

107TH CONGRESS
1ST SESSION

S. 633

To provide for the review and management of airport congestion, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 27, 2001

Mrs. HUTCHISON (for herself and Mr. ROCKEFELLER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for the review and management of airport congestion, 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 Delay Preven-
5 tion Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) AIR CARRIER.—The term “air carrier” has
9 the meaning given that term in section 40102(a)(2)
10 of title 49, United States Code.

1 (2) ENPLANEMENT.—The term “enplanement”
2 means the annual number of passenger
3 enplanements, as determined by the Secretary of
4 Transportation, based on the most recent data avail-
5 able.

6 (3) LARGE HUB AIRPORT.—The term “large
7 hub airport” has the meaning given that term in
8 section 47134(d)(2) of title 49, United States Code.

9 (4) ON-TIME DEPARTURE.—The term “on-time
10 departure” means with respect to a scheduled pas-
11 senger flight that the flight is airborne within 20
12 minutes of the time it is scheduled to depart.

13 (5) OVERSCHEDULING.—The term “over-
14 scheduling” means the practice by an air carrier or
15 air carriers of scheduling the time for the departure
16 of flights at an airport in excess of the number of
17 flights that the airport can accommodate for depart-
18 ure at that time.

19 (6) SECRETARY.—The term “Secretary” means
20 the Secretary of Transportation.

21 **SEC. 3. FAA STUDY AND REPORT.**

22 (a) IN GENERAL.—Not later than the date that is
23 1 year after the date of enactment of this Act, and each
24 year thereafter for 5 years, the Secretary shall complete
25 a review and report to the Committee on Commerce,

1 Science, and Transportation of the Senate and the Com-
2 mittee on Transportation and Infrastructure of the House
3 of Representatives regarding air carrier overscheduling at
4 large hub airports.

5 (b) SCOPE OF REVIEW AND REPORT.—The review
6 and report described in subsection (a) shall include the
7 following:

8 (1) The hourly departure and arrival capacity
9 at each large hub airport, including variation of ca-
10 pacity based on air traffic control and other factors.

11 (2) The hours when departures and arrivals at
12 each large hub airport are overscheduled and the
13 airport operates above capacity.

14 (3) An analysis of the congestion mitigation au-
15 thority of the Secretary and recommendations for
16 providing the Secretary with additional authority to
17 alleviate airport congestion and overscheduling and
18 to expedite construction related to the expansion of
19 airport capacity.

20 **SEC. 4. LIMITED EXEMPTION FROM ANTITRUST LAWS.**

21 (a) IN GENERAL.—Subchapter I of chapter 417 of
22 title 49, United States Code, is amended by adding at the
23 end the following new section:

1 **“§ 41722. Limited exemption from the antitrust laws**

2 “(a) DEFINITION.—In this section, the term ‘anti-
3 trust laws’ has the meaning given that term in the first
4 section of the Clayton Act (15 U.S.C. 12).

5 “(b) COOPERATIVE SCHEDULING AGREEMENTS.—

6 “(1) AUTHORITY.—An air carrier may file with
7 the Secretary of Transportation a request for au-
8 thority for a group of 2 or more air carriers to dis-
9 cuss cooperative scheduling arrangements, if the sole
10 purpose of the discussions is to reach an agreement
11 between the air carriers to reduce overscheduling
12 and flight delays during hours of peak operation and
13 during periods of inclement weather at any large
14 hub airport. The Secretary shall grant or deny the
15 request within 30 days after it is received.

16 “(2) AGREEMENT.—An air carrier shall file
17 with the Secretary of Transportation, for the ap-
18 proval by the Secretary, a true copy of an agreement
19 reached under paragraph (1).

20 “(c) APPROVAL BY THE SECRETARY.—

21 “(1) IN GENERAL.—Within 60 days after re-
22 ceiving a copy of an agreement under subsection (b),
23 the Secretary of Transportation shall approve the
24 agreement and issue an order containing that ap-
25 proval, if the Secretary finds that the agreement—

1 “(A) will reduce congestion at the affected
2 airport;

3 “(B) will not reduce service to small com-
4 munities; and

5 “(C) is not adverse to the public interest.

6 “(2) GROUNDS FOR DISAPPROVAL.—

7 “(A) The Secretary shall disapprove or re-
8 voke approval of an agreement filed under sub-
9 section (b), if after review, the Secretary finds
10 that any discussion or agreement entered into
11 as a result of that filing substantially reduces
12 or eliminates competition.

13 “(B) Notwithstanding subparagraph (A),
14 the Secretary may approve a request or an
15 agreement filed under subsection (b) if the Sec-
16 retary finds that—

17 “(i) the request or agreement is nec-
18 essary to meet a serious transportation
19 need or to achieve important public bene-
20 fits; and

21 “(ii) the transportation need cannot
22 be met or the benefits cannot be achieved
23 by reasonably available alternatives that
24 are materially less anticompetitive.

1 “(3) NOTICE AND OPPORTUNITY TO RESPOND;
2 HEARINGS.—

3 “(A) NOTICE AND OPPORTUNITY TO RE-
4 SPOND.—When a request or an agreement is
5 filed with the Secretary under subsection (b),
6 the Secretary shall give the Attorney General
7 written notice of, and an opportunity to submit
8 written comments about, the filing.

9 “(B) HEARING.—On the initiative of the
10 Secretary, or at the request of the Attorney
11 General, the Secretary may conduct a hearing
12 to decide if a request or agreement filed under
13 subsection (b) should receive or retain approval.

14 “(d) EXEMPTION AUTHORIZED.—When the Sec-
15 retary finds that it is required by the public interest, the
16 Secretary, as part of an order issued under subsection
17 (c)(1), shall exempt a person affected by the order from
18 the antitrust laws to the extent necessary to allow the per-
19 son to proceed with the activities approved in the order.

20 “(e) DOT PARTICIPATION.—The Secretary shall en-
21 sure that the Department is represented at any such meet-
22 ings authorized under this section.”.

23 (b) CONFORMING AMENDMENT.—The chapter anal-
24 ysis for chapter 417, of title 49, United States Code, is

1 amended by inserting after the item relating to section
2 41721 the following new item:

“41722. Limited exemption from the antitrust laws.”.

3 **SEC. 5. EXPEDITED COORDINATED ENVIRONMENTAL RE-**
4 **VIEW PROCESS.**

5 The Secretary of Transportation shall develop and
6 implement an expedited coordinated environmental review
7 process for airport capacity-enhancement projects that—

8 (1) provides for coordination among the Fed-
9 eral, regional, State, and local agencies concerned
10 with the preparation of environmental impact state-
11 ments or environmental assessments under the Na-
12 tional Environmental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.);

14 (2) provides for an expedited and coordinated
15 process in the conduct of environmental and judicial
16 reviews that ensures that the reviews are done con-
17 currently and not consecutively; and

18 (3) provides for a date certain for completing
19 all environmental reviews.

20 **SEC. 6. CHIEF OPERATING OFFICER.**

21 Section 106(r)(2) of title 49, United States Code, is
22 amended to read as follows:

23 “(2) COMPENSATION.—The Chief Operating
24 Officer shall be paid at an annual rate of basic pay
25 determined by the Secretary of Transportation be-

1 fore the appointment and without regard to any
2 other provision of law. The Chief Operating Officer
3 shall be subject to the post-employment provisions of
4 section 207 of title 18 as if the position of Chief Op-
5 erating Officer were described in section
6 207(c)(2)(A)(i) of that title.”.

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