

115TH CONGRESS
1ST SESSION

S. 1418

To establish protections for passengers in air transportation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2017

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

A BILL

To establish protections for passengers in air transportation, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Airline Passengers’ Bill of Rights”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—PASSENGER PROTECTIONS

Sec. 101. Protections for passengers against being required to relinquish seats.

- Sec. 102. Minimum compensation provided to passengers involuntarily denied boarding.
- Sec. 103. Delays and cancellations.
- Sec. 104. Unfair and deceptive attribution of delays and cancellations to force majeure events.
- Sec. 105. Interline agreements and protections.
- Sec. 106. Aircraft cabin evacuation procedures.
- Sec. 107. Protections relating to space for passengers on aircraft.
- Sec. 108. Availability of lavatories on passenger aircraft.
- Sec. 109. Availability of potable water on passenger aircraft.
- Sec. 110. Training on rights of passengers.
- Sec. 111. Internet dissemination of information on passenger rights.
- Sec. 112. Report on quality and safety of food and water on passenger aircraft.
- Sec. 113. Report on sufficiency of available flight crews and aircraft.

TITLE II—CONSUMER PROTECTIONS

- Sec. 201. Protections relating to the imposition of fees that are not reasonable and proportional to the costs incurred.
- Sec. 202. Protections relating to disclosure of flight information.
- Sec. 203. Transparency in pricing of tickets in air transportation.
- Sec. 204. Disclosure of lowest fares for air transportation.
- Sec. 205. Frequent flyer programs fairness and transparency.
- Sec. 206. Refunds for lost, damaged, delayed, or pilfered baggage.
- Sec. 207. Passenger rights transparency.
- Sec. 208. Private right of action against unfair and deceptive practices.
- Sec. 209. Fairness and transparency in contracts of carriage.
- Sec. 210. Private right of action for discrimination claims against air carriers.
- Sec. 211. No preemption of consumer protection claims.
- Sec. 212. Invalidation of pre-dispute arbitration and class-action waiver clauses in certain contracts relating to passenger air transportation.
- Sec. 213. Consumer complaint process improvement.
- Sec. 214. Report by Advisory Committee for Aviation Consumer Protection.

TITLE III—PENALTIES FOR AIR CARRIERS

- Sec. 301. Increase in civil penalty for violations of passenger protection laws.
- Sec. 302. Report on imposition of civil penalties.
- Sec. 303. Study of distribution of civil penalties to consumers.
- Sec. 304. Prohibition on negotiation of reductions in civil penalties.

TITLE IV—COMPETITIVENESS OF AIR CARRIERS

- Sec. 401. Analysis of international air carrier alliances.
- Sec. 402. Analysis of air carrier mergers.

1 **SEC. 2. DEFINITIONS.**

2 Except as otherwise specifically provided, in this Act:

3 (1) **ADMINISTRATOR.**—The term “Adminis-

4 trator” means the Administrator of the Federal

5 Aviation Administration.

1 (2) ADVISORY COMMITTEE FOR AVIATION CON-
2 SUMER PROTECTION.—The term “Advisory Com-
3 mittee for Aviation Consumer Protection” means the
4 advisory committee established under section 411 of
5 the FAA Modernization and Reform Act of 2012
6 (49 U.S.C. 42301 note prec.).

7 (3) AIR CARRIER.—The term “air carrier”
8 means an air carrier or foreign air carrier, as those
9 terms are defined in section 40102 of title 49,
10 United States Code.

11 (4) AIR TRANSPORTATION.—The term “air
12 transportation” has the meaning given that term in
13 section 40102 of title 49, United States Code.

14 (5) ANCILLARY FEE.—The term “ancillary
15 fee”, with respect to a fee imposed by an air carrier,
16 means any fee for an optional service, including any
17 fee for a first or second checked bag or a carry-on
18 bag, cancellation of an itinerary, changes in an
19 itinerary, seat assignment, or advance boarding.

20 (6) APPROPRIATE COMMITTEES OF CON-
21 GRESS.—The term “appropriate committees of Con-
22 gress” means the Committee on Commerce, Science,
23 and Transportation of the Senate and the Com-
24 mittee on Transportation and Infrastructure of the
25 House of Representatives.

1 (7) PURCHASE.—The term “purchase”, with re-
 2 spect to a ticket for travel in air transportation,
 3 means the purchase of a ticket using cash or credit
 4 or using miles awarded through the frequent flyer
 5 program of an air carrier.

6 (8) SECRETARY.—The term “Secretary” means
 7 the Secretary of Transportation.

8 (9) TICKET AGENT.—The term “ticket agent”
 9 has the meaning given that term in section 40102
 10 of title 49, United States Code.

11 **TITLE I—PASSENGER**
 12 **PROTECTIONS**

13 **SEC. 101. PROTECTIONS FOR PASSENGERS AGAINST BEING**
 14 **REQUIRED TO RELINQUISH SEATS.**

15 (a) IN GENERAL.—Not later than 180 days after the
 16 date of the enactment of this Act, the Secretary shall pre-
 17 scribe regulations—

18 (1) allowing an air carrier to offer compensa-
 19 tion to a passenger to incentivize the passenger to
 20 relinquish the passenger’s seat on a flight operated
 21 by the air carrier;

22 (2) prohibiting an air carrier from requiring a
 23 passenger to involuntarily relinquish the passenger’s
 24 seat, regardless of any compensation offered by the
 25 air carrier to the passenger;

1 (3) prohibiting an air carrier from imposing a
2 cap on the amount of compensation the air carrier
3 can provide to a passenger in exchange for the pas-
4 senger relinquishing a seat; and

5 (4) requiring an air carrier to provide any com-
6 pensation provided to a passenger in exchange for
7 the passenger relinquishing a seat in the form of
8 cash.

9 (b) EXCEPTIONS.—In prescribing the regulations re-
10 quired by subsection (a), the Secretary may provide for
11 limited exceptions to the prohibition under paragraph (1)
12 of that subsection for reasons necessitated by safety or
13 security.

