

116TH CONGRESS
1ST SESSION

S. 2341

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

IN THE SENATE OF THE UNITED STATES

JULY 30, 2019

Mr. BLUMENTHAL (for himself, Mr. MARKEY, Mr. WHITEHOUSE, Mr. WYDEN, and Mr. CASEY) 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. Rules regarding compensation provided to passengers.

- 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. Protections relating to space for passengers on aircraft.
- Sec. 107. Availability of lavatories on passenger aircraft.
- Sec. 108. Availability of potable water on passenger aircraft.
- Sec. 109. Training on rights of passengers.
- Sec. 110. Report on quality and safety of food and water on passenger aircraft.
- Sec. 111. 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.

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 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.

6 (2) **ADVISORY COMMITTEE FOR AVIATION CON-**

7 SUMER PROTECTION.—The term “Advisory Com-

mittee for Aviation Consumer Protection” means the advisory committee established under section 411 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 42301 note prec.).

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

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

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

(6) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(7) PURCHASE.—The term “purchase”, with respect to a ticket for travel in air transportation,

1 means the purchase of a ticket using cash or credit
 2 or using miles awarded through the frequent flyer
 3 program of an air carrier.

4 (8) SECRETARY.—The term “Secretary” means
 5 the Secretary of Transportation.

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

9 **TITLE I—PASSENGER** 10 **PROTECTIONS**

11 **SEC. 101. RULES REGARDING COMPENSATION PROVIDED** 12 **TO PASSENGERS.**

13 Not later than 180 days after the date of the enact-
 14 ment of this Act, the Secretary shall prescribe regula-
 15 tions—

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

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

24 (3) requiring an air carrier to provide any com-
 25 pensation provided to a passenger in exchange for

1 the passenger relinquishing a seat in the form of
2 cash.

3 **SEC. 102. MINIMUM COMPENSATION PROVIDED TO PAS-**
4 **SENGERS INVOLUNTARILY DENIED BOARD-**
5 **ING.**

6 Not later than 60 days after the date of enactment
7 of this Act, the Secretary shall, notwithstanding section
8 425(e)(2) of the FAA Reauthorization Act of 2018, issue
9 a final rule to revise part 250 of title 14, Code of Federal
10 Regulations, to establish that \$1,350 is the minimum level
11 of compensation an air carrier or foreign air carrier must
12 pay to a passenger who is involuntarily denied boarding
13 as the result of an oversold flight.

14 **SEC. 103. DELAYS AND CANCELLATIONS.**

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

24 (1) the passenger’s arrival at the passenger’s
25 destination is delayed by more than 1 hour and less

1 than 4 hours after the originally scheduled arrival of
2 the passenger, the air carrier—

3 (A) to automatically refund to the pas-
4 senger the amount the passenger paid for the
5 ticket; and

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

14 (2) the passenger's arrival at the passenger's
15 destination is delayed by more than 4 hours after
16 the originally scheduled arrival of the passenger, the
17 air carrier—

18 (A) to automatically refund to the pas-
19 senger the amount the passenger paid for the
20 ticket;

21 (B) to find a seat for the passenger on an-
22 other flight operated by the air carrier, on a
23 flight operated by another air carrier, or on an
24 alternative means of transportation, at no addi-
25 tional expense to the passenger, at the earliest

1 available opportunity, if the passenger so choos-
 2 es;

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

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

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

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

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

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

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

1 or foreign air carrier with which the carrier has a
 2 codesharing or other joint marketing arrangement to a
 3 force majeure event unless the delay or cancellation is
 4 caused by an event not within the control of the air carrier
 5 operating the flight, such as weather, an act of God, or
 6 a war or other hostilities.”.

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

8 (a) REGULATIONS.—Not later than 1 year after the
 9 date of the enactment of this Act, the Secretary shall pre-
 10 scribe regulations—

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

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

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

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

1 (2) require air carriers to explicitly notify pas-
2 sengers when they are eligible to be provided trans-
3 portation by another air carrier or a provider of an-
4 other mode of transportation;

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

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

18 (5) account for operational records, seat avail-
19 ability, and capacity; and

20 (6) promote competition and the public interest.

