

118TH CONGRESS
1ST SESSION

S. 178

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

IN THE SENATE OF THE UNITED STATES

JANUARY 31, 2023

Mr. BLUMENTHAL (for himself, Mr. MARKEY, Mr. WHITEHOUSE, Mr. CASEY, Mr. WYDEN, and Mr. SANDERS) 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.

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) PASSENGER AIR TRANSPORTATION.—The
 2 term “passenger air transportation” means, with re-
 3 spect to the transportation of passengers by aircraft
 4 as a common carrier for compensation, foreign air
 5 transportation, interstate air transportation, and
 6 intrastate air transportation, as such terms are de-
 7 fined in section 40102 of title 49, United States
 8 Code.

9 (8) PURCHASE.—The term “purchase”, with re-
 10 spect to a ticket for travel in air transportation,
 11 means the purchase of a ticket using cash or credit
 12 or using miles awarded through the frequent flyer
 13 program of an air carrier.

14 (9) SECRETARY.—The term “Secretary” means
 15 the Secretary of Transportation.

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

19 **TITLE I—PASSENGER** 20 **PROTECTIONS**

21 **SEC. 101. RULES REGARDING COMPENSATION PROVIDED** 22 **TO PASSENGERS.**

23 Not later than 180 days after the date of the enact-
 24 ment of this Act, the Secretary shall prescribe regula-
 25 tions—

1 (1) allowing an air carrier to offer compensa-
2 tion to a passenger to incentivize the passenger to
3 relinquish the passenger's seat on a flight operated
4 by the air carrier;

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

9 (3) requiring an air carrier to provide any com-
10 pensation provided to a passenger in exchange for
11 the passenger relinquishing a seat in the form of
12 cash.

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

16 Not later than 60 days after the date of enactment
17 of this Act, the Secretary shall, notwithstanding section
18 425(e)(2) of the FAA Reauthorization Act of 2018, issue
19 a final rule to revise part 250 of title 14, Code of Federal
20 Regulations, to establish that \$1,350 is the minimum level
21 of compensation an air carrier or foreign air carrier must
22 pay to a passenger who is involuntarily denied boarding
23 as the result of an oversold flight.

1 **SEC. 103. DELAYS AND CANCELLATIONS.**

2 (a) REGULATIONS.—Not later than 180 days after
3 the date of the enactment of this Act, the Secretary shall
4 prescribe regulations requiring, if a passenger’s flight is
5 delayed or cancelled for any reason within the control of
6 the air carrier (including crew scheduling, routine mainte-
7 nance, functioning of information technology systems, pas-
8 senger service issues, issues related to baggage services,
9 issues related to ground handling of aircraft, or other rea-
10 sons as specified by the Secretary) and—

11 (1) the passenger’s arrival at the passenger’s
12 destination is delayed by more than 1 hour and less
13 than 4 hours after the originally scheduled arrival of
14 the passenger, the air carrier—

15 (A) to automatically refund to the pas-
16 senger the amount the passenger paid for the
17 ticket; and

18 (B) to find a seat for the passenger on an-
19 other flight operated by the air carrier, on a
20 flight operated by another air carrier, or on an
21 alternative means of transportation, at no addi-
22 tional expense to the passenger, that results in
23 the passenger arriving at the passenger’s des-
24 tination not later than 4 hours after the origi-
25 nal scheduled arrival time;

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

5 (A) to automatically refund to the pas-
6 senger the amount the passenger paid for the
7 ticket;

8 (B) to find a seat for the passenger on an-
9 other flight operated by the air carrier, on a
10 flight operated by another air carrier, or on an
11 alternative means of transportation, at no addi-
12 tional expense to the passenger, at the earliest
13 available opportunity, if the passenger so choos-
14 es;

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

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

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

23 (b) SAVINGS PROVISION.—Nothing in this section
24 shall be construed as affecting the authority of an air car-
25 rier to maximize its system capacity during weather-re-

1 lated events to accommodate the greatest number of pas-
 2 sengers.

