

ADDRESSING THE NEEDS OF FAMILIES OF PASSENGERS
INVOLVED IN AIRCRAFT ACCIDENTS INVOLVING FOR-
EIGN AIR CARRIERS

OCTOBER 31, 1997.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2476]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2476) to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN FOREIGN AIR CARRIER ACCIDENTS.

(a) IN GENERAL.—Chapter 413 of title 49, United States Code, is amended by adding at the end the following:

“§ 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) AIRCRAFT ACCIDENT.—The term ‘aircraft accident’ means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and

“(2) PASSENGER.—The term ‘passenger’ includes an employee of a foreign air carrier or air carrier aboard an aircraft.

“(b) SUBMISSION OF PLANS.—A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the

needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

“(c) CONTENTS OF PLANS.—To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

“(1) TELEPHONE NUMBER.—A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

“(2) NOTIFICATION OF FAMILIES.—A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of—

“(A) the organization designated for the accident under section 1136(a)(2);

or

“(B) other suitably trained individuals.

“(3) NOTICE PROVIDED AS SOON AS POSSIBLE.—An assurance that the notice required by paragraph (2) shall be provided as soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all of the passengers have been verified.

“(4) LIST OF PASSENGERS.—An assurance that the foreign air carrier shall provide, immediately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to—

“(A) the director of family support services designated for the accident under section 1136(a)(1); and

“(B) the organization designated for the accident under section 1136(a)(2).

“(5) CONSULTATION REGARDING DISPOSITION OF REMAINS AND EFFECTS.—An assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

“(6) RETURN OF POSSESSIONS.—An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

“(7) UNCLAIMED POSSESSIONS RETAINED.—An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

“(8) MONUMENTS.—An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

“(9) EQUAL TREATMENT OF PASSENGERS.—An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

“(10) SERVICE AND ASSISTANCE TO FAMILIES OF PASSENGERS.—An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

“(11) COMPENSATION TO SERVICE ORGANIZATIONS.—An assurance that the foreign air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) for services and assistance provided by the organization.

“(12) TRAVEL AND CARE EXPENSES.—An assurance that the foreign air carrier will assist the family of any passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

“(13) RESOURCES FOR PLAN.—An assurance that the foreign air carrier will commit sufficient resources to carry out the plan.

“(14) SUBSTITUTE MEASURES.—If a foreign air carrier does not wish to comply with paragraphs (10), (11), or (12), a description of proposed adequate substitute measures for the requirements of each paragraph with which the foreign air carrier does not wish to comply.

“(d) PERMIT AND EXEMPTION REQUIREMENT.—The Secretary shall not approve an application for a permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

“(e) LIMITATION ON LIABILITY.—A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct.”

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following:

“41313. Plans to address needs of families of passengers involved in foreign air carrier accidents.”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day following the date of the enactment of this Act.

SUMMARY

Last year, after the ValuJet and TWA crashes, the Committee approved (H. Rept. 104–793), and, on September 18, 1996, the House passed 401 to 4, the Aviation Disaster Family Assistance Act (H.R. 3923). With only minor changes, this bill was enacted as Title VII of the Federal Aviation Reauthorization Act of 1996 (P.L. 104–264, 110 Stat. 3264).

In sum, this legislation, at 49 U.S.C. 1136 and 41113, requires the National Transportation Safety Board (NTSB) and individual airlines to take actions to address the needs of families of passengers involved in aircraft accidents in which there is a major loss of life. The law requires airlines to submit plans to DOT and NTSB on how it will address the needs of the families in the event of an aviation disaster involving one of its aircraft.

Since the passage of this law, there have been three more accidents—a United Express accident in Illinois, a Comair crash in Michigan, and a Korean Airlines crash in Guam.

