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

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2017

Mr. BLUMENTHAL (for himself and Mr. MARKEY) 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Airline Passengers’ Bill of Rights”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—PASSENGER PROTECTIONS

Sec. 101. Protections for passengers against being required to relinquish seats.
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. Aircraft cabin evacuation procedures.
Sec. 107. Protections relating to space for passengers on aircraft.
Sec. 108. Availability of lavatories on passenger aircraft.
Sec. 109. Availability of potable water on passenger aircraft.
Sec. 110. Training on rights of passengers.
Sec. 111. Internet dissemination of information on passenger rights.
Sec. 112. Report on quality and safety of food and water on passenger aircraft.
Sec. 113. 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 international air carrier alliances.
Sec. 402. Analysis of air carrier mergers.

1 SEC. 2. DEFINITIONS.

2 Except as otherwise specifically provided, in this Act:

3 (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Aviation Administration.
(2) ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION.—The term “Advisory Committee for Aviation Consumer Protection” means the advisory committee established under section 411 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 42301 note prec.).

(3) AIR CARRIER.—The term “air carrier” means an air carrier or foreign air carrier, as those terms are defined in section 40102 of title 49, United States Code.

(4) AIR TRANSPORTATION.—The term “air transportation” has the meaning given that term in section 40102 of title 49, United States Code.

(5) ANCILLARY FEE.—The term “ancillary fee”, with respect to a fee imposed by an air carrier, means any fee for an optional service, including any fee for a first or second checked bag or a carry-on bag, cancellation of an itinerary, changes in an itinerary, seat assignment, or advance boarding.

(6) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.
(7) Purchase.—The term “purchase”, with respect to a ticket for travel in air transportation, means the purchase of a ticket using cash or credit or using miles awarded through the frequent flyer program of an air carrier.

(8) Secretary.—The term “Secretary” means the Secretary of Transportation.

(9) Ticket Agent.—The term “ticket agent” has the meaning given that term in section 40102 of title 49, United States Code.

TITLE I—PASSENGER PROTECTIONS

SEC. 101. PROTECTIONS FOR PASSENGERS AGAINST BEING REQUIRED TO RELINQUISH SEATS.

(a) In General.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe regulations—

(1) allowing an air carrier to offer compensation to a passenger to incentivize the passenger to relinquish the passenger’s seat on a flight operated by the air carrier;

(2) prohibiting an air carrier from requiring a passenger to involuntarily relinquish the passenger’s seat, regardless of any compensation offered by the air carrier to the passenger;
(3) prohibiting an air carrier from imposing a cap on the amount of compensation the air carrier can provide to a passenger in exchange for the passenger relinquishing a seat; and

(4) requiring an air carrier to provide any compensation provided to a passenger in exchange for the passenger relinquishing a seat in the form of cash.

(b) EXCEPTIONS.—In prescribing the regulations required by subsection (a), the Secretary may provide for limited exceptions to the prohibition under paragraph (1) of that subsection for reasons necessitated by safety or security.

SEC. 102. MINIMUM COMPENSATION PROVIDED TO PASSENGERS INVOLUNTARILY DENIED BOARDING.

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall revise the regulations under part 250 of title 14, Code of Federal Regulations—

(1) to eliminate the dollar amount limitations under paragraphs (2) and (3) of subsections (a) and (b) of section 250.5 of such title on the amount of compensation that may be provided to a passenger
who is denied boarding involuntarily from an oversold flight; and

(2) to establish that an air carrier shall provide compensation to each such passenger of not less than $1,350 per flight.

(b) TERMINATION.—Part 250 of title 14, Code of Federal Regulations, shall terminate on the date on which the regulations required by section 101(a) take effect.

SEC. 103. DELAYS AND CANCELLATIONS.