3 **SEC. 104. UNFAIR AND DECEPTIVE ATTRIBUTION OF**
 4 **DELAYS AND CANCELLATIONS TO FORCE**
 5 **MAJEURE EVENTS.**

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

8 “(d) **ATTRIBUTION OF DELAYS AND CANCELLATIONS**
 9 **TO FORCE MAJEURE EVENTS.**—It shall be an unfair or
 10 deceptive practice under subsection (a) for an air carrier
 11 or foreign air carrier to attribute the delay or cancellation
 12 of a flight operated by the carrier or by another air carrier
 13 or foreign air carrier with which the carrier has a
 14 codesharing or other joint marketing arrangement to a
 15 force majeure event unless the delay or cancellation is
 16 caused by an event not within the control of the air carrier
 17 operating the flight, such as weather, an act of God, or
 18 a war or other hostilities.”.

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

20 (a) **REGULATIONS.**—Not later than 1 year after the
 21 date of the enactment of this Act, the Secretary shall pre-
 22 scribe regulations—

23 (1) to facilitate interline agreements and related
 24 practices between air carriers and providers of other
 25 modes of transportation; and

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

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

7 (1) include provisions to prevent air carriers
8 and other transportation providers from significantly
9 hindering or preventing willing air carriers or other
10 transportation providers from entering into interline
11 agreements or conducting related practices;

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

16 (3) after an eligible passenger is notified under
17 paragraph (2), require air carriers to attempt to
18 provide to the passenger transportation through an-
19 other air carrier or a provider of another mode of
20 transportation, upon the passenger's request, if the
21 air carrier has an interline agreement with the other
22 air carrier or transportation provider;

23 (4) prohibit air carriers and other transpor-
24 tation providers from unduly or improperly influ-
25 encing the decision of a partner, subsidiary, or ven-

1 dor to enter into an interline agreement, the terms
 2 or conditions of such an agreement, or related prac-
 3 tices;

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

6 (6) promote competition and the public interest.

7 (c) COMPLAINT AND REMEDIATION PROCESS.—The
 8 complaint and remediation processes established pursuant
 9 to subsection (a)(2) may provide for appropriate penalties
 10 and remedies for violations of an interline agreement.

11 **SEC. 106. PROTECTIONS RELATING TO SPACE FOR PAS-**
 12 **SENGERS ON AIRCRAFT.**

13 (a) MORATORIUM ON REDUCTIONS TO AIRCRAFT
 14 SEAT SIZE.—

15 (1) IN GENERAL.—Not later than 30 days after
 16 the date of the enactment of this Act, the Adminis-
 17 trator shall prohibit any air carrier from reducing
 18 the size, width, or pitch of seats on passenger air-
 19 craft operated by the air carrier, the amount of leg
 20 room per seat on such aircraft, or the width of aisles
 21 on such aircraft.

22 (2) TERMINATION.—The prohibition under
 23 paragraph (1) shall terminate on the date on which
 24 the regulations required by subsection (b) take ef-
 25 fect.

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

6 (1) establishing minimum dimensions for pas-
7 senger seats on aircraft operated by air carriers in
8 interstate air transportation or intrastate air trans-
9 portation, including the size, width, and pitch of
10 seats, the amount of leg room, and the width of
11 aisles on such aircraft for the safety and health of
12 passengers; and

13 (2) requiring each air carrier to prominently
14 display on a publicly available internet website of the
15 air carrier the amount of space available for each
16 passenger on passenger aircraft operated by the air
17 carrier or by another air carrier with which the air
18 carrier has a codesharing or other joint marketing
19 arrangement, including the size, width, and pitch of
20 seats, the amount of leg room, and the width of
21 aisles on such aircraft.

22 (c) CONSULTATIONS.—In prescribing the regulations
23 required under subsection (b), the Administrator shall
24 consult with the Occupational Safety and Health Adminis-
25 tration, the Centers for Disease Control and Prevention,

1 passenger advocacy organizations, physicians, and ergo-
2 nomic engineers.

3 (d) CONFORMING REPEAL.—Section 577 of the FAA
4 Reauthorization Act of 2018 is repealed.

