

107TH CONGRESS
1ST SESSION

S. 483

To amend title 49, United States Code, to improve the disclosure of information to airline passengers and the enforceability of airline passengers' rights under airline customer service agreements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2001

Mr. WYDEN 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 improve the disclosure of information to airline passengers and the enforceability of airline passengers' rights under airline customer service agreements, 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 “Fair Treatment of Air-
5 line Passengers Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) United States airline traffic is increasing.
2 The number of domestic passengers carried by
3 United States air carriers has nearly tripled since
4 1978, to over 660 million annually. The number is
5 expected to grow to more than 1 billion by 2010.
6 The number of domestic flights has been steadily in-
7 creasing as well.

8 (2) The Inspector General of the Department of
9 Transportation has found that with this growth in
10 traffic have come increases in delays, cancellations,
11 and customer dissatisfaction with air carrier service.

12 (A) The Federal Aviation Administration
13 has reported that, between 1995 and 2000,
14 delays increased 90 percent and cancellations
15 increased 104 percent. In 2000, over 1 in 4
16 flights were delayed, canceled, or diverted, af-
17 fecting approximately 163 million passengers.

18 (B) At the 30 largest United States air-
19 ports, the number of flights with taxi-out times
20 of 1 hour or more increased 165 percent be-
21 tween 1995 and 2000. The number of flights
22 with taxi-out times of 4 hours or more in-
23 creased 341 percent during the same period.

24 (C) Certain flights, particularly those
25 scheduled during peak periods at the nation's

1 busiest airports, are subject to chronic delays.
2 In December, 2000, 626 regularly-scheduled
3 flights arrived late 70 percent of the time or
4 more, as reported by the Department of Trans-
5 portation.

6 (D) Consumer complaints filed with the
7 Department of Transportation about airline
8 travel have nearly quadrupled since 1995. The
9 Department of Transportation Inspector Gen-
10 eral has estimated that air carriers receive be-
11 tween 100 and 400 complaints for every com-
12 plaint filed with the Department of Transpor-
13 tation.

14 (3) At the same time as the number of com-
15 plaints about airline travel has increased, the re-
16 sources devoted to Department of Transportation
17 handling of such complaints have declined sharply.
18 The Department of Transportation Inspector Gen-
19 eral has reported that the staffing of the Depart-
20 ment of Transportation office responsible for han-
21 dling airline customer service complaints declined
22 from 40 in 1985 to just 17 in 2000.

23 (4) In June, 1999, the Air Transport Associa-
24 tion and its member airlines agreed to an Airline
25 Customer Service Commitment designed to address

1 mounting consumer dissatisfaction and improve cus-
2 tomer service in the industry.

3 (5) The Department of Transportation Inspec-
4 tor General has reviewed the airlines' implementa-
5 tion of the Airline Customer Service Commitment.
6 The Inspector General found that:

7 (A) The Airline Customer Service Commit-
8 ment has prompted air carriers to address con-
9 sumer concerns in many areas, resulting in
10 positive changes in how air travelers are treat-
11 ed.

12 (B) Despite this progress, there continue
13 to be significant shortfalls in reliable and timely
14 communication with passengers about flight
15 delays and cancellations. Reports to passengers
16 about flight status are frequently untimely, in-
17 complete, or unreliable.

18 (C) Air carriers need to do more, in the
19 areas under their control, to reduce over-sched-
20 uling, the number of chronically-late or canceled
21 flights, and the amount of checked baggage
22 that does not show up with the passenger upon
23 arrival.

24 (D) A number of further steps could be
25 taken to improve the effectiveness and enforce-

1 ability of the Airline Customer Service Commit-
2 ment and to improve the consumer protections
3 available to commercial air passengers.

4 **SEC. 3. FAIR TREATMENT OF AIRLINE PASSENGERS.**

5 (a) IN GENERAL.—Subchapter I of chapter 417 of
6 title 49, United States Code, is amended by adding at the
7 end the following:

8 **“§ 41722. Airline passengers’ right to know**

9 “(a) DISCLOSURE OF ON-TIME PERFORMANCE.—
10 Whenever any person contacts an air carrier to make a
11 reservation or to purchase a ticket on a consistently-de-
12 layed or canceled flight, the air carrier shall disclose (with-
13 out being requested), at the time the reservation or pur-
14 chase is requested, the on-time performance and cancella-
15 tion rate for that flight for the most recent month for
16 which data is available. For purposes of this paragraph,
17 the term ‘consistently-delayed or canceled flight’ means a
18 regularly-scheduled flight—

19 “(1) that has failed to arrive on-time (as de-
20 fined in section 234.2 of title 14, Code of Federal
21 Regulations) at least 40 percent of the time during
22 the most recent 3-month period for which data are
23 available; or

1 “(2) at least 20 percent of the departures of
2 which have been canceled during the most recent 3-
3 month period for which data are available.