14 **SEC. 102. MINIMUM COMPENSATION PROVIDED TO PAS-**
15 **SENGERS INVOLUNTARILY DENIED BOARD-**
16 **ING.**

17 (a) IN GENERAL.—Not later than 60 days after the
18 date of the enactment of this Act, the Secretary shall re-
19 vise the regulations under part 250 of title 14, Code of
20 Federal Regulations—

21 (1) to eliminate the dollar amount limitations
22 under paragraphs (2) and (3) of subsections (a) and
23 (b) of section 250.5 of such title on the amount of
24 compensation that may be provided to a passenger

1 who is denied boarding involuntarily from an over-
2 sold flight; and

3 (2) to establish that an air carrier shall provide
4 compensation to each such passenger of not less
5 than \$1,350 per flight.

6 (b) TERMINATION.—Part 250 of title 14, Code of
7 Federal Regulations, shall terminate on the date on which
8 the regulations required by section 101(a) take effect.

9 **SEC. 103. DELAYS AND CANCELLATIONS.**

10 (a) REGULATIONS.—Not later than 180 days after
11 the date of the enactment of this Act, the Secretary shall
12 prescribe regulations requiring, if a passenger's flight is
13 delayed or cancelled for any reason within the control of
14 the air carrier (including crew scheduling, routine mainte-
15 nance, functioning of information technology systems, pas-
16 senger service issues, issues related to baggage services,
17 issues related to ground handling of aircraft, or other rea-
18 sons as specified by the Secretary) and—

19 (1) the passenger's arrival at the passenger's
20 destination is delayed by more than 1 hour and less
21 than 4 hours after the originally scheduled arrival of
22 the passenger, the air carrier—

23 (A) to automatically refund to the pas-
24 senger the amount the passenger paid for the
25 ticket; and

1 (B) to find a seat for the passenger on an-
2 other flight operated by the air carrier, on a
3 flight operated by another air carrier, or on an
4 alternative means of transportation, at no addi-
5 tional expense to the passenger, that results in
6 the passenger arriving at the passenger's des-
7 tination not later than 4 hours after the origi-
8 nal scheduled arrival time;

9 (2) the passenger's arrival at the passenger's
10 destination is delayed by more than 4 hours after
11 the originally scheduled arrival of the passenger, the
12 air carrier—

13 (A) to automatically refund to the pas-
14 senger the amount the passenger paid for the
15 ticket;

16 (B) to find a seat for the passenger on an-
17 other flight operated by the air carrier, on a
18 flight operated by another air carrier, or on an
19 alternative means of transportation, at no addi-
20 tional expense to the passenger, at the earliest
21 available opportunity, if the passenger so choos-
22 es;

23 (C) to provide compensation to the pas-
24 senger of \$1,350 cash; and

1 (D) to provide a passenger with an amount
2 equal to the cost of a meal; and

3 (3) the passenger's departure is delayed until
4 the next day, the air carrier to provide the passenger
5 with an amount equal to the cost of hotel lodging,
6 in addition to the requirements of paragraph (2).

7 (b) CAUSES OF DELAYS OR CANCELLATIONS.—

8 (1) REVIEW.—

9 (A) IN GENERAL.—Not later than 180
10 days after the date of the enactment of this
11 Act, the Secretary shall review the categoriza-
12 tion of delays and cancellations with respect to
13 air carriers that are required to report data re-
14 lating to such categorizations.

15 (B) CONSIDERATIONS.—In conducting the
16 review required by subparagraph (A), the Sec-
17 retary shall consider, at a minimum—

18 (i) whether—

19 (I) delays and cancellations at-
20 tributed by an air carrier to weather
21 were unavoidable because of an oper-
22 ational or air traffic control issue, or
23 because of the air carrier's preference
24 in determining which flights to delay
25 or cancel during a weather event; and

1 (II) any delays or cancellations
2 described in subclause (I) or delays
3 and cancellations attributed by an air
4 carrier to force majeure events could
5 be properly characterized as delays or
6 cancellations because of circumstances
7 within the control of the air carrier;
8 and

9 (ii) whether it is an unfair or decep-
10 tive practice in violation of section 41712
11 of title 49, United States Code, for an air
12 carrier to establish its own cut-off time for
13 arrival at an airport gate and whether
14 there should be a uniform definition across
15 all air carriers;

16 (iii) whether and to what extent
17 delays and cancellations attributed by an
18 air carrier to weather disproportionately
19 impact service to smaller airports and com-
20 munities;

21 (iv) whether it is an unfair or decep-
22 tive practice in violation of section 41712
23 of title 49, United States Code, for an air
24 carrier to inform a passenger that a flight
25 is delayed or cancelled because of weather,

1 without any other context or explanation
2 for the delay or cancellation;

3 (v) whether and to what extent a Fed-
4 eral law or regulation could decrease the
5 frequency of delays and cancellations if
6 such law or regulation—

7 (I) requires an air carrier to
8 maintain a ready reserve of flight
9 equipment and flight staff at certain
10 airports; or

11 (II) imposes a fine if the Sec-
12 retary determines that a delay or can-
13 cellation is due to circumstances with-
14 in the control of the air carrier and is
15 not justified by safety or security con-
16 cerns; and

17 (vi) whether and to what extent agree-
18 ments among air carriers exist for the pur-
19 pose of arranging alternative flights for
20 passengers of delayed or cancelled flights.

21 (C) ADVISORY COMMITTEE FOR AVIATION
22 CONSUMER PROTECTION.—The Secretary may
23 use the Advisory Committee for Aviation Con-
24 sumer Protection to assist in conducting the re-

1 view required by subparagraph (A) and pro-
2 viding recommendations under paragraph (2).

3 (2) REPORT.—Not later than 90 days after the
4 date on which the review required by paragraph (1)
5 is complete, the Secretary shall submit to the appro-
6 priate committees of Congress a report on the review
7 under subsection (a), including any recommenda-
8 tions.

9 (c) SAVINGS PROVISION.—Nothing in this section
10 shall be construed as affecting the authority of an air car-
11 rier to maximize its system capacity during weather-re-
12 lated events to accommodate the greatest number of pas-
13 sengers.