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

1 **SEC. 106. 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 (b) take ef-
15 fect.

16 (b) REGULATIONS RELATING TO SPACE FOR PAS-
17 SENGERS ON AIRCRAFT.—Not later than 1 year after the
18 date of enactment of this Act, and after providing notice
19 and an opportunity for comment, the Administrator shall
20 issue regulations—

21 (1) establishing minimum dimensions for pas-
22 senger seats on aircraft operated by air carriers in
23 interstate air transportation or intrastate air trans-
24 portation, including the size, width, and pitch of
25 seats, the amount of leg room, and the width of

(c) CONSULTATIONS.—In prescribing the regulations required under subsection (b), the Administrator shall consult with the Occupational Safety and Health Administration, the Centers for Disease Control and Prevention, passenger advocacy organizations, physicians, and ergonomic engineers.

20 SEC. 107. AVAILABILITY OF LAVATORIES ON PASSENGER
21 AIRCRAFT.

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1 **“§ 41727. Availability of lavatories on passenger air-**
 2 **craft**

3 “(a) IN GENERAL.—Each air carrier and foreign air
 4 carrier shall ensure that each passenger aircraft operated
 5 by the air carrier or foreign air carrier maintains suffi-
 6 cient functional lavatories (as determined by the Secretary
 7 of Transportation) that—

8 “(1) are available for use, free of charge, any
 9 time passengers are on board the aircraft; and

10 “(2) can accommodate individuals with disabil-
 11 ities.

12 “(b) DISABILITY DEFINED.—In this section, the
 13 term ‘disability’ has the meaning given that term in sec-
 14 tion 3 of the Americans with Disabilities Act of 1990 (42
 15 U.S.C. 12102).

16 “(c) REGULATIONS.—Not later than 180 days after
 17 the date of the enactment of the Airline Passengers’ Bill
 18 of Rights, the Secretary of Transportation shall prescribe
 19 such regulations as are necessary to carry out this sec-
 20 tion.”.

21 (b) CLERICAL AMENDMENT.—The analysis for chap-
 22 ter 417 of such title is amended by inserting after the
 23 item relating to section 41726 the following:

“41727. Availability of lavatories on passenger aircraft.”.

1 **SEC. 108. AVAILABILITY OF POTABLE WATER ON PAS-**
 2 **SENGER AIRCRAFT.**

3 (a) IN GENERAL.—Subchapter I of chapter 417 of
 4 title 49, United States Code, as amended by section
 5 107(a), is amended by adding at the end the following:

6 **“§ 41728. Availability of potable water on passenger**
 7 **aircraft**

8 “(a) IN GENERAL.—Each air carrier and foreign air
 9 carrier shall ensure that potable water is available, free
 10 of charge, to passengers on board aircraft operated by the
 11 air carrier or foreign air carrier.

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

17 (b) CLERICAL AMENDMENT.—The analysis for chap-
 18 ter 417 of such title, as amended by section 107(b), is
 19 amended by inserting after the item relating to section
 20 41727 the following:

“41728. Availability of potable water on passenger aircraft.”.

21 **SEC. 109. TRAINING ON RIGHTS OF PASSENGERS.**

22 Not later than 180 days after the date of the enact-
 23 ment of this Act, the Secretary shall prescribe regulations
 24 requiring an air carrier to provide, not less frequently than
 25 every 180 days, training on the rights of passengers to

1 employees and representatives of the air carrier that di-
2 rectly interact with passengers, including ticket agents,
3 gate agents, pilots, and flight attendants.

4 **SEC. 110. REPORT ON QUALITY AND SAFETY OF FOOD AND**
5 **WATER ON PASSENGER 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 the
9 quality and safety of food and potable water on passenger
10 aircraft.

11 **SEC. 111. REPORT ON SUFFICIENCY OF AVAILABLE FLIGHT**
12 **CREWS AND AIRCRAFT.**

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

16 (1) whether air carriers ensure that sufficient
17 flight crews and aircraft are available for scheduled
18 flights; and

19 (2) the extent to which not having sufficient
20 flight crews and aircraft available affects arrival and
21 departure times.