(a) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe regulations requiring, if a passenger’s flight is delayed or cancelled for any reason within the control of the air carrier (including crew scheduling, routine maintenance, functioning of information technology systems, passenger service issues, issues related to baggage services, issues related to ground handling of aircraft, or other reasons as specified by the Secretary) and—

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

(A) to automatically refund to the passenger the amount the passenger paid for the ticket; and
(B) to find a seat for the passenger on another flight operated by the air carrier, on a flight operated by another air carrier, or on an alternative means of transportation, at no additional expense to the passenger, that results in the passenger arriving at the passenger’s destination not later than 4 hours after the original scheduled arrival time;

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

(A) to automatically refund to the passenger the amount the passenger paid for the ticket;

(B) to find a seat for the passenger on another flight operated by the air carrier, on a flight operated by another air carrier, or on an alternative means of transportation, at no additional expense to the passenger, at the earliest available opportunity, if the passenger so chooses;

(C) to provide compensation to the passenger of $1,350 cash; and
(D) to provide a passenger with an amount
equal to the cost of a meal; and

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

(b) CAUSES OF DELAYS OR CANCELLATIONS.—

(1) REVIEW.—

(A) IN GENERAL.—Not later than 180
days after the date of the enactment of this
Act, the Secretary shall review the categoriza-
tion of delays and cancellations with respect to
air carriers that are required to report data re-
lating to such categorizations.

(B) CONSIDERATIONS.—In conducting the
review required by subparagraph (A), the Sec-
retary shall consider, at a minimum—

(i) whether—

(I) delays and cancellations at-
tributed by an air carrier to weather
were unavoidable because of an oper-
alional or air traffic control issue, or
because of the air carrier’s preference
in determining which flights to delay
or cancel during a weather event; and
(II) any delays or cancellations described in subclause (I) or delays and cancellations attributed by an air carrier to force majeure events could be properly characterized as delays or cancellations because of circumstances within the control of the air carrier; and

(ii) whether it is an unfair or deceptive practice in violation of section 41712 of title 49, United States Code, for an air carrier to establish its own cut-off time for arrival at an airport gate and whether there should be a uniform definition across all air carriers;

(iii) whether and to what extent delays and cancellations attributed by an air carrier to weather disproportionately impact service to smaller airports and communities;

(iv) whether it is an unfair or deceptive practice in violation of section 41712 of title 49, United States Code, for an air carrier to inform a passenger that a flight is delayed or cancelled because of weather,
without any other context or explanation
for the delay or cancellation;

(v) whether and to what extent a Fed-
eral law or regulation could decrease the
frequency of delays and cancellations if
such law or regulation—

(I) requires an air carrier to
maintain a ready reserve of flight
equipment and flight staff at certain
airports; or

(II) imposes a fine if the Sec-
retary determines that a delay or can-
cellation is due to circumstances with-
in the control of the air carrier and is
not justified by safety or security con-
cerns; and

(vi) whether and to what extent agree-
ments among air carriers exist for the pur-
purpose of arranging alternative flights for
passengers of delayed or cancelled flights.

(C) ADVISORY COMMITTEE FOR AVIATION
CONSUMER PROTECTION.—The Secretary may
use the Advisory Committee for Aviation Con-
sumer Protection to assist in conducting the re-
view required by subparagraph (A) and pro-
viding recommendations under paragraph (2).

(2) REPORT.—Not later than 90 days after the
date on which the review required by paragraph (1)
is complete, the Secretary shall submit to the appro-
 priate committees of Congress a report on the review
under subsection (a), including any recommenda-
tions.

(e) SAVINGS PROVISION.—Nothing in this section
shall be construed as affecting the authority of an air car-
rier to maximize its system capacity during weather-re-
lated events to accommodate the greatest number of pas-
 sengers.

SEC. 104. UNFAIR AND DECEPTIVE ATTRIBUTION OF
DELAYS AND CANCELLATIONS TO FORCE
MAJEURE EVENTS.

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

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

SEC. 105. INTERLINE AGREEMENTS AND PROTECTIONS.

(a) REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Secretary shall prescribe regulations—

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

(2) to establish a complaint and remediation process through which parties may submit complaints and resolve disputes regarding the establishment and implementation of interline agreements.