14 **SEC. 104. UNFAIR AND DECEPTIVE ATTRIBUTION OF**
15 **DELAYS AND CANCELLATIONS TO FORCE**
16 **MAJEURE EVENTS.**

17 Section 41712 of title 49, United States Code, is
18 amended by adding at the end the following:

19 “(d) ATTRIBUTION OF DELAYS AND CANCELLATIONS
20 TO FORCE MAJEURE EVENTS.—It shall be an unfair or
21 deceptive practice under subsection (a) for an air carrier
22 or foreign air carrier to attribute the delay or cancellation
23 of a flight operated by the carrier or by another air carrier
24 or foreign air carrier with which the carrier has a
25 codesharing or other joint marketing arrangement to a

1 force majeure event unless the delay or cancellation is
2 caused by an event not within the control of the air carrier
3 operating the flight, such as weather, an act of God, or
4 a war or other hostilities.”.

5 **SEC. 105. INTERLINE AGREEMENTS AND PROTECTIONS.**

6 (a) REGULATIONS.—Not later than one year after the
7 date of the enactment of this Act, the Secretary shall pre-
8 scribe regulations—

9 (1) to facilitate interline agreements and related
10 practices between air carriers and providers of other
11 modes of transportation; and

12 (2) to establish a complaint and remediation
13 process through which parties may submit com-
14 plaints and resolve disputes regarding the establish-
15 ment and implementation of interline agreements.

16 (b) INTERLINE AGREEMENTS.—The regulations pre-
17 scribed pursuant to subsection (a)(1) shall—

18 (1) include provisions to prevent air carriers
19 and other transportation providers from significantly
20 hindering or preventing willing air carriers or other
21 transportation providers from entering into interline
22 agreements or conducting related practices;

23 (2) require air carriers to explicitly notify pas-
24 sengers when they are eligible to be provided trans-

1 portation by another air carrier or a provider of an-
2 other mode of transportation;

3 (3) after an eligible passenger is notified under
4 paragraph (2), require air carriers to attempt to
5 provide to the passenger transportation through an-
6 other air carrier or a provider of another mode of
7 transportation, upon the passenger's request, if the
8 air carrier has an interline agreement with the other
9 air carrier or transportation provider;

10 (4) prohibit air carriers and other transpor-
11 tation providers from unduly or improperly influ-
12 encing the decision of a partner, subsidiary, or ven-
13 dor to enter into an interline agreement, the terms
14 or conditions of such an agreement, or related prac-
15 tices;

16 (5) account for operational records, seat avail-
17 ability, and capacity; and

18 (6) promote competition and the public interest.

19 (c) COMPLAINT AND REMEDIATION PROCESS.—The
20 complaint and remediation processes established pursuant
21 to subsection (a)(2) may provide for appropriate penalties
22 and remedies for violations of an interline agreement.

23 **SEC. 106. AIRCRAFT CABIN EVACUATION PROCEDURES.**

24 (a) REVIEW.—The Administrator shall review—

1 (1) evacuation certification of transport-cat-
2 egory aircraft used in air transportation, with regard
3 to—

4 (A) emergency conditions, including im-
5 pacts into water;

6 (B) crew procedures used for evacuations
7 under actual emergency conditions;

8 (C) any relevant changes to passenger de-
9 mographics and legal requirements, including
10 section 41705 of title 49, United States Code
11 (commonly referred to as the “Air Carrier Ac-
12 cess Act”), or the Americans with Disabilities
13 Act of 1990 (42 U.S.C. 12101 et seq.), that af-
14 fect emergency evacuations; and

15 (D) any relevant changes to passenger
16 seating configurations, including changes to
17 seat width, padding, reclining, size, pitch, leg
18 room, aisle width, or load factors; and

19 (2) recent accidents and incidents in which pas-
20 sengers evacuated such aircraft.

21 (b) CONSULTATION; REVIEW OF DATA.—In con-
22 ducting the review under subsection (a), the Administrator
23 shall—

24 (1) consult with the National Transportation
25 Safety Board, transport-category aircraft manufac-

1 turers, air carriers, and other relevant experts and
2 Federal agencies, including organizations rep-
3 resenting passengers, air carrier crew members,
4 maintenance employees, and emergency responders;
5 and

6 (2) review relevant data with respect to evacu-
7 ation certification of transport-category aircraft.

8 (c) REPORT TO CONGRESS.—Not later than 180 days
9 after the date of the enactment of this Act, the Adminis-
10 trator shall submit to the appropriate committees of Con-
11 gress a report on the results of the review under sub-
12 section (a) and related recommendations, if any, including
13 recommendations for revisions to the assumptions and
14 methods used for assessing evacuation certification of
15 transport-category aircraft.

16 (d) TRANSPORT-CATEGORY AIRCRAFT DEFINED.—In
17 this section, the term “transport-category aircraft” means
18 an aircraft—

19 (1) with respect to which a type certificate is
20 issued under part 21 of title 14, Code of Federal
21 Regulations; and

22 (2) that meets the airworthiness standards
23 under part 25 of that title.

1 **SEC. 107. PROTECTIONS RELATING TO SPACE FOR PAS-**
2 **SENGERS ON AIRCRAFT.**

3 (a) MORATORIUM ON REDUCTIONS TO AIRCRAFT
4 SEAT SIZE.—

5 (1) IN GENERAL.—Not later than 30 days after
6 the date of the enactment of this Act, the Adminis-
7 trator shall prohibit any air carrier from reducing
8 the size, width, or pitch of seats on passenger air-
9 craft operated by the air carrier, the amount of leg
10 room per seat on such aircraft, or the width of aisles
11 on such aircraft.

12 (2) TERMINATION.—The prohibition under
13 paragraph (1) shall terminate on the date on which
14 the regulations required by subsection (a) take ef-
15 fect.