TITLE II—CONSUMER PROTECTIONS

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

(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall prescribe regulations—

(1) prohibiting an air carrier from imposing fees described in subsection (b) that are unreasonable or disproportional to the costs incurred by the air carrier; and

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

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

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

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

(3) any fee relating to seat selection or reservations on a flight;

1 (4) any fee relating to changing between flights
2 departing on the same day or flying standby on a
3 flight; and

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

6 (c) CONSIDERATIONS.—In establishing the standards
7 required under subsection (a)(2), the Secretary shall con-
8 sider—

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

12 (A) any net benefit or cost to the air car-
13 rier from the change or cancellation, taking into
14 consideration—

15 (i) the ability of the air carrier to an-
16 ticipate the expected average number of
17 cancellations and changes and make res-
18 ervations accordingly;

19 (ii) the ability of the air carrier to fill
20 a seat made available by a change or can-
21 cellation;

22 (iii) any difference in the fare likely to
23 be paid for a ticket sold to another pas-
24 senger for a seat made available by the
25 change or cancellation, as compared to the

1 fare paid by the passenger who changed or
 2 canceled the passenger's reservation; and

3 (iv) the likelihood that the passenger
 4 changing or cancelling the passenger's res-
 5 ervation will fill a seat on another flight by
 6 the same air carrier;

7 (B) the costs of processing the change or
 8 cancellation electronically; and

9 (C) any related labor costs;

10 (2) with respect to a fee described in subsection
 11 (b)(2) imposed by an air carrier relating to checked
 12 baggage—

13 (A) the costs of processing checked bag-
 14 gage electronically; and

15 (B) any related labor costs; and

16 (3) any other considerations the Secretary con-
 17 siderers appropriate.

18 (d) UPDATED REGULATIONS.—The Secretary shall
 19 update the standards required under subsection (a)(2) not
 20 less frequently than every 3 years.

21 **SEC. 202. PROTECTIONS RELATING TO DISCLOSURE OF**
 22 **FLIGHT INFORMATION.**

23 (a) PROHIBITION ON LIMITING ACCESS OF CON-
 24 SUMER TO INFORMATION.—Not later than 180 days after
 25 the date of the enactment of this Act, the Secretary shall

1 prescribe regulations prohibiting an air carrier from lim-
 2 iting the access of consumers to information relating to
 3 schedules, fares, fees, and taxes relating to flights in pas-
 4 senger air transportation.

5 (b) PROHIBITION ON WITHHOLDING INFORMA-
 6 TION.—Not later than 180 days after the date of the en-
 7 actment of this Act, the Secretary shall prescribe regula-
 8 tions prohibiting an air carrier, through a global distribu-
 9 tion system or otherwise, from withholding flight, fare,
 10 scheduling, availability, and other information published
 11 by air carriers from consumers and online travel agents
 12 and metasearch engines that provide flight search tools.

13 **SEC. 203. TRANSPARENCY IN PRICING OF TICKETS IN AIR**
 14 **TRANSPORTATION.**

15 Not later than 180 days after the date of the enact-
 16 ment of this Act, the Secretary shall prescribe regulations
 17 requiring—

- 18 (1) air carriers to provide useable, current, and
 19 accurate information in a user-friendly, accessible
 20 form, with respect to fares, applicable taxes, and an-
 21 cillary fees to ticket agents, online travel agents, and
 22 metasearch engines that provide flight search tools;
- 23 (2) air carriers to allow consumers to purchase
 24 tickets and pay for applicable taxes and ancillary

1 fees through ticket agents, online travel agents, and
 2 metasearch engines that provide flight search tools;

3 (3) air carriers, ticket agents, online travel
 4 agents, and metasearch engines that provide flight
 5 search tools to disclose all applicable taxes and any
 6 ancillary fees charged by an air carrier with respect
 7 to a fare that are applicable to the services identified
 8 by the purchaser, at any point at which the fare is
 9 shown in whole or in part; and

10 (4) air carriers, ticket agents, online travel
 11 agents, and metasearch engines that provide flight
 12 search tools, in any telephonic communication with
 13 a prospective consumer in the United States regard-
 14 ing the cost of air transportation, to inform the con-
 15 sumer of all applicable taxes and any ancillary fees
 16 charged by an air carrier in relation to the air trans-
 17 portation and associated services requested by the
 18 consumer, at any point at which the cost of the air
 19 transportation is disclosed in whole or in part.