With the help of the NTSB, the families of the two U.S. airline accidents were contacted to learn of their experiences under the new law. The limited response received so far indicates that the legislation is working well. For example, the parents of the Comair flight attendant wrote that “the NTSB, in our opinion, was extremely informative, kind and considerate in their dealings with our family. The Aviation Disaster Family Assistance Act that was signed into law in 1996 was instrumental in making sure that the family was informed.”

Also, the daughter of a victim of the United Express accident wrote that “if there is anything I can do to show my support of this law or how it has affected my life, I would be more than happy to do so. I feel that this Act should have been passed a long time ago in order for the family member to effectively cope with the tragedy. I personally thank you, the Congress, and the President for passing this Act before my father passed away in an aviation accident. Thank you from the bottom of my heart.”

However, one of the key features of this Act, the requirement to submit aviation disaster assistance plans, applies only to U.S. airlines. It does not apply to foreign airlines even if they fly to the United States.

The August 6, 1997 crash of Korean Airlines flight 801 in Guam, which resulted in the loss of 228 lives, has demonstrated that the

omission of foreign airlines from the coverage of this legislation was a significant shortcoming and resulted in problems for the families affected.

Both the Department of Transportation and the Family Assistance Task Force created by section 704 of the Federal Aviation Reauthorization Act of 1996 have recommended that this omission be corrected.

To correct this omission, on September 15, 1997, Congressmen Underwood, Duncan, and Lipinski introduced H.R. 2476. This bill would essentially impose the same family assistance requirements on foreign airlines that now apply to U.S. airlines. It would only apply with respect to aircraft accidents that occur within the United States.

The family assistance requirements that would apply include the filing of a plan for publicizing a toll-free telephone number, a process for notifying families, the provision of the passenger list to the NTSB, consultation with family members about the disposition of remains and personal effects, the return of passenger possessions and the handling of unclaimed possessions, and the provision of travel and care expenses to the families. The bill would take effect 6 months after enactment.

SECTION-BY-SECTION SUMMARY

Section 1 amends Chapter 413 of 49 U.S.C. by adding a new section 41313 that requires foreign air carriers providing foreign air transportation to file a plan to address the needs of the families of passengers involved in an accident involving an aircraft operated by that airline. The section sets forth the contents of the plan which are essentially the same as the plans that must be submitted by U.S. airlines. The section also provides foreign airlines with relief from liability for a good faith attempt to supply an accurate passenger list following an accident. The plans required by this section would have to be submitted within 6 months after enactment.

HEARINGS AND LEGISLATIVE HISTORY

The Subcommittee on Aviation held hearings on the issue of family assistance on June 19, 1996 and September 5, 1996. H.R. 2476 was introduced on September 15, 1997.

On October 23, 1997, the Subcommittee on Aviation reported the bill, by unanimous voice vote, to the Committee on Transportation and Infrastructure. On October 29, 1997, the Committee on Transportation and Infrastructure ordered the bill reported, with an amendment, by voice vote with a quorum present. There were no recorded votes taken during Committee consideration of H.R. 2476.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (2)(1)(4) of rule XI of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under Article I, Section 8 of the Constitution.

COSTS OF THE LEGISLATION

Clause 7 of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives, and section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2476.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2476 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, October 30, 1997.

Hon. BUD SHUSTER,
 Chairman, Committee on Transportation and Infrastructure,
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2476, a bill to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Clare Doherty (for federal costs), and Jean Wooster (for the impact on the private sector).

Sincerely,

JAMES L. BLUM
 (For June E. O'Neill, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2476—A bill to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers

CBO estimates that enacting H.R. 2476 would not have a significant impact on the federal budget. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 2476 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would not affect the budgets of state, local, or tribal governments. The bill would impose a private-sector mandate on foreign air carriers operating in the United States. CBO estimates, however, that the costs of complying with the mandate would not exceed the threshold established in UMRA.

