

brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding \$1,000.

(4) REVIEW.—

(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

(6) ENFORCEMENT OF ORDER BY PARTIES.—

(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of an air carrier, contractor, or subcontractor who, acting without direction from such air carrier, contractor, or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to air carrier safety under this subtitle or any other law of the United States.

(e) CONTRACTOR DEFINED.—In this section, the term "contractor" means a company that per-

forms safety-sensitive functions by contract for an air carrier.

(Added Pub. L. 106-181, title V, §519(a), Apr. 5, 2000, 114 Stat. 145.)

EFFECTIVE DATE

Subchapter applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

CHAPTER 423—PASSENGER AIR SERVICE IMPROVEMENTS

Sec.
42301. Emergency contingency plans.
42302. Consumer complaints.
42303. Use of insecticides in passenger aircraft.

FAMILY SEATING

Pub. L. 114-190, title II, §2309, July 15, 2016, 130 Stat. 648, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [July 15, 2016], the Secretary of Transportation shall review and, if appropriate, establish a policy directing all air carriers providing scheduled passenger interstate or intrastate air transportation to establish policies that enable a child, who is age 13 or under on the date an applicable flight is scheduled to occur, to be seated in a seat adjacent to the seat of an accompanying family member over the age of 13, to the maximum extent practicable and at no additional cost, except when assignment to an adjacent seat would require an upgrade to another cabin class or a seat with extra legroom or seat pitch for which additional payment is normally required.

“(b) EFFECT ON AIRLINE BOARDING AND SEATING POLICIES.—When considering any new policy under this section, the Secretary shall consider the traditional seating and boarding policies of air carriers providing scheduled passenger interstate or intrastate air transportation and whether those policies generally allow families to sit together.

“(c) STATUTORY CONSTRUCTION.—Notwithstanding the requirement in subsection (a), nothing in this section may be construed to allow the Secretary to impose a significant change in the overall seating or boarding policy of an air carrier providing scheduled passenger interstate or intrastate air transportation that has an open or flexible seating policy in place that generally allows adjacent family seating as described in subsection (a).”

ESTABLISHMENT OF ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION

Pub. L. 112-95, title IV, §411, Feb. 14, 2012, 126 Stat. 88, as amended by Pub. L. 114-55, title I, §102(i), Sept. 30, 2015, 129 Stat. 523; Pub. L. 114-141, title I, §102(g), Mar. 30, 2016, 130 Stat. 323; Pub. L. 114-190, title I, §1102(j), July 15, 2016, 130 Stat. 618, provided that:

“(a) IN GENERAL.—The Secretary of Transportation shall establish an advisory committee for aviation consumer protection to advise the Secretary in carrying out activities relating to airline customer service improvements.

“(b) MEMBERSHIP.—The Secretary shall appoint the members of the advisory committee, which shall be comprised of one representative each of—

- “(1) air carriers;
- “(2) airport operators;
- “(3) State or local governments with expertise in consumer protection matters; and
- “(4) nonprofit public interest groups with expertise in consumer protection matters.

“(c) VACANCIES.—A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

“(d) TRAVEL EXPENSES.—Members of the advisory committee shall serve without pay but shall receive

travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

“(e) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b), an individual to serve as chairperson of the advisory committee.

“(f) DUTIES.—The duties of the advisory committee shall include—

“(1) evaluating existing aviation consumer protection programs and providing recommendations for the improvement of such programs, if needed; and

“(2) providing recommendations for establishing additional aviation consumer protection programs, if needed.

“(g) REPORT TO CONGRESS.—Not later than February 1 of each of the first 2 calendar years beginning after the date of enactment of this Act [Feb. 14, 2012], the Secretary shall transmit to Congress a report containing—

“(1) the recommendations made by the advisory committee during the preceding calendar year; and

“(2) an explanation of how the Secretary has implemented each recommendation and, for each recommendation not implemented, the Secretary’s reason for not implementing the recommendation.