4 “(b) ON-TIME PERFORMANCE POSTED ON
5 WEBSITE.—An air carrier that has a website on the Inter-
6 net shall include in the information posted about each
7 flight operated by that air carrier the flight’s on-time per-
8 formance (as defined in section 234.2 of title 14, Code
9 of Federal Regulations) for the most recent month for
10 which data is available.

11 “(c) PASSENGER INFORMATION CONCERNING
12 DELAYS, CANCELLATIONS, AND DIVERSIONS.—

13 “(1) IN GENERAL—Whenever a flight is de-
14 layed, canceled, or diverted, the air carrier operating
15 that flight shall provide to customers at the airport
16 and on board the aircraft, in a timely, reasonable,
17 and truthful manner, the best available information
18 regarding such delay, cancellation, or diversion,
19 including—

20 “(A) the cause of the delay, cancellation,
21 or diversion; and

22 “(B) in the case of a delayed flight, the
23 carrier’s best estimate of the departure time.

24 “(2) PUBLIC INFORMATION.—An air carrier
25 that provides a telephone number or website for the

1 public to obtain flight status information shall en-
2 sure that the information provided via such tele-
3 phone number or website will reflect the best and
4 most current information available concerning
5 delays, cancellations, and diversions.

6 “(d) PRE-DEPARTURE NOTIFICATION SYSTEM.—
7 Within 6 months after the date of enactment of the Fair
8 Treatment of Airline Passengers Act, each air carrier that
9 is a reporting carrier (as defined in section 234.2 of title
10 14, Code of Federal Regulations) shall establish a reason-
11 able system (taking into account the size, financial condi-
12 tion, and cost structure of the air carrier) for notifying
13 passengers before their arrival at the airport when the air
14 carrier knows sufficiently in advance of the check-in time
15 for their flight that the flight will be canceled or delayed
16 by an hour or more.

17 “(e) COORDINATION OF MONITORS; CURRENT IN-
18 FORMATION.—At any airport at which the status of flights
19 to or from that airport is displayed to the public on flight
20 status monitors operated by the airport, each air carrier
21 the flights of which are displayed on the monitors shall
22 work closely with the airport to ensure that flight informa-
23 tion shown on the monitors reflects the best and most cur-
24 rent information available.

1 “(f) FREQUENT FLYER PROGRAM INFORMATION.—
2 Within 6 months after the date of enactment of the Fair
3 Treatment of Airline Passengers Act, each air carrier that
4 maintains a frequent flyer program shall increase the com-
5 prehensiveness and accessibility to the public of its report-
6 ing of frequent flyer award redemption information. The
7 information reported shall include—

8 “(1) the percentage of successful redemptions
9 of requested frequent flyer awards for free tickets or
10 class-of-service upgrades for the air carrier;

11 “(2) the percentage of successful redemptions
12 of requested frequent flyer awards for free tickets or
13 class-of-service upgrades for each flight in the air
14 carrier’s top 100 origination and destination mar-
15 kets; and

16 “(3) the percentage of seats available for fre-
17 quent flyer awards on each flight in its top 100
18 origination and destination markets.

19 “(g) OVERBOOKING.—

20 “(1) OVERSOLD FLIGHT DISCLOSURE.—An air
21 carrier shall inform a ticketed passenger, upon re-
22 quest, whether the flight on which the passenger is
23 ticketed is oversold.

24 “(2) BUMPING COMPENSATION INFORMA-
25 TION.—An air carrier shall inform passengers on a

1 flight what the air carrier will pay passengers invol-
2 untarily denied boarding before making offers to
3 passengers to induce them voluntarily to relinquish
4 seats.

5 “(3) DISCLOSURE OF BUMPING POLICY.—An
6 air carrier shall disclose, both on its Internet
7 website, if any, and on its ticket jackets, its criteria
8 for determining which passengers will be involun-
9 tarily denied boarding on an oversold flight and its
10 procedures for offering compensation to passengers
11 voluntarily or involuntarily denied boarding on an
12 oversold flight.