5 **SEC. 107. AVAILABILITY OF LAVATORIES ON PASSENGER**
6 **AIRCRAFT.**

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

10 **“§ 41727. Availability of lavatories on passenger air-**
11 **craft**

12 “(a) IN GENERAL.—Each air carrier and foreign air
13 carrier shall ensure that each passenger aircraft operated
14 by the air carrier or foreign air carrier maintains suffi-
15 cient functional lavatories (as determined by the Secretary
16 of Transportation) that—

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

19 “(2) can accommodate individuals with disabil-
20 ities.

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

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

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

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

9 **SEC. 108. AVAILABILITY OF POTABLE WATER ON PAS-**
 10 **SENGER AIRCRAFT.**

11 (a) IN GENERAL.—Subchapter I of chapter 417 of
 12 title 49, United States Code, as amended by section
 13 107(a), is amended by adding at the end the following:

14 **“§ 41728. Availability of potable water on passenger**
 15 **aircraft**

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

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

1 (b) CLERICAL AMENDMENT.—The analysis for chap-
2 ter 417 of such title, as amended by section 107(b), is
3 amended by inserting after the item relating to section
4 41727 the following:

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

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

6 Not later than 180 days after the date of the enact-
7 ment of this Act, the Secretary shall prescribe regulations
8 requiring an air carrier to provide, not less frequently than
9 every 180 days, training on the rights of passengers to
10 employees and representatives of the air carrier that di-
11 rectly interact with passengers, including ticket agents,
12 gate agents, pilots, and flight attendants.

13 **SEC. 110. REPORT ON QUALITY AND SAFETY OF FOOD AND**
14 **WATER ON PASSENGER AIRCRAFT.**

15 Not later than 180 days after the date of the enact-
16 ment of this Act, the Administrator shall submit to the
17 appropriate committees of Congress a report assessing the
18 quality and safety of food and potable water on passenger
19 aircraft.

20 **SEC. 111. REPORT ON SUFFICIENCY OF AVAILABLE FLIGHT**
21 **CREWS AND AIRCRAFT.**

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

1 (1) whether air carriers ensure that sufficient
2 flight crews and aircraft are available for scheduled
3 flights; and

4 (2) the extent to which not having sufficient
5 flight crews and aircraft available affects arrival and
6 departure times.

7 **TITLE II—CONSUMER**
8 **PROTECTIONS**

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

12 (a) **IN GENERAL.**—Not later than 270 days after the
13 date of the enactment of this Act, the Secretary shall pre-
14 scribe regulations—

15 (1) prohibiting an air carrier from imposing
16 fees described in subsection (b) that are unreason-
17 able or disproportional to the costs incurred by the
18 air carrier; and

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

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

1 (1) any fee for a change or cancellation of a
2 reservation for a flight in passenger air transpor-
3 tation;

4 (2) any fee relating to checked baggage or
5 carry-on baggage to be transported on a flight in
6 passenger air transportation;

7 (3) any fee relating to the choice or assignment
8 of seats on a flight in passenger air transportation;
9 and

10 (4) any other fee imposed by an air carrier re-
11 lating to a flight in passenger air transportation.

12 (c) CONSIDERATIONS.—In establishing the standards
13 required under subsection (a)(2), the Secretary shall con-
14 sider—

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

18 (A) any net benefit or cost to the air car-
19 rier from the change or cancellation, taking into
20 consideration—

21 (i) the ability of the air carrier to an-
22 ticipate the expected average number of
23 cancellations and changes and make res-
24 ervations accordingly;

1 (ii) the ability of the air carrier to fill
2 a seat made available by a change or can-
3 cellation;

4 (iii) any difference in the fare likely to
5 be paid for a ticket sold to another pas-
6 senger for a seat made available by the
7 change or cancellation, as compared to the
8 fare that was paid by the passenger for the
9 seat for which the reservation was changed
10 or canceled; and

11 (iv) the likelihood that the passenger
12 changing or cancelling the reservation will,
13 as a result, fill a seat on another flight by
14 the same air carrier;

15 (B) the costs of processing the change or
16 cancellation electronically; and

17 (C) any related labor costs;

18 (2) with respect to a fee described in subsection
19 (b)(2) imposed by an air carrier relating to checked
20 baggage—

21 (A) the costs of processing checked bag-
22 gage electronically; and

23 (B) any related labor costs;

24 (3) with respect to a fee described in subsection
25 (b)(3) imposed by an air carrier relating to the

1 choice or assignment of seats on a flight in pas-
2 senger air transportation, ensuring that a passenger
3 traveling with children who are 13 years of age or
4 younger are able to be seated with those children at
5 no additional charge to the passenger traveling with
6 such children or to any other passenger traveling on
7 the flight involved; and

8 (4) any other considerations the Secretary con-
9 siders appropriate.