16 (b) REGULATIONS RELATING TO SPACE FOR PAS-
17 SENGENS ON AIRCRAFT.—Not later than 180 days after
18 the date of the enactment of this Act, the Administrator
19 shall prescribe regulations—

20 (1) establishing minimum standards for space
21 for passengers on passenger aircraft, including the
22 size, width, and pitch of seats, the amount of leg
23 room, and the width of aisles on such aircraft for
24 the safety and health of passengers; and

25 (2) requiring each air carrier to prominently
26 display on a publicly available Internet website of

1 the air carrier the amount of space available for
2 each passenger on passenger aircraft operated by
3 the air carrier or by another air carrier with which
4 the air carrier has a codesharing or other joint mar-
5 keting arrangement, including the size, width, and
6 pitch of seats, the amount of leg room, and the
7 width of aisles on such aircraft.

8 (c) CONSULTATIONS.—In prescribing the regulations
9 required under subsection (a), the Administrator shall
10 consult with the Occupational Safety and Health Adminis-
11 tration, the Centers for Disease Control and Prevention,
12 passenger advocacy organizations, physicians, and ergo-
13 nomic engineers.

14 **SEC. 108. AVAILABILITY OF LAVATORIES ON PASSENGER**
15 **AIRCRAFT.**

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

19 **“§ 41725. Availability of lavatories on passenger air-**
20 **craft**

21 “(a) IN GENERAL.—Each air carrier and foreign air
22 carrier shall ensure that each passenger aircraft operated
23 by the air carrier or foreign air carrier maintains suffi-
24 cient functional lavatories (as determined by the Secretary
25 of Transportation) that—

1 of charge, to passengers on board aircraft operated by the
2 air carrier or foreign air carrier.

3 “(b) REGULATIONS.—Not later than 180 days after
4 the date of the enactment of the Airline Passengers’ Bill
5 of Rights, the Secretary of Transportation shall prescribe
6 such regulations as are necessary to carry out this sec-
7 tion.”.

8 (b) CLERICAL AMENDMENT.—The analysis for chap-
9 ter 417 of such title is amended by inserting after the
10 item relating to section 41725, as added by section 108,
11 the following:

“41726. Availability of potable water on passenger aircraft.”.

12 **SEC. 110. TRAINING ON RIGHTS OF PASSENGERS.**

13 Not later than 180 days after the date of the enact-
14 ment of this Act, the Secretary shall prescribe regulations
15 requiring an air carrier to provide, not less frequently than
16 every 180 days, training on the rights of passengers to
17 employees and representatives of the air carrier that di-
18 rectly interact with passengers, including ticket agents,
19 gate agents, pilots, and flight attendants.

20 **SEC. 111. INTERNET DISSEMINATION OF INFORMATION ON**
21 **PASSENGER RIGHTS.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of the enactment of this Act, the Secretary shall—

1 (1) establish, and frequently update, a publicly
2 available Internet website of the Department of
3 Transportation that—

4 (A) is modern and easy-to-use;

5 (B) can be easily accessed using a mobile
6 device; and

7 (C) provides information to passengers to
8 help passengers in air transportation determine
9 if their rights have been violated and identify
10 the compensation and remedies to which they
11 are entitled, including a link to the passenger
12 rights complaint form developed under sub-
13 section (b)(1); and

14 (2) ensure that information described in para-
15 graph (1)(C) is made available through social media
16 accounts frequently used by the Department; and

17 (3) develop an application for mobile devices
18 that provides such information and is available at no
19 charge.

20 (b) PASSENGER RIGHTS COMPLAINT FORM.—Not
21 later than 180 days after the date of the enactment of
22 this Act, the Secretary shall—

23 (1) develop a universal passenger rights com-
24 plaint form for a passenger in air transportation to

1 use when contacting an air carrier with a complaint
2 about the treatment of the passenger, which shall—

3 (A) provide information to the passenger
4 to help the passenger identify whether the pas-
5 senger's rights have been violated and the com-
6 pensation and other remedies to which the pas-
7 senger may be entitled; and

8 (B) provide the passenger with an oppor-
9 tunity to consent to make the complaint pub-
10 licly available on an Internet website of the De-
11 partment of Transportation;

12 (2) require an air carrier to provide a passenger
13 who files a form developed under paragraph (1)
14 with—

15 (A) an initial response not later than 7
16 days after the passenger files the form; and

17 (B) a substantive response not later than
18 30 days after the passenger files the form; and

19 (3) establish a process within the Department
20 of Transportation for appeals relating to forms filed
21 with air carriers under paragraph (2).

22 **SEC. 112. REPORT ON QUALITY AND SAFETY OF FOOD AND**
23 **WATER ON PASSENGER AIRCRAFT.**

24 Not later than 180 days after the date of the enact-
25 ment of this Act, the Administrator shall submit to the

1 appropriate committees of Congress a report assessing the
 2 quality and safety of food and potable water on passenger
 3 aircraft.

4 **SEC. 113. REPORT ON SUFFICIENCY OF AVAILABLE FLIGHT**
 5 **CREWS AND AIRCRAFT.**

6 Not later than 180 days after the date of the enact-
 7 ment of this Act, the Administrator shall submit to the
 8 appropriate committees of Congress a report assessing—

9 (1) whether air carriers ensure that sufficient
 10 flight crews and aircraft are available for scheduled
 11 flights; and

12 (2) the extent to which not having sufficient
 13 flight crews and aircraft available affects arrival and
 14 departure times.

15 **TITLE II—CONSUMER**
 16 **PROTECTIONS**

17 **SEC. 201. PROTECTIONS RELATING TO THE IMPOSITION OF**
 18 **FEES THAT ARE NOT REASONABLE AND PRO-**
 19 **PORTIONAL TO THE COSTS INCURRED.**

20 (a) IN GENERAL.—Not later than 270 days after the
 21 date of the enactment of this Act, the Secretary shall pre-
 22 scribe regulations—

23 (1) prohibiting an air carrier from imposing
 24 fees described in subsection (b) that are unreason-

1 able or disproportional to the costs incurred by the
2 air carrier; and

3 (2) establishing standards for assessing whether
4 such fees are reasonable and proportional to the
5 costs incurred by the air carrier.

