

103^D CONGRESS
1ST SESSION

S. 1053

To amend the Federal Aviation Act of 1958 to provide emergency relief to the United States airline industry by facilitating financing for investment in new aircraft and by encouraging the retirement of older, noisier, and less efficient aircraft, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 27 (legislative day, APRIL 19), 1993

Mr. FORD (for himself, Mrs. MURRAY, Mr. MATHEWS, Mr. STEVENS, Mr. KRUEGER, Mrs. FEINSTEIN, Mr. INOUE, and Mr. BRYAN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Federal Aviation Act of 1958 to provide emergency relief to the United States airline industry by facilitating financing for investment in new aircraft and by encouraging the retirement of older, noisier, and less efficient aircraft, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Aviation Revitalization
5 Act of 1993”.

1 **SEC. 2. DECLARATION OF POLICY.**

2 Congress finds and declares the following:

3 (1) The United States commercial airline indus-
4 try is currently suffering severe financial distress.

5 (2) Sustained record losses and excessive debt
6 burdens are causing air carriers to cancel new air-
7 craft options and orders which, in turn, is threaten-
8 ing the economic viability of the United States aero-
9 space manufacturing industry.

10 (3) Many air carriers are increasingly unable to
11 obtain financing at reasonable interest rates for pur-
12 chasing new equipment.

13 (4) The inability of many air carriers to acquire
14 new, quieter, more fuel efficient Stage 3 aircraft
15 may jeopardize the planned phaseout of noisier
16 Stage 2 aircraft.

17 (5) A Federal loan guarantee program should,
18 therefore, be established to support the financing of
19 new aircraft, or new aircraft components, in a way
20 that assures the phasing out of less fuel-efficient,
21 noisier, and older aircraft at the same time.

22 **SEC. 3. AUTHORIZATION TO GUARANTEE FINANCING OF**
23 **NEW AIRCRAFT.**

24 Title XI of the Federal Aviation Act of 1958 (49 App.
25 U.S.C. 1501 et seq.) is amended by adding at the end
26 the following new section:

1 **“SEC. 1119. FINANCING OF NEW AIRCRAFT.**

2 “(a) AUTHORIZATION OF LOAN GUARANTEE PRO-
3 GRAM.—The Secretary is authorized to guarantee loans
4 for the financing of new aircraft, or new aircraft compo-
5 nents, for use by air carriers that meet the terms and con-
6 ditions set forth in subsection (b) and that agree to pay
7 (directly if the carrier is the loan guarantee recipient, or
8 indirectly if another person is the loan guarantee recipi-
9 ent) subsidy fees assessed under subsection (e). Subject
10 to subsection (b), such guarantees may be made with re-
11 spect to—

12 “(1) loans to an air carrier that will use such
13 new aircraft or such new aircraft components; or

14 “(2) loans to a person purchasing such new air-
15 craft, or such new aircraft components, for lease to
16 and use by an air carrier.

17 “(b) TERMS AND CONDITIONS.—A loan guarantee
18 under this section shall be subject to the following terms
19 and conditions:

20 “(1) The loan guarantee must lead to the deliv-
21 ery of new aircraft, or new aircraft components, to
22 an air carrier certificated under part 121 of title 14,
23 Code of Federal Regulations, and such delivery shall
24 occur no later than December 31, 1999.

25 “(2) The loan guarantee must be made for the
26 purpose of financing the acquisition of new aircraft,

1 or new aircraft components, that comply with Stage
2 3 noise standards.

3 “(3) The loan guarantee shall only be available
4 for the purchase of new aircraft, or new aircraft
5 components, from companies that both—

6 “(A) publish independently audited finan-
7 cial disclosure information and financial results;
8 and

9 “(B) also are domiciled in countries that
10 comply with all major international agreements
11 governing aerospace trade, including but not
12 limited to the GATT Civil Aircraft Agreement,
13 the GATT Subsidies Code, the United States-
14 European Community bilateral aircraft agree-
15 ment, the OECD Large Aircraft Sector Under-
16 standing, and bilateral air services agreements
17 with the United States.