(b) INTERLINE AGREEMENTS.—The regulations prescribed pursuant to subsection (a)(1) shall—

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

(2) require air carriers to explicitly notify passengers when they are eligible to be provided trans-
portation by another air carrier or a provider of another mode of transportation;

(3) after an eligible passenger is notified under paragraph (2), require air carriers to attempt to provide to the passenger transportation through another air carrier or a provider of another mode of transportation, upon the passenger’s request, if the air carrier has an interline agreement with the other air carrier or transportation provider;

(4) prohibit air carriers and other transportation providers from unduly or improperly influencing the decision of a partner, subsidiary, or vendor to enter into an interline agreement, the terms or conditions of such an agreement, or related practices;

(5) account for operational records, seat availability, and capacity; and

(6) promote competition and the public interest.

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

SEC. 106. AIRCRAFT CABIN EVACUATION PROCEDURES.

(a) REVIEW.—The Administrator shall review—
(1) evacuation certification of transport-category aircraft used in air transportation, with regard to—

(A) emergency conditions, including impacts into water;

(B) crew procedures used for evacuations under actual emergency conditions;

(C) any relevant changes to passenger demographics and legal requirements, including section 41705 of title 49, United States Code (commonly referred to as the “Air Carrier Access Act”), or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), that affect emergency evacuations; and

(D) any relevant changes to passenger seating configurations, including changes to seat width, padding, reclining, size, pitch, leg room, aisle width, or load factors; and

(2) recent accidents and incidents in which passengers evacuated such aircraft.

(b) CONSULTATION; REVIEW OF DATA.—In conducting the review under subsection (a), the Administrator shall—

(1) consult with the National Transportation Safety Board, transport-category aircraft manufac-
turers, air carriers, and other relevant experts and Federal agencies, including organizations represent- ing passengers, air carrier crew members, maintenance employees, and emergency responders; and

(2) review relevant data with respect to evacuation certification of transport-category aircraft.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Adminis-trator shall submit to the appropriate committees of Con-gress a report on the results of the review under sub-section (a) and related recommendations, if any, including recommendations for revisions to the assumptions and methods used for assessing evacuation certification of transport-category aircraft.

(d) TRANSPORT-CATEGORY AIRCRAFT DEFINED.—In this section, the term “transport-category aircraft” means an aircraft—

(1) with respect to which a type certificate is issued under part 21 of title 14, Code of Federal Regulations; and

(2) that meets the airworthiness standards under part 25 of that title.
SEC. 107. PROTECTIONS RELATING TO SPACE FOR PASSENGERS ON AIRCRAFT.

(a) Moratorium on Reductions to Aircraft Seat Size.—

(1) In general.—Not later than 30 days after the date of the enactment of this Act, the Administrator shall prohibit any air carrier from reducing the size, width, or pitch of seats on passenger aircraft operated by the air carrier, the amount of leg room per seat on such aircraft, or the width of aisles on such aircraft.

(2) Termination.—The prohibition under paragraph (1) shall terminate on the date on which the regulations required by subsection (a) take effect.

(b) Regulations Relating to Space for Passengers on Aircraft.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall prescribe regulations—

(1) establishing minimum standards for space for passengers on passenger aircraft, including the size, width, and pitch of seats, the amount of leg room, and the width of aisles on such aircraft for the safety and health of passengers; and

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

(c) CONSULTATIONS.—In prescribing the regulations required under subsection (a), the Administrator shall consult with the Occupational Safety and Health Administration, the Centers for Disease Control and Prevention, passenger advocacy organizations, physicians, and ergonomic engineers.

SEC. 108. AVAILABILITY OF LAVATORIES ON PASSENGER AIRCRAFT.

