 (1) PART 121 OR 135 CERTIFICATE RE-
2 QUIRED.—The regulations shall provide that—

3 (A) only persons who hold a certificate
4 identifying the person as an air carrier or com-
5 mercial operator, or both, under part 119 of
6 title 14, Code of Federal Regulations, and who
7 conduct all commercial air tour operations
8 under the applicable provisions of part 121 or
9 part 135 of title 14, Code of Federal Regula-
10 tions, shall be permitted to conduct business as
11 a commercial air tour operator; and

12 (B) beginning on the date that is 1 year
13 after the date of enactment of this Act, no per-
14 son shall be permitted to conduct business as a
15 commercial air tour operator under a certificate
16 issued in accordance with the exceptions speci-
17 fied in section 119.1(e)(2) of title 14, Code of
18 Federal Regulations.

19 (2) ADDITIONAL SAFETY REQUIREMENTS.—The
20 regulations also shall—

21 (A) eliminate and repeal all exceptions cur-
22 rently provided for under section 119.1(e)(2) of
23 title 14, Code of Federal Regulations;

1 (B) require all commercial air tour opera-
2 tors to establish safety management system
3 programs, including by—

4 (i) requiring all commercial air tour
5 operators to install crash-resistant flight
6 data recording devices capable of sup-
7 porting the requirements of the Flight
8 Operational Quality Assurance Program;

9 (ii) establishing and implementing a
10 performance-based standard for remote
11 flight data monitoring for all commercial
12 air tour operators; and

13 (iii) requiring all commercial air tour
14 operators to establish a structured flight
15 data monitoring program that reviews all
16 available data sources to identify deviations
17 from established norms and procedures
18 and other potential safety issues;

19 (C) require all commercial air tour opera-
20 tors to incorporate a controlled flight into ter-
21 rain (CFIT) avoidance training program that
22 addresses reducing the risk of CFIT accidents
23 involving continuation of flight under visual
24 flight rules (VFR) into instrument meteorolog-
25 ical conditions, with special attention paid to

human factors issues, including, but not limited
to—

(i) the specific terrain, weather, and
infrastructure challenges relevant to the
operational environment; and

(ii) operational influence on pilot deci-
sion making relevant to the operational en-
vironment;

(D) require the implementation of methods
to provide effective terrain awareness and warn-
ing system (TAWS) protections while miti-
gating nuisance alerts for single-engine air-
planes operated under part 135 of title 14,
Code of Federal Regulations, that frequently
operate at altitudes below their respective
TAWS class design alerting threshold; and

(E) require the development and imple-
mentation of a single set of national standards
and operations specifications under part 135 of
title 14, Code of Federal Regulations (or any
successor regulations) applicable to all commer-
cial air tour operators conducting flights in
powered airplanes or rotorcraft.

1 **SEC. 4. IMPROVING DOT RESPONSES TO SAFETY REC-**
 2 **COMMENDATIONS.**

3 (a) IN GENERAL.—Section 1135 of title 49, United
 4 States Code, is amended—

5 (1) in subsection (b), by adding at the end the
 6 following new sentence: “Each response under para-
 7 graph (2) or (3) of subsection (a) shall include a de-
 8 tailed explanation of how the Secretary’s proposed
 9 action will meet or exceed the improvement to trans-
 10 portation safety recommended by the Board that
 11 was not adopted or refused.”;

12 (2) in subsection (d)—

13 (A) in paragraph (1), by striking “air car-
 14 rier operations conducted under part 121” and
 15 inserting “operations conducted under part 121
 16 or 135”; and

17 (B) in paragraph (3)(B)—

18 (i) in clause (i), by striking “and”
 19 after the semicolon;

20 (ii) in clause (ii), by striking the pe-
 21 riod at the end and inserting “; and”; and

22 (iii) by adding at the end the fol-
 23 lowing:

24 “(iii) with respect to any recommen-
 25 dation in the preceding year which the
 26 Board has deemed the action of the Sec-

retary as ‘Unacceptable’, a detailed explanation of how the Secretary’s action will meet or exceed the improvement to transportation safety recommended by the Board.”; and

(3) in subsection (e)(2), by adding at the end the following new sentence: “If on June 1 of each year the Board has not received the Secretary’s report required by this subsection, the Secretary shall be prohibited from issuing new certifications under part 121 or part 135 of title 14, Code of Federal Regulations (or any successor regulations) until the report for such year is received by the Board.”.

(b) EFFECTIVE DATE; APPLICABILITY.—

(1) IN GENERAL.—The amendments made by subsection (a) take effect on the date of enactment of this Act.

(2) DOT COMMERCIAL AVIATION SAFETY RECOMMENDATIONS REPORTS.—The amendments made by paragraph (2) of subsection (a) shall apply to reports required under section 1135(d) of title 49, United States Code, for—

(A) the calendar year immediately preceding the calendar year in which this Act is enacted;

1 (B) the calendar year in which this Act is
2 enacted; and

3 (C) each calendar year thereafter.

4 **SEC. 5. REMOVAL OF REGULATORY BARRIERS TO SAFETY.**

5 Any rules or regulation promulgated by the Secretary
6 of Transportation in response to a safety recommendation
7 made by the National Transportation Safety Board—

8 (1) shall not be considered a regulation or rule
9 under Executive Order 13771 (5 U.S.C. 601 note;
10 relating to reducing regulation and controlling regu-
11 latory costs);

12 (2) shall not be subject to the requirements set
13 forth in that Executive order; and

14 (3) shall be exempt from any other Executive
15 order or action that prohibits the evaluation and in-
16 corporation of benefit as well as cost in accessing the
17 worthiness of a proposed rule or regulation.

18 **SEC. 6. SAFETY REQUIREMENTS FOR SPORT PARACHUTE**
19 **OPERATIONS.**

20 Not later than 60 days after the date of the enact-
21 ment of this Act, the Administrator shall—

22 (1) issue new or revised regulations governing
23 parachute operations conducted in the United States
24 that are subject to the requirements of part 105 and
25 section 119.1(e)(6) of title 14, Code of Federal Reg-

1 ulations, so as to require that such operations de-
2 velop and implement—

3 (A) Federal Aviation Administration-ap-
4 proved aircraft maintenance and inspection pro-
5 grams that include, at a minimum, require-
6 ments for compliance with engine manufactur-
7 ers' recommended maintenance instructions,
8 such as service bulletins and service information
9 letters for time between overhauls and compo-
10 nent life limits;

11 (B) initial and annual recurrent pilot
12 training programs that address, at a minimum,
13 operation-specific and aircraft-specific weight
14 and balance calculations, preflight inspections,
15 emergency and recovery procedures, and para-
16 chutist egress procedures for each type of air-
17 craft flown; and

18 (C) initial and annual recurrent pilot test-
19 ing programs for parachute operations pilots
20 that address, at a minimum, operation-specific
21 and aircraft-specific weight and balance calcula-
22 tions, preflight inspections, emergency and re-
23 covery procedures, and parachutist egress pro-
24 cedures for each type of aircraft flown, as well
25 as competency flight checks to determine pilot

1 competence in practical skills and techniques in
2 each type of aircraft; and

3 (2) revise the guidance materials contained in
4 Advisory Circular 105 2C (relating to sport para-
5 chute jumping), to include guidance for parachute
6 operations in implementing the training and testing
7 programs required under the new and revised regu-
8 lations issued in accordance with paragraph (1).

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