

115TH CONGRESS
2D SESSION

H. R. 5000

To amend title 49, United States Code, to allow certain persons to own and control an air carrier providing air transportation or intrastate air transportation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2018

Mr. BRAT introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 49, United States Code, to allow certain persons to own and control an air carrier providing air transportation or intrastate 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.**

4 This Act may be cited as the “Free to Fly Act”.

5 **SEC. 2. DEFINITIONS.**

6 Section 40102(a) of title 49, United States Code, is
7 amended—

1 (1) in paragraph (2) by striking “citizen of the
2 United States” and inserting “citizen of the United
3 States, or other person organized under the laws of
4 the United States or a State, the District of Colum-
5 bia, or a territory or possession of the United
6 States,”;

7 (2) in paragraph (15)(C)—

8 (A) by striking “of which the president
9 and at least two-thirds of the board of direc-
10 tors” and inserting “of which the president and
11 at least 51 percent of the board of directors”;
12 and

13 (B) by striking “at least 75 percent of the
14 voting interest” and inserting “at least 51 per-
15 cent of the voting interest”;

16 (3) in paragraph (21) by striking “not a citizen
17 of the United States” and inserting “who is not or-
18 ganized under the laws of the United States or a
19 State, the District of Columbia, or a territory or
20 possession of the United States”; and

21 (4) in paragraph (26) by striking “citizen of the
22 United States” and inserting “citizen of the United
23 States or other person organized under the laws of
24 the United States or a State, the District of Colum-

1 bia, or a territory or possession of the United
2 States”.

3 **SEC. 3. REQUIREMENT FOR CERTIFICATE.**

4 Section 41101(b) of title 49, United States Code, is
5 amended—

6 (1) by striking “citizen of the United States”
7 and inserting “citizen of the United States or other
8 person organized under the laws of the United
9 States or a State, the District of Columbia, or a ter-
10 ritory or possession of the United States”;

11 (2) in paragraph (1) by striking “citizen” and
12 inserting “citizen or other person”;

13 (3) by redesignating subsection (c) as sub-
14 section (d); and

15 (4) by inserting after subsection (b) the fol-
16 lowing:

17 “(c) **ADDITIONAL REQUIREMENTS FOR NON-CITI-**
18 **ZENS OPERATING CERTAIN ROUTES.**—In order for a per-
19 son who is not a citizen of the United States and who
20 is not a foreign air carrier to be issued and maintain a
21 certificate for air transportation or intrastate air transpor-
22 tation, all employees and managing officers, other than the
23 board of directors, must be citizens, nationals, or lawful
24 permanent residents of the United States, and the per-

1 son’s headquarters and base of operations must be located
2 in the United States.”.

3 **SEC. 4. ISSUANCE OF CERTIFICATES OF PUBLIC CONVEN-**
4 **IENCE.**

5 Section 41102 of title 49, United States Code, is
6 amended—

7 (1) by striking the subsection heading in sub-
8 section (a) and inserting “ISSUANCE TO A CITIZEN”;

9 (2) by redesignating subsections (b), (c), and
10 (d) as subsections (c), (d), and (e), respectively;

11 (3) by inserting after subsection (a) the fol-
12 lowing:

13 “(b) ISSUANCE TO OTHER PERSONS.—The Secretary
14 of Transportation may issue a certificate of public conven-
15 ience and necessity to a person organized under the laws
16 of the United States or a State, the District of Columbia,
17 or a territory or possession of the United States, of which
18 more than 49 percent of the board of directors are not
19 citizens of the United States, which is not under the actual
20 control of citizens of the United States, or in which more
21 than 49 percent of the voting interest is owned or con-
22 trolled by persons that are not citizens of the United
23 States, to provide any part of the following air transpor-
24 tation the person has applied for under section 41108 of
25 this title:

1 “(1) Air transportation as an air carrier.

2 “(2) Temporary air transportation as an air
3 carrier for a limited period.

4 “(3) Charter air transportation as a charter air
5 carrier.”;

6 (4) in subsection (c), as redesignated—

7 (A) by striking “under subsection (a)”
8 each place it appears and inserting “under sub-
9 section (a) or subsection (b)” in each such
10 place; and

11 (B) by striking “citizen” and inserting
12 “citizen or other person”; and

13 (5) by striking subsection (e), as redesignated,
14 and inserting the following:

15 “(e) PRESIDENTIAL REVIEW OF CERTAIN CERTIFI-
16 CATES.—The Secretary shall submit each decision to the
17 President under section 41307 of this title authorizing—

18 “(1) the provision of foreign air transportation;

19 or

20 “(2) the provision of interstate air transpor-
21 tation or intrastate air transportation by a person
22 who is not a citizen of the United States.”.