Public Law 104-264 requires domestic air carriers to submit plans to the Secretary of Transportation and the National Transportation Safety Board (NTSB) providing for family support services in the event of a plane crash. H.R. 2476 would extend those same planning requirements to foreign air carriers operating in the United States. Carriers that do not submit a plan to the Secretary of Transportation could be denied permission to operate in this country.

CBO estimates that enacting this bill would result in no significant costs to the federal government because the Department of Transportation and the NTSB have already designated a trained staff to review the plans of domestic air carriers and the additional costs associated with reviewing the plans of foreign air carriers would be minimal.

H.R. 2476 would impose a federal private-sector mandate on foreign air carriers that use the United States as a point of embarkation, destination, or stopover. The bill would require those foreign carriers to submit and comply with a plan that addresses the

needs of the families of passengers involved in an aircraft accident within the United States resulting in a significant loss of life. Foreign air carriers would have to submit the plans to the Secretary of Transportation and the Chairman of the National Transportation Safety Board. The mandate would become effective six months after enactment of the bill.

CBO estimates that the net cost of complying with the mandate would be well below the annual threshold for private-sector mandates specified in UMRA (\$100 million, adjusted for inflation). According to the U.S. Department of Transportation, fewer than 200 foreign air carriers have permits to provide air service to the United States. Many large foreign air carriers, including those that are partners with U.S. air carriers, currently have plans in place that are consistent with the requirements outlined in H.R. 2476. Other foreign air carriers contract out for the necessary assistance in the event of an aircraft accident. Those foreign air carriers that do not have accident plans may use subscriber services or base their plans on model plans that are available. Netted against mandated costs would be savings that foreign air carriers might realize by a provision that would limit the liability of a foreign air carrier arising from its performance in preparing or providing a passenger list pursuant to the requirements of this bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Clare Doherty (for federal costs), and Jean Wooster (for the impact on the private sector). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE VII—AVIATION PROGRAMS

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PART A—AIR COMMERCE AND SAFETY

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SUBPART II—ECONOMIC REGULATION

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CHAPTER 413—FOREIGN AIR TRANSPORTATION

Sec.	
41301.	Requirement for a permit.
	* * * * *
41313.	<i>Plans to address needs of families of passengers involved in foreign air carrier accidents.</i>
	* * * * *

§41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

(a) *DEFINITIONS.*—*In this section, the following definitions apply:*

(1) *AIRCRAFT ACCIDENT.*—*The term “aircraft accident” means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and*

(2) *PASSENGER.*—*The term “passenger” includes an employee of a foreign air carrier or air carrier aboard an aircraft.*

(b) *SUBMISSION OF PLANS.*—*A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.*

(c) *CONTENTS OF PLANS.*—*To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:*

(1) *TELEPHONE NUMBER.*—*A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.*

(2) *NOTIFICATION OF FAMILIES.*—*A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of—*

(A) *the organization designated for the accident under section 1136(a)(2); or*

(B) *other suitably trained individuals.*

(3) *NOTICE PROVIDED AS SOON AS POSSIBLE.*—*An assurance that the notice required by paragraph (2) shall be provided as soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all of the passengers have been verified.*

(4) *LIST OF PASSENGERS.*—*An assurance that the foreign air carrier shall provide, immediately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to—*

(A) *the director of family support services designated for the accident under section 1136(a)(1); and*

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(5) *CONSULTATION REGARDING DISPOSITION OF REMAINS AND EFFECTS.*—An assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

(6) *RETURN OF POSSESSIONS.*—An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

(7) *UNCLAIMED POSSESSIONS RETAINED.*—An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

(8) *MONUMENTS.*—An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

(9) *EQUAL TREATMENT OF PASSENGERS.*—An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

(10) *SERVICE AND ASSISTANCE TO FAMILIES OF PASSENGERS.*—An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

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(d) *PERMIT AND EXEMPTION REQUIREMENT.*—The Secretary shall not approve an application for a permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

(e) *LIMITATION ON LIABILITY.*—A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the

foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct.

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