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

13 **SEC. 202. PROTECTIONS RELATING TO DISCLOSURE OF**
14 **FLIGHT INFORMATION.**

15 (a) PROHIBITION ON LIMITING ACCESS OF CON-
16 SUMER TO INFORMATION.—Not later than 180 days after
17 the date of the enactment of this Act, the Secretary shall
18 prescribe regulations prohibiting an air carrier from lim-
19 iting the access of consumers to information relating to
20 schedules, fares, fees, and taxes relating to flights in pas-
21 senger air transportation.

22 (b) PROHIBITION ON WITHHOLDING INFORMA-
23 TION.—Not later than 180 days after the date of the en-
24 actment of this Act, the Secretary shall prescribe regula-
25 tions prohibiting an air carrier, through a global distribu-

1 tion system or otherwise, from withholding flight, fare,
2 scheduling, availability, and other information published
3 by air carriers from consumers and online travel agents
4 and metasearch engines that provide flight search tools.

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

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

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

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

19 (3) air carriers, ticket agents, online travel
20 agents, and metasearch engines that provide flight
21 search tools to disclose all applicable taxes and any
22 ancillary fees charged by an air carrier with respect
23 to a fare that are applicable to the services identified
24 by the purchaser, at any point at which the fare is
25 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).

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

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

3 “(8) Interline agreements and protections.

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

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

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

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

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

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

19 “(d) CIVIL ACTION.—

20 “(1) IN GENERAL.—Any individual who pur-
21 chases a ticket for air transportation and is ag-
22 grieved by a violation by an air carrier of this sec-
23 tion or a regulation prescribed under this section
24 may, not later than 2 years after the date of the vio-

1 lation, bring a civil action in an appropriate district
 2 court of the United States.

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

5 “(A) the plaintiff may obtain equitable and
 6 legal relief, including compensatory and punit-
 7 tive damages; and

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

11 “(3) NO REQUIREMENT FOR EXHAUSTION OF
 12 REMEDIES.—An individual described in paragraph
 13 (1) is not required to exhaust administrative com-
 14 plaint procedures before filing a civil action under
 15 paragraph (1).

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

21 **SEC. 211. NO PREEMPTION OF CONSUMER PROTECTION**
 22 **CLAIMS.**

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

1 “(D) NO PREEMPTION OF CONSUMER PRO-
 2 TECTION CLAIMS.—Nothing in subparagraphs
 3 (A) through (C) may be construed—

4 “(i) to preempt, displace, or supplant
 5 any action for civil damages or injunctive
 6 relief based on a State consumer protection
 7 statute; or

8 “(ii) to restrict the authority of any
 9 government entity, including an attorney
 10 general of a State, from bringing a legal
 11 claim on behalf of the citizens of the
 12 State.”.

13 **SEC. 212. INVALIDATION OF PRE-DISPUTE ARBITRATION**
 14 **AND CLASS-ACTION WAIVER CLAUSES IN**
 15 **CERTAIN CONTRACTS RELATING TO PAS-**
 16 **SENGER AIR TRANSPORTATION.**

17 (a) **ARBITRATION.**—Notwithstanding any other pro-
 18 vision of law, arbitration may be used to settle a con-
 19 troversy arising from or relating to a provision of a con-
 20 tract described in subsection (c) only if, after the con-
 21 troversy arises, all parties to the controversy consent in
 22 writing to use arbitration to settle the controversy.

23 (b) **CLASS ACTIONS.**—Notwithstanding any other
 24 provision of law, an agreement waiving the right of a per-
 25 son to bring, or otherwise prohibiting a person from bring-

1 ing, a claim regarding a dispute relating to a provision
 2 of a contract described in subsection (c) as a class action
 3 that had not arisen before the date on which the agree-
 4 ment is executed shall not be enforceable and shall have
 5 no force or effect.