1 **SEC. 5. CIVIL RESERVE AIR FLEET ELIGIBILITY.**

2 Section 41106 of title 49, United States Code, is
3 amended by striking subsection (d) and inserting the fol-
4 lowing:

5 “(d) EXCEPTION.—The Secretary of Defense may
6 contract with an air carrier that does not meet all require-
7 ments if—

8 “(1) the Secretary decides that no air carrier
9 holding a certificate under section 41102 is capable
10 of providing, and willing to provide, the airlift serv-
11 ices; or

12 “(2) the Secretary decides to grant a waiver
13 under section 9518 of title 10, United States Code,
14 for a person who is not a citizen of the United
15 States and who is organized under the laws of the
16 United States that has a certificate of public conven-
17 ience and necessity, from the Civil Reserve Air Fleet
18 citizenship requirements for the purposes of eligi-
19 bility and participation.”.

20 **SEC. 6. APPLICATION FOR CERTIFICATE OF PUBLIC CON-**
21 **VENIENCE.**

22 Section 41108 of title 49, United States Code, is
23 amended—

24 (1) in subsection (a) by striking “citizen of the
25 United States” and inserting “citizen of the United
26 States or other person organized under the laws of

1 the United States or a State, the District of Colum-
2 bia, or a territory or possession of the United
3 States”;

4 (2) in subsections (b) and (c) by striking “cit-
5 izen” each place it appears and inserting “citizen or
6 other person”;

7 (3) in subsection (b)(3)(A) by striking “inter-
8 state air transportation” and inserting “interstate
9 air transportation provided by a citizen”; and

10 (4) in subsection (b)(3)(B) by striking “foreign
11 air transportation” and inserting “interstate air
12 transportation or intrastate air transportation by a
13 person who is not a citizen of the United States, or
14 foreign air transportation,”.

15 **SEC. 7. POTENTIAL REVOCATION OF CERTIFICATE.**

16 Section 41110(a)(2)(B) of title 49, United States
17 Code, is amended by striking “sections 41308–41310(a)”
18 and inserting “sections 41101(c), 41308–41310(a)”.

19 **SEC. 8. LIABILITY INSURANCE AND FINANCIAL RESPONSI-**
20 **BILITY.**

21 Section 41112(a) of title 49, United States Code, is
22 amended—

23 (1) by striking “citizen of the United States”
24 and inserting “citizen of the United States, or other
25 person organized under the laws of the United

1 States or a State, the District of Columbia, or a ter-
2 ritory or possession of the United States”; and

3 (2) by striking “citizen” the second place it ap-
4 pears and inserting “citizen or other person”.

5 **SEC. 9. PRESIDENTIAL REVIEW OF FOREIGN AIR CARRIERS**
6 **AND OTHER NON-CITIZENS.**

7 Section 41307 of title 49, United States Code, is
8 amended—

9 (1) by striking the section heading and insert-
10 ing “**Presidential review of actions about**
11 **foreign air transportation and air trans-**
12 **portation provided by non-citizens**”; and

13 (2) by striking “to provide foreign air transpor-
14 tation” and inserting “to provide foreign air trans-
15 portation, or for a person who is not a citizen of the
16 United States to provide air transportation or intra-
17 state air transportation”.

18 **SEC. 10. JOINT PRICING.**

19 Section 41503 of title 49, United States Code, is
20 amended by striking “citizen of the United States” and
21 inserting “a citizen of the United States or other person
22 organized under the laws of the United States or a State,
23 the District of Columbia, or a territory or possession of
24 the United States”.

1 **SEC. 11. NAVIGATION OF FOREIGN CIVIL AIRCRAFT.**

2 Section 41703(a) of title 49, United States Code, is
3 amended—

4 (1) in paragraph (4) by striking the period and
5 inserting “; or”; and

6 (2) by adding at the end the following:

7 “(5) if specifically authorized under sections
8 41102 and 41108, and if the airman holds a certifi-
9 cate issued or made valid by the Government.”.

10 **SEC. 12. WAIVERS FOR NON-CITIZEN AIR CARRIER PARTICI-
11 PATION IN THE CIVIL RESERVE AIR FLEET.**

12 (a) IN GENERAL.—Chapter 931 of title 10, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

15 **“§ 9518. Non-citizen air carriers: waiver authority**

16 “(a) WAIVER AUTHORITY.—In the case of any air
17 carrier described in subsection (b) or any aircraft owned
18 by an air carrier described in subsection (b), the Secretary
19 of Defense may waive any citizenship requirement under
20 this chapter. Any such waiver—

21 “(1) shall be for a period not to exceed two
22 years;

23 “(2) may be revoked at any time by the Sec-
24 retary; and

25 “(3) may be renewed for an additional two-year
26 period for an unlimited number of times.

1 “(b) AIR CARRIER DESCRIBED.—An air carrier de-
2 scribed in this section is an air carrier—

3 “(1) owned by a person who is not a citizen of
4 the United States and who is organized under the
5 laws of the United States or a State, territory, or
6 the District of Columbia; and

7 “(2) that holds a certificate of public conven-
8 ience and necessity under section 41102 of title
9 49.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of such chapter is amended by adding
12 at the end the following new item:

“9518. Non-citizen air carriers: waiver authority.”.

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