20 **SEC. 204. DISCLOSURE OF LOWEST FARES FOR AIR TRANS-**
 21 **PORTATION.**

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

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

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

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

4 “(C) the lowest available fare options for
5 the flight and for each flight segment of the
6 flight, if applicable.”.

7 (b) REGULATIONS.—The Secretary, in consultation
8 with the Administrator, shall prescribe such regulations
9 as may be necessary to carry out section 41712(c)(1)(C)
10 of title 49, United States Code, as added by subsection
11 (a)(3).

12 **SEC. 205. FREQUENT FLYER PROGRAMS FAIRNESS AND**
13 **TRANSPARENCY.**

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

17 “(3) FREQUENT FLYER PROGRAMS.—It shall be
18 an unfair or deceptive practice under subsection (a)
19 for any air carrier or foreign air carrier that offers
20 a frequent flyer program—

21 “(A) to materially change the terms or
22 conditions of the frequent flyer program with-
23 out providing reasonable notice to consumers;
24 or

1 “(B) to unfairly reduce or eliminate bene-
2 fits earned by members of the frequent flyer
3 program.”.

4 (b) REGULATIONS.—

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

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

14 (A) take into consideration—

15 (i) the significance of the change to
16 the frequent flyer program’s terms and
17 conditions; and

18 (ii) the amount of time between the
19 notification provided to a consumer and
20 the date on which the change takes effect;
21 and

22 (B) require each air carrier that offers a
23 frequent flyer program to disclose, in a stand-
24 ardized format, when offering or enrolling con-

1 sumers into the program, accurate information
2 regarding the program's rules, including—

3 (i) the rate at which credits are
4 earned;

5 (ii) the minimum number of credits
6 earned per flight;

7 (iii) the number of credits needed for
8 each award;

9 (iv) any applicable deadlines for re-
10 deeming credits;

11 (v) any restrictions on the transfer-
12 ability of earned credit and awards;

13 (vi) other conditions and limitations of
14 the program;

15 (vii) the percentage of successful re-
16 demptions; and

17 (viii) frequent flyer seats made avail-
18 able in the top origin and destination mar-
19 kets.

20 **SEC. 206. REFUNDS FOR LOST, DAMAGED, DELAYED, OR**
21 **PILFERED BAGGAGE.**

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

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

5 (2) to provide notification to a passenger who
 6 is impacted by lost, damaged, delayed, or pilfered
 7 baggage, through the passenger's chosen method of
 8 communication, of the procedure by which the pas-
 9 senger shall obtain a refund and the amount of the
 10 refund.

11 (b) INCLUSION IN CONTRACT OF CARRIAGE.—An air
 12 carrier shall include the requirements under subsection (a)
 13 in the air carrier's contract of carriage.

14 **SEC. 207. PASSENGER RIGHTS TRANSPARENCY.**

15 (a) IN GENERAL.—Not later than 90 days after the
 16 date of the enactment of this Act, the Secretary shall pre-
 17 scribe regulations requiring air carriers to notify pas-
 18 sengers of their rights and eligibility for refunds, com-
 19 pensation, and protections required by law, including by
 20 an air carrier's contract of carriage, or otherwise available
 21 to passengers.

22 (b) REQUIREMENTS.—In prescribing the regulations
 23 under subsection (a), the Secretary shall require air car-
 24 riers—

1 (1) to promptly and expressly notify eligible
2 passengers and the public of their eligibility for re-
3 funds, compensation, and protections not later than
4 30 minutes after the air carrier becomes aware that
5 such passengers have become eligible for such re-
6 funds, compensation, and protections;

7 (2) if such air carriers permit passengers and
8 other interested persons to subscribe to flight status
9 notification services—

10 (A) to deliver refunds, compensation, and
11 protection notifications to subscribers to such
12 services, by whatever means the air carrier of-
13 fers that the subscriber chooses; and

14 (B) to incorporate commitments with re-
15 spect to such services into their customer serv-
16 ice plans;

17 (3) to continuously display information and eli-
18 gibility requirements for refunds, compensation, and
19 protections, including refunds, compensation, and
20 protections relating to—

21 (A) denied boarding and delays and can-
22 cellations (including on international flights);
23 and

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

1 (4) to prominently display passengers’ rights
 2 and contact information for the Department of
 3 Transportation’s consumer complaint system on
 4 boarding passes, computer-generated boarding
 5 passes, and ticketed itineraries, and at boarding
 6 gates and ticket counters.