6 (b) FEES DESCRIBED.—The fees described in this
7 subsection are—

8 (1) any fee for a change or cancellation of a
9 reservation for a flight in air transportation;

10 (2) any fee relating to checked baggage or
11 carry-on baggage to be transported on a flight;

12 (3) any fee relating to seat selection or reserva-
13 tions on a flight;

14 (4) any fee relating to changing between flights
15 departing on the same day or flying standby on a
16 flight; and

17 (5) any other fee imposed by an air carrier re-
18 lating to a flight.

19 (c) CONSIDERATIONS.—In establishing the standards
20 required under subsection (a)(2), the Secretary shall con-
21 sider—

22 (1) with respect to a fee described in subsection
23 (b)(1) imposed by an air carrier for a change or can-
24 cellation of a flight reservation—

1 (A) any net benefit or cost to the air car-
2 rier from the change or cancellation, taking into
3 consideration—

4 (i) the ability of the air carrier to an-
5 ticipate the expected average number of
6 cancellations and changes and make res-
7 ervations accordingly;

8 (ii) the ability of the air carrier to fill
9 a seat made available by a change or can-
10 cellation;

11 (iii) any difference in the fare likely to
12 be paid for a ticket sold to another pas-
13 senger for a seat made available by the
14 change or cancellation, as compared to the
15 fare paid by the passenger who changed or
16 canceled the passenger's reservation; and

17 (iv) the likelihood that the passenger
18 changing or cancelling the passenger's res-
19 ervation will fill a seat on another flight by
20 the same air carrier;

21 (B) the costs of processing the change or
22 cancellation electronically; and

23 (C) any related labor costs;

1 scheduling, availability, and other information published
2 by air carriers from consumers and online travel agents
3 and metasearch engines that provide flight search tools.

4 **SEC. 203. TRANSPARENCY IN PRICING OF TICKETS IN AIR**
5 **TRANSPORTATION.**

6 Not later than 180 days after the date of the enact-
7 ment of this Act, the Secretary shall prescribe regulations
8 requiring—

9 (1) air carriers to provide useable, current, and
10 accurate information in a user-friendly, accessible
11 form, with respect to fares, applicable taxes, and an-
12 cillary fees to ticket agents, online travel agents, and
13 metasearch engines that provide flight search tools;

14 (2) air carriers to allow consumers to purchase
15 tickets and pay for applicable taxes and ancillary
16 fees through ticket agents, online travel agents, and
17 metasearch engines that provide flight search tools;

18 (3) air carriers, ticket agents, online travel
19 agents, and metasearch engines that provide flight
20 search tools to disclose all applicable taxes and any
21 ancillary fees charged by an air carrier with respect
22 to a fare that are applicable to the services identified
23 by the purchaser, at any point at which the fare is
24 shown in whole or in part; and

1 (4) air carriers, ticket agents, online travel
2 agents, and metasearch engines that provide flight
3 search tools, in any telephonic communication with
4 a prospective consumer in the United States regard-
5 ing the cost of air transportation, to inform the con-
6 sumer of all applicable taxes and any ancillary fees
7 charged by an air carrier in relation to the air trans-
8 portation and associated services requested by the
9 consumer, at any point at which the cost of the air
10 transportation is disclosed in whole or in part.

11 **SEC. 204. DISCLOSURE OF LOWEST FARES FOR AIR TRANS-**
12 **PORTATION.**

13 (a) IN GENERAL.—Section 41712(c)(1) of title 49,
14 United States Code, is amended—

15 (1) in subparagraph (A), by striking “and” at
16 the end;

17 (2) in subparagraph (B), by striking the period
18 at the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(C) the lowest available fare options for
21 the flight and for each flight segment of the
22 flight, if applicable.”.

23 (b) REGULATIONS.—The Secretary, in consultation
24 with the Administrator, shall prescribe such regulations
25 as may be necessary to carry out section 41712(c)(1)(C)

1 of title 49, United States Code, as added by subsection
2 (a).

3 **SEC. 205. FREQUENT FLYER PROGRAMS FAIRNESS AND**
4 **TRANSPARENCY.**

5 (a) IN GENERAL.—Section 41712(c) of title 49,
6 United States Code, is amended by adding at the end the
7 following:

8 “(3) FREQUENT FLYER PROGRAMS.—It shall be
9 an unfair or deceptive practice under subsection (a)
10 for any air carrier or foreign air carrier that offers
11 a frequent flyer program—

12 “(A) to materially change the terms or
13 conditions of the frequent flyer program with-
14 out providing reasonable notice to consumers;
15 or

16 “(B) to unfairly reduce or eliminate bene-
17 fits earned by members of the frequent flyer
18 program.”.

19 (b) REGULATIONS.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this Act, the Sec-
22 retary, in consultation with the Administrator, shall
23 prescribe such regulations as may be necessary to
24 carry out section 41712(c)(3) of title 49, United
25 States Code, as added by subsection (a).

1 (2) CONSIDERATIONS.—In prescribing the regu-
2 lations required under paragraph (1), the Secretary
3 shall—

4 (A) take into consideration—

5 (i) the significance of the change to
6 the frequent flyer program’s terms and
7 conditions; and

8 (ii) the amount of time between the
9 notification provided to a consumer and
10 the date on which the change takes effect;
11 and

12 (B) require each air carrier that offers a
13 frequent flyer program to disclose, in a stand-
14 arized format, when offering or enrolling con-
15 sumers into the program, accurate information
16 regarding the program’s rules, including—

17 (i) the rate at which credits are
18 earned;

19 (ii) the minimum number of credits
20 earned per flight;

21 (iii) the number of credits needed for
22 each award;

23 (iv) any applicable deadlines for re-
24 deeming credits;

- 1 (v) any restrictions on the transfer-
2 ability of earned credit and awards;
- 3 (vi) other conditions and limitations of
4 the program;
- 5 (vii) the percentage of successful re-
6 demptions; and
- 7 (viii) frequent flyer seats made avail-
8 able in the top origin and destination mar-
9 kets.