13 “(h) MISHANDLED BAGGAGE REPORTING.—Within 6
14 months after the date of enactment of the Fair Treatment
15 of Airline Passengers Act, each air carrier shall revise its
16 reporting for mishandled baggage to show—

17 “(1) the percentage of checked baggage that is
18 mishandled during a reporting period;

19 “(2) the number of mishandled bags during a
20 reporting period; and

21 “(3) the average length of time between the re-
22 ceipt of a passenger’s claim for missing baggage and
23 the delivery of the bag to the passenger.

24 “(i) SMALL AIR CARRIER EXCEPTION.—This section
25 does not apply to an air carrier that operates no civil air-

1 craft designed to have a maximum passenger seating ca-
2 pacity of more than 30 passengers.

3 **“§ 41723. Enforcement and enhancement of airline**
4 **passenger service commitments**

5 “(a) ADOPTION OF CUSTOMER SERVICE PLAN.—
6 Within 6 months after the date of enactment of the Fair
7 Treatment of Airline Passengers Act, an air carrier certifi-
8 cated under section 41102 that has not already done so
9 shall—

10 “(1) develop and adopt a customer service plan
11 designed to implement the provisions of the Airline
12 Customer Service Commitment executed by the Air
13 Transport Association and 14 of its member airlines
14 on June 17, 1999;

15 “(2) incorporate its customer service plan in its
16 contract of carriage;

17 “(3) incorporate the provisions of that Commit-
18 ment if, and to the extent that those provisions are
19 more specific than, or relate to issues not covered
20 by, its customer service plan;

21 “(4) submit a copy of its customer service plan
22 to the Secretary of Transportation;

23 “(5) post a copy of its contract of carriage on
24 its Internet website, if any; and

1 “(6) notify all ticketed customers, either at the
2 time a ticket is purchased or on a printed itinerary
3 provided to the customer, that the contract of car-
4 riage is available upon request or on the air carrier’s
5 website.

6 “(b) MODIFICATIONS.—Any modification in any air
7 carrier’s customer service plan shall be promptly incor-
8 porated in its contract of carriage, submitted to the Sec-
9 retary, and posted on its website.

10 “(c) QUALITY ASSURANCE AND PERFORMANCE
11 MEASUREMENT SYSTEM.—

12 “(1) AIR CARRIERS.—Within 6 months after
13 the date of enactment of the Fair Treatment of Air-
14 line Passengers Act, an air carrier certificated under
15 section 41102, after consultation with the Inspector
16 General of the Department of Transportation,
17 shall—

18 “(A) establish a quality assurance and per-
19 formance measurement system for customer
20 service; and

21 “(B) establish an internal audit process to
22 measure compliance with its customer service
23 plan.

24 “(2) DOT APPROVAL REQUIRED.—Each air
25 carrier shall submit the measurement system estab-

1 lished under paragraph (1)(A) and the audit process
 2 established under paragraph (1)(B) to the Secretary
 3 of Transportation for review and approval.

4 “(d) CUSTOMER SERVICE PLAN ENHANCEMENTS.—
 5 Within 6 months after the date of enactment of the Fair
 6 Treatment of Airline Passengers Act, an air carrier certifi-
 7 cated under section 41102 shall—

8 “(1) amend its customer service plan to specify
 9 that it will offer to a customer purchasing a ticket
 10 at any of the air carrier’s ticket offices or airport
 11 ticket service counters the lowest fare available for
 12 which that customer is eligible; and

13 “(2) establish performance goals designed to
 14 minimize incidents of mishandled baggage.

15 “(e) SMALL AIR CARRIER EXCEPTION.—This section
 16 does not apply to an air carrier that operates no civil air-
 17 craft designed to have a maximum passenger seating ca-
 18 pacity of more than 30 passengers.”.

19 (b) CIVIL PENALTY.—Section 46301(a)(7) is amend-
 20 ed by striking “40127 or 41712” and inserting “40127,
 21 41712, 41722, or 41723”.

22 (c) CONFORMING AMENDMENT.—The chapter anal-
 23 ysis for chapter 417 of title 49, United States Code, is
 24 amended by inserting after the item relating to section
 25 41721 the following:

“41722. Airline passengers’ right to know.