18 “(4) In the case of any air carrier taking deliv-
19 ery of a new aircraft financed under this section
20 which owns or operates either aging aircraft or
21 Stage 2 aircraft, such air carrier as borrower or les-
22 see must, except as provided in paragraph (5), agree
23 that, after April 1, 1993, it did remove from service,
24 or that no later than the 60th day after the aircraft
25 being financed is placed on the air carrier’s oper-

1 ations specifications under part 121 of title 14, Code
2 of Federal Regulations, or December 31, 1999,
3 whichever occurs first, it will remove from service—

4 “(A) sufficient aging aircraft or Stage 2
5 aircraft which, at maximum certified capacity,
6 equal or exceed, in the aggregate and pursuant
7 to rules promulgated by the Secretary, 200 per-
8 cent of the number of seats (or in the case of
9 all-cargo aircraft 200 percent of cargo capacity)
10 of the new aircraft being financed; or

11 “(B) all of its remaining aging aircraft and
12 Stage 2 aircraft,

13 whichever number of aircraft is less; except that in
14 the event the maximum capacity of such aircraft re-
15 moved from service exceeds the number of seats or
16 cargo capacity required under this section, such ex-
17 cess seat or cargo capacity may be carried forward
18 as a credit available to be added to the capacity of
19 other aircraft removed from service for the purpose
20 of complying with this section for subsequent loan
21 guarantees.

22 “(5) When an air carrier described in para-
23 graph (4) is taking delivery of only all-cargo aircraft,
24 the carrier may, in lieu of removing Stage 2 all-
25 cargo aircraft from service, modify on or after April

1 15, 1993, such Stage 2 aircraft in order to meet
2 Stage 3 noise standards on the same number of such
3 Stage 2 aircraft that otherwise would have had to be
4 removed from service within the contiguous States of
5 the United States under paragraph (4); except that
6 such modified aircraft must remain configured for
7 all-cargo service and shall not be converted to pas-
8 senger-cargo combination service.

9 “(6) Each aircraft removed from service by an
10 air carrier under paragraph (4) shall be taken off
11 the registry of certificated aircraft by the Secretary
12 and may not subsequently be registered in the
13 United States; except that—

14 “(A) the Secretary may continue to keep
15 an aircraft on the registry of certificated air-
16 craft if such aircraft—

17 “(i) is not based in any of the several
18 States of the United States and is engaged
19 in common carriage entirely outside the
20 several States; or

21 “(ii) is used solely outside the contig-
22 uous States of the United States; and

23 “(B) in a case where the aircraft removed
24 from service is owned by a person not affiliated
25 with such air carrier and was operated by such

1 air carrier under lease on or before April 1,
2 1993, the Secretary may continue to keep such
3 aircraft on the registry of certificated aircraft if
4 such owner brings such aircraft into compliance
5 with Stage 3 noise standards prior to its lease
6 or sale to another air carrier or lessor.

7 “(7) An air carrier which is to take delivery of
8 a new aircraft, or new aircraft components, financed
9 under this section must warrant that it did not after
10 August 1, 1993, and will not on and after the date
11 of enactment of this section, place in service any
12 aging aircraft or Stage 2 aircraft to its fleet.

13 “(8) An air carrier’s violation of the warranty
14 under paragraph (7) shall constitute a revocation of
15 all outstanding loan guarantees under this section
16 that were made for the purpose of financing delivery
17 of new aircraft, or new aircraft components, to such
18 air carrier.

19 “(9) The Secretary may not grant a waiver, to
20 any air carrier that takes delivery of a new aircraft,
21 or new aircraft components, financed by a loan
22 guarantee under this section, that would allow such
23 air carrier to operate Stage 2 aircraft beyond De-
24 cember 31, 1999, in interstate air transportation.

1 “(10) At least 75 percent of any new aircraft,
2 or new aircraft components, financed by a loan
3 guarantee under this section shall be manufactured
4 or produced in the United States.

5 “(c) REGULATIONS.—No later than 60 days after the
6 date of enactment of this section, the Secretary shall pro-
7 mulgate regulations implementing the loan guarantee pro-
8 gram authorized by this section.

9 “(d) FIDUCIARY DUTIES OF SECRETARY.—

10 “(1) IN GENERAL.—To implement this section,
11 the Secretary—

12 “(A) shall apply reasonable and prudent fi-
13 duciary standards in determining whether to
14 make any specific loan guarantee, and is au-
15 thorized to take such action as may be appro-
16 priate to enforce any right accruing to the
17 United States or any officer or agency thereof
18 as a result of making a loan guarantee under
19 this section;

20 “(B) shall make loan guarantees on rates,
21 terms, and conditions which, in the judgment of
22 the Secretary, offer reasonable assurance of re-
23 payment;

24 “(C) may require that loans guaranteed
25 under this section be secured by the new air-

1 craft or new aircraft components being fi-
2 nanced, to provide sufficient collateral; and

3 “(D) may not guarantee a loan amount
4 that is more than 85 percent of the manufac-
5 turer’s price to the air carrier of the new air-
6 craft, or new aircraft components, being fi-
7 nanced.

