

of Pub. L. 115-254, prior to its transfer to this section, by section 401 of Pub. L. 115-254, which is set out as a Definitions of Terms in Pub. L. 115-254 note under section 40101 of this title.

§ 41729. COVID-19 vaccination status

(a) IN GENERAL.—An air carrier (as such term is defined in section 40102) may not deny service to any individual solely based on the vaccination status of the individual with respect to COVID-19.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to the regulation of intrastate travel, transportation, or movement, including the intrastate transportation of passengers.

(Added Pub. L. 118-63, title XI, §1107(a), May 16, 2024, 138 Stat. 1417.)

Editorial Notes

CODIFICATION

Section 1107(a) of Pub. L. 118-63, which directed the addition of this section at end of this chapter, was executed by adding this section at the end of subchapter I of this chapter to reflect the probable intent of Congress.

Statutory Notes and Related Subsidiaries

RULE OF CONSTRUCTION

Pub. L. 118-63, title XI, §1107(c), May 16, 2024, 138 Stat. 1417, provided that: “Nothing in this section [enacting this section], or the amendment made by this section, shall be construed to permit or otherwise authorize an executive agency to enact or otherwise impose a COVID-19 vaccine mandate.”

SUBCHAPTER II—SMALL COMMUNITY AIR SERVICE

§ 41731. Definitions

(a) GENERAL.—In this subchapter—

(1) “eligible place” means a place in the United States that—

(A)(i)(I) was an eligible point under section 419 of the Federal Aviation Act of 1958 before October 1, 1988;

(II) received scheduled air transportation at any time after January 1, 1990; and

(III) is not listed in Department of Transportation Orders 89-9-37 and 89-12-52 as a place ineligible for compensation under this subchapter; or

(ii) was determined, on or after October 1, 1988, and before the date of the enactment of the FAA Extension, Safety, and Security Act of 2016 (Public Law 114-190), under this subchapter by the Secretary of Transportation to be eligible to receive subsidized small community air service under section 41736(a);

(B) had an average of 10 enplanements per service day or more, as determined by the Secretary, during the most recent fiscal year beginning after September 30, 2012;

(C) had an average subsidy per passenger, as determined by the Secretary—

(i) of less than \$1,000 during the most recent fiscal year beginning before October 1, 2026, regardless of driving miles to the nearest large or medium hub airport;

(ii) of less than \$850 during the most recent fiscal year beginning after September 30, 2026, regardless of driving miles to the nearest medium or large hub airport; and

(iii) of less than \$650 during the most recent fiscal year for locations that are less than 175 miles from the nearest large or medium hub airport; and

(D) is a community that, at any time during the period between September 30, 2010, and September 30, 2011, inclusive—

(i) received essential air service for which compensation was provided to an air carrier under this subchapter; or

(ii) received a 140-day notice of intent to terminate essential air service and the Secretary required the air carrier to continue to provide such service to the community.

(2) “enhanced essential air service” means scheduled air transportation to an eligible place of a higher level or quality than basic essential air service described in section 41732 of this title.

(b) LIMITATION ON AUTHORITY TO DECIDE A PLACE NOT AN ELIGIBLE PLACE.—The Secretary may not decide that a place described in subsection (a)(1) of this section is not an eligible place on any basis that is not specifically stated in this subchapter.

(c) EXCEPTION FOR LOCATIONS IN ALASKA AND HAWAII.—Subparagraphs (B), (C), and (D) of subsection (a)(1) shall not apply with respect to locations in the State of Alaska or the State of Hawaii.

(d) EXCEPTIONS FOR LOCATIONS MORE THAN 175 DRIVING MILES FROM THE NEAREST LARGE OR MEDIUM HUB AIRPORT.—Subsection (a)(1)(B) shall not apply with respect to locations that are more than 175 driving miles from the nearest large or medium hub airport.

(e) WAIVERS.—

(1) IN GENERAL.—The Secretary may waive, on an annual basis, subsections (a)(1)(B) and (a)(1)(C)(iii) with respect to an eligible place if such place demonstrates to the Secretary’s satisfaction that the reason the eligibility requirements of such subsections are not met is due to a temporary decline in demand.

(2) LIMITATION.—Beginning with fiscal year 2027, the Secretary may not provide a waiver of subsection (a)(1)(B) to any location—

(A) in more than 2 consecutive fiscal years; or

(B) in more than 5 fiscal years within 25 consecutive years.

(3) LIMITATION.—Beginning in fiscal year 2027, the Secretary may not provide a waiver of subsection (a)(1)(C)(iii) to any location—

(A) in more than 2 consecutive fiscal years; or

(B) in more than 5 fiscal years within 25 consecutive years.

(f) DEFINITION.—For purposes of subsection (a)(1)(B), the term “enplanements” means the number of passengers enplaning, at an eligible place, on flights operated by the subsidized essential air service carrier.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1143; Pub. L. 106-181, title II, §208, Apr. 5, 2000, 114