

Union Calendar No. 66

107TH CONGRESS
1ST SESSION

H. R. 1407

[Report No. 107-77, Parts I and II]

To amend title 49, United States Code, to permit air carriers to meet and discuss their schedules in order to reduce flight delays, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. MICA, Mr. LIPINSKI, Mr. HUTCHINSON, Mr. DEFazio, Mr. HORN, Ms. MILLENDER-McDONALD, Mr. QUINN, Ms. NORTON, Mr. EHLERS, Mr. BACHUS, Mr. BAKER, Mr. COOKSEY, Mr. LOBIONDO, Mr. ISAKSON, Mr. HAYES, Mr. JOHNSON of Illinois, Mr. KENNEDY of Minnesota, and Mr. KIRK) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

MAY 23, 2001

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than July 9, 2001 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X

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

JUNE 28, 2001

Additional sponsors: Mr. BEREUTER, Mr. SWEENEY, Mr. COSTELLO, Mrs. KELLY, Mr. BLUMENAUER, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. MEEKS of New York

JUNE 28, 2001

Reported from the Committee on the Judiciary with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on April 4, 2001]

A BILL

To amend title 49, United States Code, to permit air carriers to meet and discuss their schedules in order to reduce flight delays, 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. SCHEDULING COMMITTEES, DISCUSSIONS, AND**
 4 **AGREEMENTS.**

5 *(a) IN GENERAL.—Chapter 401 of title 49, United*
 6 *States Code, is amended by adding at the end the following:*

7 **“§40129. Air carrier discussions and agreements re-**
 8 **lating to flight scheduling**

9 **“(a) DISCUSSIONS TO REDUCE DELAYS.—**

10 **“(1) REQUEST.—An air carrier may file with**
 11 *the Secretary of Transportation a request for author-*
 12 *ity to discuss with one or more other air carriers or*
 13 *foreign air carriers agreements or cooperative ar-*
 14 *rangements relating to limiting flights at an airport*
 15 *during a time period that the Secretary determines*
 16 *that scheduled air transportation exceeds the capacity*
 17 *of the airport. The purpose of the discussion shall be*

1 to reduce delays at the airport during such time pe-
2 riod.

3 “(2) *APPROVAL.*—The Secretary shall approve a
4 request filed under this subsection if the Secretary
5 finds that the discussions requested will facilitate vol-
6 untary adjustments in air carrier schedules that
7 could lead to a substantial reduction in travel delays
8 and improvement of air transportation service to the
9 public. The Secretary may impose such terms and
10 conditions to an approval under this subsection as the
11 Secretary determines are necessary to protect the pub-
12 lic interest and to carry out the objectives of this sub-
13 section.

14 “(3) *NOTICE.*—Before a discussion may be held
15 under this subsection, the Secretary shall provide at
16 least 3 days notice of the proposed discussion to all
17 air carriers and foreign air carriers that are pro-
18 viding service to the airport that will be the subject
19 of such discussion.

20 “(4) *MONITORING.*—The Secretary or a rep-
21 resentative of the Secretary shall attend and monitor
22 any discussion or other effort to enter into an agree-
23 ment or cooperative arrangement under this sub-
24 section.

1 “(5) *DISCUSSIONS OPEN TO PUBLIC.*—A discus-
2 sion held under this subsection shall be open to the
3 public.

4 “(b) *AGREEMENTS.*—

5 “(1) *REQUEST.*—An air carrier may file with
6 the Secretary a request for approval of an agreement
7 or cooperative arrangement relating to interstate air
8 transportation, and any modification of such an
9 agreement or arrangement, reached as a result of a
10 discussion held under subsection (a).

11 “(2) *APPROVAL.*—The Secretary shall approve
12 an agreement, arrangement, or modification for
13 which a request is filed under this subsection if the
14 Secretary finds that the agreement, arrangement, or
15 modification is not adverse to the public interest and
16 is necessary to reduce air travel delays and that a
17 substantial reduction in such delays cannot be
18 achieved by any other immediately available means.

19 “(3) *SECRETARIAL IMPOSED TERMS AND CONDI-*
20 *TIONS.*—The Secretary may impose such terms and
21 conditions on an agreement, arrangement, or modi-
22 fication for which a request is filed under this sub-
23 section as the Secretary determines are necessary to
24 protect the public interest and air service to an air-

1 port that has less than .25 percent of the total annual
2 boardings in the United States.

3 “(c) *LIMITATIONS.*—

4 “(1) *RATES, FARES, CHARGES, AND IN-FLIGHT*
5 *SERVICES.*—*The participants in a discussion ap-*
6 *proved under subsection (a) may not discuss or enter*
7 *into an agreement or cooperative arrangement regard-*
8 *ing rates, fares, charges, or in-flight services.*

9 “(2) *CITY PAIRS.*—*The participants in a discus-*
10 *sion approved under subsection (a) may not discuss*
11 *particular city pairs or submit to another air carrier*
12 *or foreign air carrier information concerning their*
13 *proposed service or schedules in a fashion that indi-*
14 *cates the city pairs involved.*

15 “(d) *TERMINATION.*—*This section shall cease to be in*
16 *effect after September 30, 2003; except that an agreement,*
17 *cooperative arrangement, or modification approved by the*
18 *Secretary in accordance with this section may continue in*
19 *effect after such date at the discretion of the Secretary.”.*

20 “(b) *CONFORMING AMENDMENT.*—*The analysis for such*
21 *chapter is amended by adding at the end the following:*

 “40129. *Air carrier discussions and agreements relating to flight scheduling.*”.