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

“§ 41725. Availability of lavatories on passenger aircraft

“(a) IN GENERAL.—Each air carrier and foreign air carrier shall ensure that each passenger aircraft operated by the air carrier or foreign air carrier maintains sufficient functional lavatories (as determined by the Secretary of Transportation) that—
“(1) are available for use, free of charge, any
time passengers are on board the aircraft; and
“(2) can accommodate individuals with disabil-
ities.
“(b) DISABILITY DEFINED.—In this section, the
term ‘disability’ has the meaning given that term in sec-
tion 3 of the Americans with Disabilities Act of 1990 (42
“(c) REGULATIONS.—Not later than 180 days after
the date of the enactment of the Airline Passengers’ Bill
of Rights, the Secretary of Transportation shall prescribe
such regulations as are necessary to carry out this sec-
tion.”.

(b) CLERICAL AMENDMENT.—The analysis for chap-
ter 417 of such title is amended by inserting after the
item relating to section 41724 the following:
“41725. Availability of lavatories on passenger aircraft.”.

SEC. 109. AVAILABILITY OF POTABLE WATER ON PAS-
SENGER AIRCRAFT.

(a) IN GENERAL.—Subchapter I of chapter 417 of
title 49, United States Code, as amended by section 108,
is further amended by adding at the end the following:
“§ 41726. Availability of potable water on passenger
aircraft
“(a) IN GENERAL.—Each air carrier and foreign air
carrier shall ensure that potable water is available, free
of charge, to passengers on board aircraft operated by the air carrier or foreign air carrier.

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

(b) CLERICAL AMENDMENT.—The analysis for chapter 417 of such title is amended by inserting after the item relating to section 41725, as added by section 108, the following:

“41726. Availability of potable water on passenger aircraft.”.

SEC. 110. TRAINING ON RIGHTS OF PASSENGERS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe regulations requiring an air carrier to provide, not less frequently than every 180 days, training on the rights of passengers to employees and representatives of the air carrier that directly interact with passengers, including ticket agents, gate agents, pilots, and flight attendants.

SEC. 111. INTERNET DISSEMINATION OF INFORMATION ON PASSENGER RIGHTS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—
(1) establish, and frequently update, a publicly available Internet website of the Department of Transportation that—

(A) is modern and easy-to-use;

(B) can be easily accessed using a mobile device; and

(C) provides information to passengers to help passengers in air transportation determine if their rights have been violated and identify the compensation and remedies to which they are entitled, including a link to the passenger rights complaint form developed under subsection (b)(1); and

(2) ensure that information described in paragraph (1)(C) is made available through social media accounts frequently used by the Department; and

(3) develop an application for mobile devices that provides such information and is available at no charge.

(b) PASSENGER RIGHTS COMPLAINT FORM.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

(1) develop a universal passenger rights complaint form for a passenger in air transportation to
use when contacting an air carrier with a complaint about the treatment of the passenger, which shall—

(A) provide information to the passenger to help the passenger identify whether the passenger’s rights have been violated and the compensation and other remedies to which the passenger may be entitled; and

(B) provide the passenger with an opportunity to consent to make the complaint publicly available on an Internet website of the Department of Transportation;

(2) require an air carrier to provide a passenger who files a form developed under paragraph (1) with—

(A) an initial response not later than 7 days after the passenger files the form; and

(B) a substantive response not later than 30 days after the passenger files the form; and

(3) establish a process within the Department of Transportation for appeals relating to forms filed with air carriers under paragraph (2).

SEC. 112. REPORT ON QUALITY AND SAFETY OF FOOD AND WATER ON PASSENGER AIRCRAFT.

Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to the
appropriate committees of Congress a report assessing the
quality and safety of food and potable water on passenger
aircraft.

SEC. 113. REPORT ON SUFFICIENCY OF AVAILABLE FLIGHT
CREWS AND AIRCRAFT.
Not later than 180 days after the date of the enact-
ment of this Act, the Administrator shall submit to the
appropriate committees of Congress a report assessing—
(1) whether air carriers ensure that sufficient
flight crews and aircraft are available for scheduled
flights; and
(2) the extent to which not having sufficient
flight crews and aircraft available affects arrival and
departure times.