7 **SEC. 208. PRIVATE RIGHT OF ACTION AGAINST UNFAIR AND**
 8 **DECEPTIVE PRACTICES.**

9 Section 41712 of title 49, United States Code, as
 10 amended by section 104, is amended by adding at the end
 11 the following:

12 “(e) PRIVATE RIGHT OF ACTION.—

13 “(1) IN GENERAL.—Any individual who pur-
 14 chases a ticket for air transportation and is ag-
 15 grieved by an action prohibited under this section
 16 may file a civil action for damages and injunctive re-
 17 lief in an appropriate district court of the United
 18 States or a State court located in the State in
 19 which—

20 “(A) the unlawful action is alleged to have
 21 been committed; or

22 “(B) the aggrieved individual resides.

23 “(2) ENFORCEMENT BY A STATE.—The attor-
 24 ney general of any State, as *parens patriae*, may

1 bring a civil action to enforce the provisions of this
 2 section in—

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

5 “(B) any State court that is located in
 6 that State and has jurisdiction over the defend-
 7 ant.”.

8 **SEC. 209. FAIRNESS AND TRANSPARENCY IN CONTRACTS**
 9 **OF CARRIAGE.**

10 (a) IN GENERAL.—Subsection (a) of section 429(a)
 11 of the FAA Reauthorization Act of 2018 is amended by
 12 adding at the end the following:

13 “(7) Family seating policies, including seating
 14 policies for children under the age of 2.

15 “(8) Interline agreements and protections.

16 “(9) Such other terms and conditions as the
 17 Secretary considers appropriate.”.

18 (b) RESUBMISSION.—Not later than 90 days after
 19 the date of enactment of this Act, the Secretary shall re-
 20 quire each air carrier to—

21 (1) resubmit the summarized 1-page document
 22 described in such section 429 to take into account
 23 the amendment made by subsection (a); and

1 (2) make available such revised document in a
 2 prominent location on its website pursuant to sub-
 3 section (b) of such section 429.

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

6 Section 41705 of title 49, United States Code, is
 7 amended by adding at the end the following:

8 “(d) CIVIL ACTION.—

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

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

18 “(A) the plaintiff may obtain equitable and
 19 legal relief, including compensatory and puni-
 20 tive damages; and

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

24 “(3) NO REQUIREMENT FOR EXHAUSTION OF
 25 REMEDIES.—An individual described in paragraph

1 (1) is not required to exhaust administrative com-
 2 plaint procedures before filing a civil action under
 3 paragraph (1).

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

9 **SEC. 211. NO PREEMPTION OF CONSUMER PROTECTION**
 10 **CLAIMS.**

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

13 “(D) NO PREEMPTION OF CONSUMER PRO-
 14 TECTION CLAIMS.—Nothing in subparagraphs
 15 (A) through (C) may be construed—

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

20 “(ii) to restrict the authority of any
 21 government entity, including an attorney
 22 general of a State, from bringing a legal
 23 claim on behalf of the citizens of the
 24 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 (3) REWARD PROGRAM.—The term “reward
2 program” means any reward program offered by an
3 air carrier, including a frequent flyer program,
4 under which a consumer earns mileage or other
5 credits from the air carrier that can be exchanged
6 for goods, services, or other benefits.