22 **SEC. 2. LIMITED EXEMPTION FROM ANTITRUST LAWS.**

23 Section 41308 of title 49, United States Code, is
24 amended—

1 requested will facilitate voluntary adjust-
2 ments in air carrier schedules that could lead
3 to a substantial reduction in travel delays and
4 improvement of air transportation service to
5 the public and will not substantially lessen
6 competition or tend to create a monopoly. The
7 Attorney General may impose such terms and
8 conditions to an approval under this section
9 as the Attorney General determines are nec-
10 essary to protect the public interest and to
11 carry out the objectives of this section.

12 (c) NOTICE.—Before a discussion may be
13 held under this section, the Attorney General
14 shall provide at least 3 days notice of the pro-
15 posed discussion to all air carriers and for-
16 eign air carriers that are providing service or
17 seeking to provide service to the airport that
18 will be the subject of such discussion.

19 (d) MONITORING.—The Attorney General or
20 a representative of the Attorney General shall
21 attend and monitor any discussion or other
22 effort to enter into an agreement or coopera-
23 tive arrangement under this section.

1 **(e) DISCUSSIONS OPEN TO PUBLIC.—A dis-**
2 **cussion held under this section shall be open**
3 **to the public.**

4 **SEC. 2. AIR CARRIER AGREEMENTS RELATING TO FLIGHT**
5 **SCHEDULING.**

6 **(a) REQUEST.—An air carrier may file with**
7 **the Attorney General a request for approval**
8 **of an agreement or cooperative arrangement**
9 **relating to interstate air transportation, and**
10 **any modification of such an agreement or ar-**
11 **rangement, reached as a result of a discussion**
12 **held under section 1.**

13 **(b) APPROVAL.—Notwithstanding the anti-**
14 **trust laws, and subject to subsection (c), the**
15 **Attorney General shall approve an agreement,**
16 **arrangement, or modification for which a re-**
17 **quest is filed under this section if the Attor-**
18 **ney General finds that the agreement, ar-**
19 **rangement, or modification is not adverse to**
20 **the public interest, is necessary to reduce air**
21 **travel delays, and will not substantially lessen**
22 **competition or tend to create a monopoly and**
23 **that a substantial reduction in such delays**
24 **cannot be achieved by any other immediately**
25 **available means.**

1 **(c) UNANIMOUS AGREEMENT AMONG CAR-**
2 **RIERS REQUIRED.—**The Attorney General may
3 **approve an agreement, arrangement, or modi-**
4 **fication for which a request is filed under this**
5 **section only if the Attorney General finds that**
6 **each air carrier and foreign air carrier pro-**
7 **viding service or seeking to provide service to**
8 **the airport that is the subject of the agree-**
9 **ment, arrangement, or modification has**
10 **agreed to the agreement, arrangement, or**
11 **modification.**

12 **(d) TERMS AND CONDITIONS.—**The Attorney
13 **General may impose such terms and condi-**
14 **tions on an agreement, arrangement, or modi-**
15 **fication for which a request is filed under this**
16 **section as the Attorney General determines**
17 **are necessary to protect the public interest**
18 **and air service to an airport that has less than**
19 **.25 percent of the total annual boardings in**
20 **the United States.**

21 **SEC. 3. LIMITATIONS.**

22 **(a) RATES, FARES, CHARGES, AND IN-FLIGHT**
23 **SERVICES.—**The participants in a discussion
24 **approved under section 1 may not discuss or**
25 **enter into an agreement or cooperative ar-**

1 **rangement regarding rates, fares, charges, or**
2 **in-flight services.**

3 **(b) CITY PAIRS.—The participants in a dis-**
4 **cussion approved under section 1 may not dis-**
5 **cuss particular city pairs or submit to another**
6 **air carrier or foreign air carrier information**
7 **concerning their proposed service or sched-**
8 **ules in a fashion that indicates the city pairs**
9 **involved.**

10 **SEC. 4. CONSULTATION WITH SECRETARY OF TRANSPOR-**
11 **TATION.**

12 **In making a determination whether to ap-**
13 **prove a request under section 1, or an agree-**
14 **ment, arrangement, or modification under**
15 **section 2, the Attorney General shall consider**
16 **any comments of the Secretary of Transpor-**
17 **tation.**

18 **SEC. 5. DEFINITIONS.**

19 **In this Act, the following definitions**
20 **apply:**

21 **(1) AIR CARRIER, AIRPORT, AIR TRANS-**
22 **PORTATION, FOREIGN AIR CARRIER, AND**
23 **INTERSTATE AIR TRANSPORTATION.—The**
24 **terms “air carrier”, “airport”, “air trans-**
25 **portation”, “foreign air carrier”, and**

1 **“interstate air transportation” have the**
2 **meanings such terms have under section**
3 **40102 of title 49, United States Code.**

4 **(2) ANTITRUST LAWS.—The term “anti-**
5 **trust laws” has the meaning such term**
6 **has under section 41308(a) of title 49,**
7 **United States Code.**

8 **SEC. 6. TERMINATION.**

9 **(a) APPROVAL OF AGREEMENTS.—The Attor-**
10 **ney General may not approve an agreement,**
11 **arrangement, or modification under section 2**
12 **after October 26, 2003.**

13 **(b) EXPIRATION OF AGREEMENTS.—An agree-**
14 **ment, arrangement, or modification approved**
15 **by the Attorney General under section 2 may**
16 **continue in effect until October 26, 2004, or an**
17 **earlier date determined by the Attorney Gen-**
18 **eral.**

Amend the title so as to read: “A bill to permit air carriers to meet and discuss their schedules in order to reduce flight delays, and for other purposes.”.

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