10 **SEC. 206. REFUNDS FOR LOST, DAMAGED, DELAYED, OR**
11 **PILFERED BAGGAGE.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of the enactment of this Act, the Secretary shall pre-
14 scribe regulations requiring an air carrier—

15 (1) to promptly provide an automatic refund to
16 a passenger in the amount of any ancillary fee
17 charged by the air carrier for checked baggage if the
18 passenger's checked baggage arrives damaged; and

19 (2) to provide notification to a passenger who
20 is impacted by lost, damaged, delayed, or pilfered
21 baggage, through the passenger's chosen method of
22 communication, of the procedure by which the pas-
23 senger shall obtain a refund and the amount of the
24 refund.

1 (b) INCLUSION IN CONTRACT OF CARRIAGE.—An air
2 carrier shall include the requirements under subsection (a)
3 in the air carrier’s contract of carriage.

4 **SEC. 207. PASSENGER RIGHTS TRANSPARENCY.**

5 (a) IN GENERAL.—Not later than 90 days after the
6 date of the enactment of this Act, the Secretary shall pre-
7 scribe regulations requiring air carriers to notify pas-
8 sengers of their rights and eligibility for refunds, com-
9 pensation, and protections required by law, including by
10 an air carrier’s contract of carriage, or otherwise available
11 to passengers.

12 (b) REQUIREMENTS.—In prescribing the regulations
13 under subsection (a), the Secretary shall require air car-
14 riers—

15 (1) to promptly and expressly notify eligible
16 passengers and the public of their eligibility for re-
17 funds, compensation, and protections not later than
18 30 minutes after the air carrier becomes aware that
19 such passengers have become eligible for such re-
20 funds, compensation, and protections;

21 (2) if such air carriers permit passengers and
22 other interested persons to subscribe to flight status
23 notification services—

24 (A) to deliver refunds, compensation, and
25 protection notifications to subscribers to such

1 services, by whatever means the air carrier of-
 2 fers that the subscriber chooses; and

3 (B) to incorporate commitments with re-
 4 spect to such services into their customer serv-
 5 ice plans;

6 (3) to continuously display information and eli-
 7 gibility requirements for refunds, compensation, and
 8 protections, including refunds, compensation, and
 9 protections relating to—

10 (A) denied boarding and delays and can-
 11 cellations (including on international flights);
 12 and

13 (B) lost, damaged, or delayed luggage; and

14 (4) to prominently display passengers' rights
 15 and contact information for the Department of
 16 Transportation's consumer complaint system on
 17 boarding passes, computer-generated boarding
 18 passes, and ticketed itineraries, and at boarding
 19 gates and ticket counters.

20 **SEC. 208. PRIVATE RIGHT OF ACTION AGAINST UNFAIR AND**
 21 **DECEPTIVE PRACTICES.**

22 Section 41712 of title 49, United States Code, as
 23 amended by section 104, is further amended by adding
 24 at the end the following:

25 “(e) PRIVATE RIGHT OF ACTION.—

1 “(1) IN GENERAL.—Any individual who pur-
 2 chases a ticket for air transportation and is ag-
 3 grieved by an action prohibited under this section
 4 may file a civil action for damages and injunctive re-
 5 lief in an appropriate district court of the United
 6 States or a State court located in the State in
 7 which—

8 “(A) the unlawful action is alleged to have
 9 been committed; or

10 “(B) the aggrieved individual resides.

11 “(2) ENFORCEMENT BY A STATE.—The attor-
 12 ney general of any State, as *parens patriae*, may
 13 bring a civil action to enforce the provisions of this
 14 section in—

15 “(A) any district court of the United
 16 States in that State; or

17 “(B) any State court that is located in
 18 that State and has jurisdiction over the defend-
 19 ant.”.

20 **SEC. 209. FAIRNESS AND TRANSPARENCY IN CONTRACTS**
 21 **OF CARRIAGE.**

22 Not later than 180 days after the date of the enact-
 23 ment of this Act, the Secretary shall require an air carrier
 24 to prominently display on a publicly available Internet
 25 website of the air carrier, and provide to a consumer be-

1 fore the consumer purchases a ticket for air transpor-
2 tation, a standardized, easy-to-understand, and concise
3 statement relating to the protections available for pas-
4 sengers that clearly and accurately summarizes the terms
5 and conditions of the air carrier's contract of carriage re-
6 lating to such protections, including—

7 (1) policies relating to flight delays and can-
8 cellations;

9 (2) carry-on baggage allowances and space
10 availability;

11 (3) checked baggage policies and compensation
12 for lost, damaged, delayed, or pilfered bags;

13 (4) ticketing change and cancellation allow-
14 ances;

15 (5) ancillary fees;

16 (6) family seating policies, including seating
17 policies for children under the age of 2;

18 (7) eligibility requirements for refunds, com-
19 pensation, and other protections;

20 (8) interline agreements and protections; and

21 (9) such other terms and conditions as the Sec-
22 retary considers appropriate.

1 **SEC. 210. PRIVATE RIGHT OF ACTION FOR DISCRIMINA-**
2 **TION CLAIMS AGAINST AIR CARRIERS.**

3 Section 41705 of title 49, United States Code, is
4 amended—

5 “(d) CIVIL ACTION.—

6 “(1) IN GENERAL.—Any individual who pur-
7 chases a ticket for air transportation and is ag-
8 grieved by a violation by an air carrier of this sec-
9 tion or a regulation prescribed under this section
10 may, not later than 2 years after the date of the vio-
11 lation, bring a civil action in an appropriate district
12 court of the United States.

13 “(2) RELIEF.—In a civil action brought under
14 paragraph (1) in which the plaintiff prevails—

15 “(A) the plaintiff may obtain equitable and
16 legal relief, including compensatory and puni-
17 tive damages; and

18 “(B) the court shall award reasonable at-
19 torney’s fees, reasonable expert fees, and the
20 costs of the action to the plaintiff.

21 “(3) NO REQUIREMENT FOR EXHAUSTION OF
22 REMEDIES.—An individual described in paragraph
23 (1) is not required to exhaust administrative com-
24 plaint procedures before filing a civil action under
25 paragraph (1).