TITLE II—CONSUMER
PROTECTIONS

SEC. 201. PROTECTIONS RELATING TO THE IMPOSITION OF
FEES THAT ARE NOT REASONABLE AND PRO-
PORTIONAL TO THE COSTS INCURRED.
(a) IN GENERAL.—Not later than 270 days after the
date of the enactment of this Act, the Secretary shall pre-
scribe regulations—
(1) prohibiting an air carrier from imposing
fees described in subsection (b) that are unreason-
able or disproportional to the costs incurred by the air carrier; and

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

(b) Fees Described.—The fees described in this subsection are—

(1) any fee for a change or cancellation of a reservation for a flight in air transportation;

(2) any fee relating to checked baggage or carry-on baggage to be transported on a flight;

(3) any fee relating to seat selection or reservations on a flight;

(4) any fee relating to changing between flights departing on the same day or flying standby on a flight; and

(5) any other fee imposed by an air carrier relating to a flight.

(c) Considerations.—In establishing the standards required under subsection (a)(2), the Secretary shall consider—

(1) with respect to a fee described in subsection (b)(1) imposed by an air carrier for a change or cancellation of a flight reservation—
(A) any net benefit or cost to the air car-
rier from the change or cancellation, taking into
consideration—

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

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

(iii) any difference in the fare likely to
be paid for a ticket sold to another pas-
senger for a seat made available by the
change or cancellation, as compared to the
fare paid by the passenger who changed or
canceled the passenger’s reservation; and

(iv) the likelihood that the passenger
changing or cancelling the passenger’s res-
ervation will fill a seat on another flight by
the same air carrier;

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

(C) any related labor costs;
(2) with respect to a fee described in subsection (b)(2) imposed by an air carrier relating to checked baggage—

(A) the costs of processing checked baggage electronically; and

(B) any related labor costs; and

(3) any other considerations the Secretary considers appropriate.

(d) **Updated Regulations.**—The Secretary shall update the standards required under subsection (a)(2) not less frequently than every 3 years.

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

(a) **Prohibition on Limiting Access of Consumer to Information.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe regulations prohibiting an air carrier from limiting the access of consumers to information relating to schedules, fares, fees, and taxes relating to flights in passenger air transportation.

(b) **Prohibition on Withholding Information.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe regulations prohibiting an air carrier, through a global distribution system or otherwise, from withholding flight, fare,
scheduling, availability, and other information published
by air carriers from consumers and online travel agents
and metasearch engines that provide flight search tools.

SEC. 203. TRANSPARENCY IN PRICING OF TICKETS IN AIR
TRANSPORTATION.

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

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

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

(3) air carriers, ticket agents, online travel
agents, and metasearch engines that provide flight
search tools to disclose all applicable taxes and any
ancillary fees charged by an air carrier with respect
to a fare that are applicable to the services identified
by the purchaser, at any point at which the fare is
shown in whole or in part; and
(4) air carriers, ticket agents, online travel agents, and metasearch engines that provide flight search tools, in any telephonic communication with a prospective consumer in the United States regarding the cost of air transportation, to inform the consumer of all applicable taxes and any ancillary fees charged by an air carrier in relation to the air transportation and associated services requested by the consumer, at any point at which the cost of the air transportation is disclosed in whole or in part.

SEC. 204. DISCLOSURE OF LOWEST FARES FOR AIR TRANSPORTATION.

(a) IN GENERAL.—Section 41712(c)(1) of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(C) the lowest available fare options for the flight and for each flight segment of the flight, if applicable.”.

(b) REGULATIONS.—The Secretary, in consultation with the Administrator, shall prescribe such regulations as may be necessary to carry out section 41712(c)(1)(C)
SEC. 205. FREQUENT FLYER PROGRAMS FAIRNESS AND TRANSPARENCY.