8 “(2) SECURITY INTEREST.—If the Secretary re-
9 quires collateral under paragraph (1)(C)—

10 “(A) such collateral, to the extent of the
11 guaranteed loan and associated fees, shall be
12 deemed to be subject to a purchase-money
13 equipment security interest in the new aircraft
14 or new aircraft components for purposes of sec-
15 tion 1110 of title 11, United States Code; and

16 “(B) the Secretary may also authorize a
17 security interest in such collateral, on an equal
18 and pro rata basis or as may be otherwise
19 agreed by the Secretary, for persons providing
20 loans that are not guaranteed under this sec-
21 tion but that finance any portion of the price of
22 such new aircraft or new aircraft components.

23 “(e) ASSESSMENT OF FEES.—

24 “(1) IN GENERAL.—A loan guarantee under
25 this section shall remain in effect only so long as the

1 loan guarantee recipient pays the subsidy fee as-
2 sessed under paragraph (2).

3 “(2) SUBSIDY FEE.—For each loan guarantee
4 under this section, the Secretary shall assess and
5 collect a subsidy fee from the loan guarantee recipi-
6 ent that is equal to the cost, as defined by section
7 502(5) of the Federal Credit Reform Act of 1990 (2
8 U.S.C. 661a(5)), of such guarantee.

9 “(f) ANNUAL REPORT.—The Secretary shall, not
10 later than March 1 of each year, submit to the Committee
11 on Commerce, Science, and Transportation of the Senate
12 and the Committee on Public Works and Transportation
13 of the House of Representatives a report that—

14 “(1) describes the progress of the loan guaran-
15 tee program authorized by this section;

16 “(2) identifies any problems with such pro-
17 grams; and

18 “(3) describes the loan guarantees made under
19 this section, including the identity of the air carriers
20 and other persons receiving loans to which such
21 guarantees apply.

22 “(g) DEFINITIONS.—As used in this section, the fol-
23 lowing definitions apply:

24 “(1) AGING AIRCRAFT.—The term ‘aging air-
25 craft’ means one or more airplanes that were placed

1 into service more than 22 years prior to the date of
2 enactment of this section.

3 “(2) NEW AIRCRAFT.—The term ‘new aircraft’
4 means one or more newly manufactured airplanes,
5 including associated spare parts and engines in-
6 cluded in the original purchase, that have not been
7 previously registered or placed into service.

8 “(3) NEW AIRCRAFT COMPONENTS.—The term
9 ‘new aircraft components’ means components or
10 parts (or both), of an aircraft, that can be financed
11 separately from the body or frame of the aircraft, in-
12 cluding jet engines, Administrator-approved Stage 3
13 hush kits for jet engines, and avionics systems.

14 “(4) REMOVE FROM SERVICE.—The term ‘re-
15 move from service’ means to—

16 “(A) eliminate, permanently and irrev-
17 ocably, aircraft from the fleet of an air carrier
18 on or after April 15, 1993;

19 “(B) transfer aircraft to another air car-
20 rier, after April 1, 1993, but before the date of
21 enactment of this section, for use in common
22 carriage entirely outside the several States of
23 the United States; or

1 “(C) remove aircraft permanently and en-
2 tirely from use in common carriage in the Unit-
3 ed States.

4 “(5) SECRETARY.—The term ‘Secretary’ means
5 the Secretary of Transportation.

6 “(6) STAGE 2 AIRCRAFT.—The term ‘Stage 2
7 aircraft’ means one or more airplanes as defined by
8 section 36.1(f)(4) of title 14, Code of Federal Regu-
9 lations, as in effect on the date of enactment of this
10 section.

11 “(7) STAGE 3 AIRCRAFT.—The term ‘Stage 3
12 aircraft’ means one or more airplanes as defined by
13 section 36.1(f)(6) of title 14, Code of Federal Regu-
14 lations, as in effect on the date of enactment of this
15 section.”.

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