1 “(4) RULE OF CONSTRUCTION.—Nothing in
2 this subsection shall be construed to invalidate or
3 limit other Federal or State laws affording to people
4 with disabilities greater legal rights or protections
5 than those granted in this section.”.

6 **SEC. 211. NO PREEMPTION OF CONSUMER PROTECTION**
7 **CLAIMS.**

8 Section 41713(b)(4) of title 49, United States Code,
9 is amended by adding at the end the following:

10 “(D) NO PREEMPTION OF CONSUMER PRO-
11 TECTION CLAIMS.—Nothing in subparagraphs
12 (A) through (C) may be construed—

13 “(i) to preempt, displace, or supplant
14 any action for civil damages or injunctive
15 relief based on a State consumer protection
16 statute; or

17 “(ii) to restrict the authority of any
18 government entity, including an attorney
19 general of a State, from bringing a legal
20 claim on behalf of the citizens of the
21 State.”.

1 **SEC. 212. INVALIDATION OF PRE-DISPUTE ARBITRATION**
2 **AND CLASS-ACTION WAIVER CLAUSES IN**
3 **CERTAIN CONTRACTS RELATING TO PAS-**
4 **SENGER AIR TRANSPORTATION.**

5 (a) **ARBITRATION.**—Notwithstanding any other pro-
6 vision of law, arbitration may be used to settle a con-
7 troversy arising from or relating to a provision of a con-
8 tract described in subsection (c) only if, after the con-
9 troversy arises, all parties to the controversy consent in
10 writing to use arbitration to settle the controversy.

11 (b) **CLASS ACTIONS.**—Notwithstanding any other
12 provision of law, an agreement waiving the right of a per-
13 son to bring, or otherwise prohibiting a person from bring-
14 ing, a claim regarding a dispute relating to a provision
15 of a contract described in subsection (c) as a class action
16 that had not arisen before the date on which the agree-
17 ment is executed shall not be enforceable and shall have
18 no force or effect.

19 (c) **CONTRACTS DESCRIBED.**—A contract described
20 in this subsection is a contract—

21 (1) for the purchase of a ticket for passenger
22 air transportation;

23 (2) setting forth the terms of a reward program
24 of an air carrier; or

25 (3) setting forth the terms under which an air
26 carrier will provide a credit product.

1 (d) APPLICABILITY.—Subsections (a) and (b) shall
2 apply with respect to contracts entered into or renewed
3 on or after the date of the enactment of this Act.

4 (e) DEFINITIONS.—In this section:

5 (1) CREDIT PRODUCT.—

6 (A) IN GENERAL.—The term “credit prod-
7 uct” means a plan offered by, or in partnership
8 with, an air carrier—

9 (i) under which the creditor reason-
10 ably contemplates repeated transactions;

11 (ii) that prescribes the terms of such
12 transactions; and

13 (iii) that provides for a finance charge
14 that may be computed from time to time
15 on the outstanding unpaid balance.

16 (B) INCLUSION.—A credit plan or open-
17 end consumer credit plan that is a credit prod-
18 uct within the meaning of subparagraph (A) is
19 a credit product even if credit information is
20 verified from time to time.

21 (2) PASSENGER AIR TRANSPORTATION.—The
22 term “passenger air transportation” means the
23 transportation of passengers and their property by
24 aircraft.

1 shall include on a publicly available Internet website, any
2 related mobile device application, and online service—

3 “(1) the hotline telephone number established
4 under subsection (a) or the telephone number for the
5 Aviation Consumer Protection Division of the De-
6 partment of Transportation;

7 “(2) an active link and the email address, tele-
8 phone number, and mailing address of the air car-
9 rier or foreign air carrier, as applicable, for a con-
10 sumer to submit a complaint to the carrier about the
11 quality of service;

12 “(3) notice that the consumer can file a com-
13 plaint with the Aviation Consumer Protection Divi-
14 sion of the Department of Transportation;

15 “(4) an active link to the Internet website of
16 the Aviation Consumer Protection Division of the
17 Department of Transportation for a consumer to file
18 a complaint; and

19 “(5) the active link described in paragraph (2)
20 on the same Internet website page as the active link
21 described in paragraph (4).”;

22 (4) in subsection (d), as redesignated—

23 (A) in the matter preceding paragraph (1),
24 by striking “An air carrier or foreign air carrier
25 providing scheduled air transportation using

1 any aircraft that as originally designed has a
2 passenger capacity of 30 or more passenger
3 seats” and inserting “Each air carrier and for-
4 eign air carrier”;

5 (B) in paragraph (1), by striking “air car-
6 rier” and inserting “carrier”; and

7 (C) in paragraph (2), by striking “air car-
8 rier” and inserting “carrier”; and

9 (5) by adding after subsection (d), as redesign-
10 nated, the following:

11 “(e) REPORTING REQUIREMENT.—Upon receipt of
12 any complaint, an air carrier shall send the content of the
13 complaint to the Aviation Consumer Protection Division
14 of the Department of Transportation.”.

15 (b) REGULATIONS.—Not later than 180 days after
16 the date of the enactment of this Act, the Secretary shall
17 prescribe regulations to implement the requirements of
18 section 42302 of title 49, United States Code, as amended
19 by subsection (a).

20 **SEC. 214. REPORT BY ADVISORY COMMITTEE FOR AVIA-**
21 **TION CONSUMER PROTECTION.**

22 Not later than 180 days after the date of the enact-
23 ment of this Act, and annually thereafter, the Advisory
24 Committee for Aviation Consumer Protection shall submit
25 to the appropriate committees of Congress a report mak-

1 ing recommendations for improving consumer protections
2 for passengers in air transportation.

3 **TITLE III—PENALTIES FOR AIR**
4 **CARRIERS**

5 **SEC. 301. INCREASE IN CIVIL PENALTY FOR VIOLATIONS OF**
6 **PASSENGER PROTECTION LAWS.**

7 (a) IN GENERAL.—Section 46301(a) of title 49,
8 United States Code, is amended by adding at the end the
9 following:

10 “(7) VIOLATIONS OF PASSENGER PROTECTION
11 LAWS.—The maximum civil penalty specified under para-
12 graph (1) shall not apply with respect to a violation of
13 a law relating to the treatment of passengers in air trans-
14 portation.”.