7 **SEC. 213. CONSUMER COMPLAINT PROCESS IMPROVE-**
8 **MENT.**

9 (a) IN GENERAL.—Section 42302 of title 49, United
10 States Code, as amended by section 423 of the FAA Reau-
11 thorization Act of 2018, is amended—

12 (1) by redesignating subsections (b) and (c) as
13 subsections (c) and (d), respectively;

14 (2) by inserting after subsection (a) the fol-
15 lowing:

16 “(b) POINT OF SALE.—Each air carrier, foreign air
17 carrier, and ticket agent shall inform each consumer of
18 a carrier service, at the point of sale, that the consumer
19 can file a complaint about that service with the carrier
20 and with the Aviation Consumer Protection Division of the
21 Department of Transportation.”;

22 (3) by amending subsection (c), as redesignated
23 by paragraph (1), to read as follows:

24 “(c) INTERNET WEBSITE OR OTHER ONLINE SERV-
25 ICE NOTICE.—Each air carrier and foreign air carrier

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) by adding after subsection (d), as redesign-
 23 nated by paragraph (1), the following:

24 “(e) REPORTING REQUIREMENT.—Upon receipt of
 25 any complaint, an air carrier shall send the content of the

1 complaint to the Aviation Consumer Protection Division
2 of the Department of Transportation.”.

3 (b) REGULATIONS.—Not later than 180 days after
4 the date of the enactment of this Act, the Secretary shall
5 prescribe regulations to implement the requirements of
6 section 42302 of title 49, United States Code, as amended
7 by subsection (a).

8 **TITLE III—PENALTIES FOR AIR** 9 **CARRIERS**

10 **SEC. 301. INCREASE IN CIVIL PENALTY FOR VIOLATIONS OF** 11 **PASSENGER PROTECTION LAWS.**

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

15 “(8) VIOLATIONS OF PASSENGER PROTECTION
16 LAWS.—The maximum civil penalty specified under para-
17 graph (1) shall not apply with respect to a violation of
18 a law relating to the treatment of passengers in air trans-
19 portation.”.

20 (b) REGULATIONS.—Not later than 180 days after
21 the date of the enactment of this Act, the Secretary shall
22 specify in regulations the provisions of law to which para-
23 graph (8) of section 46301(a) of title 49, United States
24 Code, as added by subsection (a), applies.

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

2 Not later than 180 days after the date of the enact-
3 ment of this Act, and annually thereafter, the Secretary
4 shall submit to the appropriate committees of Congress
5 a report—

6 (1) listing all complaints received from pas-
7 sengers alleging violations of passenger protection
8 laws;

9 (2) identifying which of such complaints the
10 Secretary investigated; and

11 (3) if the Secretary chose not to pursue the im-
12 position of civil penalties with respect to such com-
13 plaints, a description of the reasoning of the Sec-
14 retary for doing so.

15 **SEC. 303. STUDY OF DISTRIBUTION OF CIVIL PENALTIES TO**
16 **CONSUMERS.**

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

20 (1) assessing the feasibility and advisability of
21 distributing a civil penalty imposed on an air carrier
22 for a violation of a law relating to the treatment of
23 passengers in air transportation to the passengers
24 affected by the violation; and

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

1 (b) CONSULTATIONS.—The Secretary shall consult
 2 with consumer advocacy organizations and the Advisory
 3 Committee for Aviation Consumer Protection in devel-
 4 oping the report required by subsection (a).

5 **SEC. 304. PROHIBITION ON NEGOTIATION OF REDUCTIONS**
 6 **IN CIVIL PENALTIES.**

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

13 **TITLE IV—COMPETITIVENESS**
 14 **OF AIR CARRIERS**

15 **SEC. 401. ANALYSIS OF AIR CARRIER MERGERS.**

16 (a) IN GENERAL.—The Comptroller General of the
 17 United States shall conduct a post hoc analysis of the ef-
 18 fect on the public interest and the state of competition
 19 and choice in the air transportation industry as a result
 20 of consolidation of air carriers that occurred on or after
 21 January 1, 2000, and before the date of the enactment
 22 of this Act.

23 (b) CONSIDERATIONS.—In conducting the analysis
 24 required under subsection (a), the Comptroller General
 25 shall consider the extent to which—

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

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

5 (A) fares have changed;

6 (B) competition and consumer choice have
7 changed;

8 (C) fees imposed by air carriers, including
9 ancillary fees, have changed;

10 (D) configuration of routes has changed
11 and the extent to which the availability of
12 choices on those routes has changed;

13 (E) operational performance has improved;
14 and

15 (F) investment in aircraft, amenities, and
16 workforce has changed.

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