“41723. Enforcement and enhancement of airline passenger service commitments.”.

1 **SEC. 4. REQUIRED ACTION BY SECRETARY OF TRANSPORTATION.**
2

3 (a) **UNIFORM MINIMUM CHECK-IN TIME; BAGGAGE**
4 **STATISTICS; BUMPING COMPENSATION.**—Within 6
5 months after the date of enactment of this Act, the Secretary of Transportation shall—

7 (1) establish a uniform check-in deadline and
8 require air carriers to disclose, both in their contracts of carriage and on ticket jackets, their policies
9 on how those deadlines apply to passengers making
10 connections;
11

12 (2) revise the Department of Transportation’s
13 method for calculating and reporting the rate of mishandled baggage for air carriers to reflect the reporting requirements of section 41722(h) of title 49,
14 United States Code; and
15

16 (3) revise the Department of Transportation’s
17 Regulation (14 C.F.R. 250.5) governing the amount
18 of denied boarding compensation for passengers denied boarding involuntarily to increase the maximum
19 amount thereof.
20

21 (b) **REVIEW OF REGULATIONS.**—

22 (1) **IN GENERAL.**—Within 1 year after the date
23 of enactment of this Act, the Secretary shall com-
24

1 plete a thorough review of the Department of Trans-
2 portation's regulations that relate to air carriers'
3 treatment of customers, and make such modifica-
4 tions as may be necessary or appropriate to ensure
5 the enforceability of those regulations and the provi-
6 sions of this Act and of title 49, United States Code,
7 that relate to such treatment, or otherwise to pro-
8 mote the purposes of this Act.

9 (2) SPECIFIC AREAS OF REVIEW.—As part of
10 such review and modification, the Secretary shall, to
11 the extent necessary or appropriate—

12 (A) modify existing regulations to reflect
13 this Act and sections 41722 and 41723 of title
14 49, United States Code;

15 (B) modify existing regulations to the ex-
16 tent necessary to ensure that they are suffi-
17 ciently clear and specific to be enforceable;

18 (C) establish minimum standards, compli-
19 ance with which can be measured quan-
20 titatively, of air carrier performance with re-
21 spect to customer service issues addressed by
22 the Department of Transportation regulations
23 or the Airline Customer Service Commitment
24 executed by the Air Transport Association and
25 14 of its member airlines on June 17, 1999;

1 (D) address the manner in which the De-
2 partment of Transportation regulations should
3 treat customer service commitments that relate
4 to actions occurring prior to the purchase of a
5 ticket, such as the commitment to offer the low-
6 est available fare, and whether such the inclu-
7 sion of such commitments in the contract of
8 carriage creates an enforceable obligation prior
9 to the purchase of a ticket;

10 (E) restrict the ability of air carriers to in-
11 clude provisions in the contract of carriage re-
12 stricting a passenger's choice of forum in the
13 event of a legal dispute; and

14 (F) require each air carrier to report infor-
15 mation to Department of Transportation on
16 complaints submitted to the air carrier, and
17 modify the reporting of complaints in the De-
18 partment of Transportation's monthly customer
19 service reports, so those reports will reflect
20 complaints submitted to air carriers as well as
21 complaints submitted to the Department.

22 (3) EXPEDITED PROCEDURE.—Within 1 year
23 after the date of enactment of this Act, the Sec-
24 retary shall complete all actions necessary to estab-

1 lish regulations to implement the requirements of
2 this subsection.

3 **SEC. 5. IMPROVED ENFORCEMENT OF AIR PASSENGER**
4 **RIGHTS.**

5 (a) USE OF AUTHORIZED FUNDS.—In utilizing the
6 funds authorized by section 223 of the Wendell H. Ford
7 Aviation Investment and Reform Act for the 21st Century
8 for the purpose of enforcing the rights of air travelers,
9 the Secretary of Transportation shall give priority to the
10 areas identified by the Inspector General of the Depart-
11 ment of Transportation as needing improvement in Report
12 No. AV-2001-020, submitted to the Congress on Feb-
13 ruary 12, 2001.

14 (b) SECRETARY REQUIRED TO CONSULT THE SEC-
15 RETARY'S INSPECTOR GENERAL.—The Secretary of
16 Transportation, in carrying out this Act and the provisions
17 of section 41722 and 41723 of title 49, United States
18 Code, shall consult with the Inspector General of the De-
19 partment of Transportation.

○