6 (c) CONTRACTS DESCRIBED.—A contract described
 7 in this subsection is a contract—

8 (1) for the purchase of a ticket for passenger
 9 air transportation;

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

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

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

17 (e) DEFINITIONS.—In this section:

18 (1) CREDIT PRODUCT.—

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

22 (i) under which the creditor reason-
 23 ably contemplates repeated transactions;

24 (ii) that prescribes the terms of such
 25 transactions; and

1 (iii) that provides for a finance charge
2 that may be computed from time to time
3 on the outstanding unpaid balance.

4 (B) INCLUSION.—A credit plan or open-
5 end consumer credit plan that is a credit prod-
6 uct within the meaning of subparagraph (A) is
7 a credit product even if credit information is
8 verified from time to time.

9 (2) PASSENGER AIR TRANSPORTATION.—The
10 term “passenger air transportation” means the
11 transportation of passengers and their property by
12 aircraft.

13 (3) REWARD PROGRAM.—The term “reward
14 program” means any reward program offered by an
15 air carrier, including a frequent flyer program,
16 under which a consumer earns mileage or other
17 credits from the air carrier that can be exchanged
18 for goods, services, or other benefits.

19 **SEC. 213. CONSUMER COMPLAINT PROCESS IMPROVE-**
20 **MENT.**

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

24 (1) by amending subsection (b) to read as fol-
25 lows:

1 “(b) INTERNET WEBSITE OR OTHER ONLINE SERV-
2 ICE NOTICE.—Each air carrier and foreign air carrier
3 shall include on a publicly available internet website, any
4 related mobile device application, and online service—

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

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

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

17 “(4) an active link to the internet website of the
18 Aviation Consumer Protection Division of the De-
19 partment of Transportation for a consumer to file a
20 complaint; and

21 “(5) the active link described in paragraph (2)
22 on the same internet website page as the active link
23 described in paragraph (4).”;

24 (2) by adding at the end the following new sub-
25 sections:

1 a law relating to the treatment of passengers in air trans-
2 portation.”.

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

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

9 Not later than 180 days after the date of the enact-
10 ment of this Act, and annually thereafter, the Secretary
11 shall submit to the appropriate committees of Congress
12 a report—

13 (1) listing all complaints received from pas-
14 sengers alleging violations of passenger protection
15 laws;

16 (2) identifying which of such complaints the
17 Secretary investigated; and

18 (3) if the Secretary chose not to pursue the im-
19 position of civil penalties with respect to such com-
20 plaints, a description of the reasoning of the Sec-
21 retary for doing so.

1 **SEC. 303. STUDY OF DISTRIBUTION OF CIVIL PENALTIES TO**
2 **CONSUMERS.**

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

6 (1) assessing the feasibility and advisability of
7 distributing a civil penalty imposed on an air carrier
8 for a violation of a law relating to the treatment of
9 passengers in air transportation to the passengers
10 affected by the violation; and

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

13 (b) CONSULTATIONS.—The Secretary shall consult
14 with consumer advocacy organizations and the Advisory
15 Committee for Aviation Consumer Protection in devel-
16 oping the report required by subsection (a).

17 **SEC. 304. PROHIBITION ON NEGOTIATION OF REDUCTIONS**
18 **IN CIVIL PENALTIES.**

19 Not later than 180 days after the date of the enact-
20 ment of this Act, the Secretary shall prescribe regulations
21 prohibiting an air carrier from negotiating with the Fed-
22 eral Aviation Administration for a reduction in a civil pen-
23 alty imposed for a violation of a law relating to the treat-
24 ment of passengers in air transportation.

1 **TITLE IV—COMPETITIVENESS**
2 **OF AIR CARRIERS**

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

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

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

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

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

18 (A) fares have changed;

19 (B) competition and consumer choice have
20 changed;

21 (C) fees imposed by air carriers, including
22 ancillary fees, have changed;

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

1 (E) operational performance has improved;
2 and
3 (F) investment in aircraft, amenities, and
4 workforce has changed.

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