15 (b) REGULATIONS.—Not later than 180 days after
16 the date of the enactment of this Act, the Secretary shall
17 specify in regulations the provisions of law to which para-
18 graph (7) of section 46301(a) of title 49, United States
19 Code, as added by subsection (a), applies.

20 **SEC. 302. REPORT ON IMPOSITION OF CIVIL PENALTIES.**

21 Not later than 180 days after the date of the enact-
22 ment of this Act, and annually thereafter, the Secretary
23 shall submit to the appropriate committees of Congress
24 a report—

1 (1) listing all complaints received from pas-
2 sengers alleging violations of passenger protection
3 laws;

4 (2) identifying which of such complaints the
5 Secretary investigated; and

6 (3) if the Secretary chose not to pursue the im-
7 position of civil penalties with respect to such com-
8 plaints, a description of the reasoning of the Sec-
9 retary for doing so.

10 **SEC. 303. STUDY OF DISTRIBUTION OF CIVIL PENALTIES TO**
11 **CONSUMERS.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of the enactment of this Act, the Secretary shall sub-
14 mit to the appropriate committees of Congress a report—

15 (1) assessing the feasibility and advisability of
16 distributing a civil penalty imposed on an air carrier
17 for a violation of a law relating to the treatment of
18 passengers in air transportation to the passengers
19 affected by the violation; and

20 (2) identifying any provisions of law that would
21 need to be amended to permit such distributions.

22 (b) CONSULTATIONS.—The Secretary shall consult
23 with consumer advocacy organizations and the Advisory
24 Committee for Aviation Consumer Protection in devel-
25 oping the report required by subsection (a).

1 **SEC. 304. PROHIBITION ON NEGOTIATION OF REDUCTIONS**
2 **IN CIVIL PENALTIES.**

3 Not later than 180 days after the date of the enact-
4 ment of this Act, the Secretary shall prescribe regulations
5 prohibiting an air carrier from negotiating with the Fed-
6 eral Aviation Administration for a reduction in a civil pen-
7 alty imposed for a violation of a law relating to the treat-
8 ment of passengers in air transportation.

9 **TITLE IV—COMPETITIVENESS**
10 **OF AIR CARRIERS**

11 **SEC. 401. ANALYSIS OF INTERNATIONAL AIR CARRIER ALLI-**
12 **ANCES.**

13 (a) IN GENERAL.—The Comptroller General of the
14 United States shall conduct an analysis of certain coopera-
15 tive agreements between United States air carriers and
16 foreign air carriers (in this section referred to as “alli-
17 ances”) that—

18 (1) have been created pursuant to section
19 41309 of title 49, United States Code; and

20 (2) have been exempted from antitrust laws (as
21 defined in the first section of the Clayton Act (15
22 U.S.C. 12)) pursuant to section 41308 of title 49,
23 United States Code.

24 (b) SCOPE.—The analysis conducted under sub-
25 section (a) shall assess—

1 (1) the consequences of alliances, including re-
2 duced competition, stifling new entrants into mar-
3 kets, increasing prices in markets, and other adverse
4 consequences;

5 (2) the representations made by air carriers to
6 the Secretary for the necessity of an antitrust ex-
7 emption;

8 (3) the Department of Transportation's expec-
9 tations of public benefits resulting from alliances, in-
10 cluding whether such expected benefits were actually
11 achieved;

12 (4) the adequacy of the Department of Trans-
13 portation's efforts in the approval and monitoring of
14 alliances, including whether the Department pos-
15 sesses relevant experience and expertise in the fields
16 of antitrust and consumer protection;

17 (5) whether there has been sufficient trans-
18 parency in the approval of alliances, including oppor-
19 tunities for public review and comment;

20 (6) the role of the Department of Justice in the
21 oversight of alliances;

22 (7) whether there are alternatives to antitrust
23 immunity that could be conferred that would also
24 produce public benefits;

1 (8) whether alliances should be required to ex-
2 pire;

3 (9) the level of competition between air carriers
4 who are members of the same alliance;

5 (10) the level of competition between alliances;

6 (11) whether the Department of Transportation
7 should amend, modify, or revoke any exemption from
8 the antitrust laws granted by the Secretary in con-
9 nection with an alliance; and

10 (12) the effect of alliances on the number and
11 quality of jobs for flight crew employees of United
12 States air carriers, including the share of alliance
13 flying done by such employees.

14 (c) RECOMMENDATIONS.—Not later than 180 days
15 after the date of the enactment of this Act, the Comp-
16 troller General shall submit to Congress the results of the
17 analysis conducted under subsection (a), which shall in-
18 clude recommendations on the reforms needed to improve
19 competition and enhance choices for consumers, includ-
20 ing—

21 (1) whether oversight of alliances should be ex-
22 ercised by the Department of Justice rather than by
23 the Department of Transportation; and

24 (2) whether antitrust immunity for alliances
25 should expire.

1 **SEC. 402. ANALYSIS OF AIR CARRIER MERGERS.**

2 (a) IN GENERAL.—The Comptroller General of the
3 United States shall conduct a post hoc analysis of the ef-
4 fect on the public interest and the state of competition
5 and choice in the air transportation industry as a result
6 of consolidation of air carriers that occurred on or after
7 January 1, 2000, and before the date of the enactment
8 of this Act.

9 (b) CONSIDERATIONS.—In conducting the analysis
10 required under subsection (a), the Comptroller General
11 shall consider the extent to which—

12 (1) fares are reasonable and proportional to the
13 costs of the services provided; and

14 (2) between January 1, 2000, and the date of
15 the enactment of this Act—

16 (A) fares have changed;

17 (B) competition and consumer choice have
18 changed;

19 (C) fees imposed by air carriers, including
20 ancillary fees, have changed;

21 (D) configuration of routes has changed
22 and the extent to which the availability of
23 choices on those routes has changed;

24 (E) operational performance has improved;
25 and

- 1 (F) investment in aircraft, amenities, and
- 2 workforce has changed.

○