(a) IN GENERAL.—Section 41712(c) of title 49, United States Code, is amended by adding at the end the following:

“(3) FREQUENT FLYER PROGRAMS.—It shall be an unfair or deceptive practice under subsection (a) for any air carrier or foreign air carrier that offers a frequent flyer program—

“A(A) to materially change the terms or conditions of the frequent flyer program without providing reasonable notice to consumers; or

“A(B) to unfairly reduce or eliminate benefits earned by members of the frequent flyer program.”.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the Administrator, shall prescribe such regulations as may be necessary to carry out section 41712(c)(3) of title 49, United States Code, as added by subsection (a).
(2) CONSIDERATIONS.—In prescribing the regulations required under paragraph (1), the Secretary shall—

(A) take into consideration—

(i) the significance of the change to the frequent flyer program’s terms and conditions; and

(ii) the amount of time between the notification provided to a consumer and the date on which the change takes effect; and

(B) require each air carrier that offers a frequent flyer program to disclose, in a standardized format, when offering or enrolling consumers into the program, accurate information regarding the program’s rules, including—

(i) the rate at which credits are earned;

(ii) the minimum number of credits earned per flight;

(iii) the number of credits needed for each award;

(iv) any applicable deadlines for redeeming credits;
(v) any restrictions on the transferability of earned credit and awards;
(vi) other conditions and limitations of the program;
(vii) the percentage of successful redemptions; and
(viii) frequent flyer seats made available in the top origin and destination markets.

SEC. 206. REFUNDS FOR LOST, DAMAGED, DELAYED, OR PILFERED BAGGAGE.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe regulations requiring an air carrier—

(1) to promptly provide an automatic refund to a passenger in the amount of any ancillary fee charged by the air carrier for checked baggage if the passenger’s checked baggage arrives damaged; and

(2) to provide notification to a passenger who is impacted by lost, damaged, delayed, or pilfered baggage, through the passenger’s chosen method of communication, of the procedure by which the passenger shall obtain a refund and the amount of the refund.
(b) **INCLUSION IN CONTRACT OF CARRIAGE.**—An air carrier shall include the requirements under subsection (a) in the air carrier’s contract of carriage.

**SEC. 207. PASSENGER RIGHTS TRANSPARENCY.**

(a) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall prescribe regulations requiring air carriers to notify passengers of their rights and eligibility for refunds, compensation, and protections required by law, including by an air carrier’s contract of carriage, or otherwise available to passengers.

(b) **REQUIREMENTS.**—In prescribing the regulations under subsection (a), the Secretary shall require air carriers—

1. to promptly and expressly notify eligible passengers and the public of their eligibility for refunds, compensation, and protections not later than 30 minutes after the air carrier becomes aware that such passengers have become eligible for such refunds, compensation, and protections;

2. if such air carriers permit passengers and other interested persons to subscribe to flight status notification services—

   (A) to deliver refunds, compensation, and protection notifications to subscribers to such
services, by whatever means the air carrier offers that the subscriber chooses; and

(B) to incorporate commitments with respect to such services into their customer service plans;

(3) to continuously display information and eligibility requirements for refunds, compensation, and protections, including refunds, compensation, and protections relating to—

(A) denied boarding and delays and cancellations (including on international flights); and

(B) lost, damaged, or delayed luggage; and

(4) to prominently display passengers’ rights and contact information for the Department of Transportation’s consumer complaint system on boarding passes, computer-generated boarding passes, and ticketed itineraries, and at boarding gates and ticket counters.

SEC. 208. PRIVATE RIGHT OF ACTION AGAINST UNFAIR AND DECEPTIVE PRACTICES.

Section 41712 of title 49, United States Code, as amended by section 104, is further amended by adding at the end the following:

“(e) Private Right of Action.—
“(1) IN GENERAL.—Any individual who purchases a ticket for air transportation and is aggrieved by an action prohibited under this section may file a civil action for damages and injunctive relief in an appropriate district court of the United States or a State court located in the State in which—

“(A) the unlawful action is alleged to have been committed; or

“(B) the aggrieved individual resides.

“(2) ENFORCEMENT BY A STATE.—The attorney general of any State, as parens patriae, may bring a civil action to enforce the provisions of this section in—

“(A) any district court of the United States in that State; or

“(B) any State court that is located in that State and has jurisdiction over the defendant.”.