“(h) TERMINATION.—The advisory committee established under this section shall terminate on September 30, 2017.”

DISCLOSURE OF SEAT DIMENSIONS TO FACILITATE THE USE OF CHILD SAFETY SEATS ON AIRCRAFT

Pub. L. 112–95, title IV, §412, Feb. 14, 2012, 126 Stat. 89, provided that: “Not later than 1 year after the date of enactment of this Act [Feb. 14, 2012], the Administrator of the Federal Aviation Administration shall initiate a rulemaking to require each air carrier operating under part 121 of title 14, Code of Federal Regulations, to post on the Internet Web site of the air carrier the maximum dimensions of a child safety seat that can be used on each aircraft operated by the air carrier to enable passengers to determine which child safety seats can be used on those aircraft.”

§ 42301. Emergency contingency plans

(a) SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.—Not later than 90 days after the date of enactment of this section, each of the following air carriers and airport operators shall submit to the Secretary of Transportation for review and approval an emergency contingency plan in accordance with the requirements of this section:

(1) An air carrier providing covered air transportation at a commercial airport.

(2) An operator of a commercial airport.

(3) An operator of an airport used by an air carrier described in paragraph (1) for diversions.

(b) AIR CARRIER PLANS.—

(1) PLANS FOR INDIVIDUAL AIRPORTS.—An air carrier shall submit an emergency contingency plan under subsection (a) for—

(A) each airport at which the carrier provides covered air transportation; and

(B) each airport at which the carrier has flights for which the carrier has primary responsibility for inventory control.

(2) CONTENTS.—An emergency contingency plan submitted by an air carrier for an airport under subsection (a) shall contain a description of how the carrier will—

(A) provide adequate food, potable water, restroom facilities, comfortable cabin tem-

peratures, and access to medical treatment for passengers onboard an aircraft at the airport when the departure of a flight is delayed or the disembarkation of passengers is delayed;

(B) share facilities and make gates available at the airport in an emergency; and

(C) allow passengers to deplane following an excessive tarmac delay in accordance with paragraph (3).

(3) DEPLANING FOLLOWING AN EXCESSIVE TARMAC DELAY.—For purposes of paragraph (2)(C), an emergency contingency plan submitted by an air carrier under subsection (a) shall incorporate the following requirements:

(A) A passenger shall have the option to deplane an aircraft and return to the airport terminal when there is an excessive tarmac delay.

(B) The option described in subparagraph (A) shall be offered to a passenger even if a flight in covered air transportation is diverted to a commercial airport other than the originally scheduled airport.

(C) In providing the option described in subparagraph (A), the air carrier shall begin to return the aircraft to a suitable disembarkation point—

(i) in the case of a flight in interstate air transportation, not later than 3 hours after the main aircraft door is closed in preparation for departure; and

(ii) in the case of a flight in foreign air transportation, not later than 4 hours after the main aircraft door is closed in preparation for departure.

(D) Notwithstanding the requirements described in subparagraphs (A), (B), and (C), a passenger shall not have an option to deplane an aircraft and return to the airport terminal in the case of an excessive tarmac delay if—

(i) an air traffic controller with authority over the aircraft advises the pilot in command that permitting a passenger to deplane would significantly disrupt airport operations; or

(ii) the pilot in command determines that permitting a passenger to deplane would jeopardize passenger safety or security.

(c) AIRPORT PLANS.—An emergency contingency plan submitted by an airport operator under subsection (a) shall contain a description of how the operator, to the maximum extent practicable, will—

(1) provide for the deplanement of passengers following excessive tarmac delays;

(2) provide for the sharing of facilities and make gates available at the airport in an emergency; and

(3) provide a sterile area following excessive tarmac delays for passengers who have not yet cleared United States Customs and Border Protection.

(d) UPDATES.—

(1) AIR CARRIERS.—An air carrier shall update each emergency contingency plan submitted by the carrier under subsection (a)