SEC. 209. FAIRNESS AND TRANSPARENCY IN CONTRACTS OF CARRIAGE.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall require an air carrier to prominently display on a publicly available Internet website of the air carrier, and provide to a consumer be-
fore the consumer purchases a ticket for air transportation, a standardized, easy-to-understand, and concise statement relating to the protections available for passengers that clearly and accurately summarizes the terms and conditions of the air carrier’s contract of carriage relating to such protections, including—

(1) policies relating to flight delays and cancellations;

(2) carry-on baggage allowances and space availability;

(3) checked baggage policies and compensation for lost, damaged, delayed, or pilfered bags;

(4) ticketing change and cancellation allowances;

(5) ancillary fees;

(6) family seating policies, including seating policies for children under the age of 2;

(7) eligibility requirements for refunds, compensation, and other protections;

(8) interline agreements and protections; and

(9) such other terms and conditions as the Secretary considers appropriate.
SEC. 210. PRIVATE RIGHT OF ACTION FOR DISCRIMINATION CLAIMS AGAINST AIR CARRIERS.

Section 41705 of title 49, United States Code, is amended—

“(d) CIVIL ACTION.—

“(1) IN GENERAL.—Any individual who purchases a ticket for air transportation and is aggrieved by a violation by an air carrier of this section or a regulation prescribed under this section may, not later than 2 years after the date of the violation, bring a civil action in an appropriate district court of the United States.

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

“(A) the plaintiff may obtain equitable and legal relief, including compensatory and punitive damages; and

“(B) the court shall award reasonable attorney’s fees, reasonable expert fees, and the costs of the action to the plaintiff.

“(3) NO REQUIREMENT FOR EXHAUSTION OF REMEDIES.—An individual described in paragraph (1) is not required to exhaust administrative complaint procedures before filing a civil action under paragraph (1).
“(4) Rule of construction.—Nothing in this subsection shall be construed to invalidate or limit other Federal or State laws affording to people with disabilities greater legal rights or protections than those granted in this section.”.

SEC. 211. NO PREEMPTION OF CONSUMER PROTECTION CLAIMS.

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

“(D) No preemption of consumer protection claims.—Nothing in subparagraphs (A) through (C) may be construed—

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

“(ii) to restrict the authority of any government entity, including an attorney general of a State, from bringing a legal claim on behalf of the citizens of the State.”.
SEC. 212. INVALIDATION OF PRE-DISPUTE ARBITRATION AND CLASS-ACTION WAIVER CLAUSES IN CERTAIN CONTRACTS RELATING TO PASSENGER AIR TRANSPORTATION.

(a) Arbitration.—Notwithstanding any other provision of law, arbitration may be used to settle a controversy arising from or relating to a provision of a contract described in subsection (c) only if, after the controversy arises, all parties to the controversy consent in writing to use arbitration to settle the controversy.

(b) Class Actions.—Notwithstanding any other provision of law, an agreement waiving the right of a person to bring, or otherwise prohibiting a person from bringing, a claim regarding a dispute relating to a provision of a contract described in subsection (c) as a class action that had not arisen before the date on which the agreement is executed shall not be enforceable and shall have no force or effect.

(c) Contracts Described.—A contract described in this subsection is a contract—

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

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

(3) setting forth the terms under which an air carrier will provide a credit product.
(d) Applicability.—Subsections (a) and (b) shall apply with respect to contracts entered into or renewed on or after the date of the enactment of this Act.

(e) Definitions.—In this section:

(1) Credit product.—

(A) In general.—The term “credit product” means a plan offered by, or in partnership with, an air carrier—

(i) under which the creditor reasonably contemplates repeated transactions;

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

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

(B) Inclusion.—A credit plan or open-end consumer credit plan that is a credit product within the meaning of subparagraph (A) is a credit product even if credit information is verified from time to time.

(2) Passenger air transportation.—The term “passenger air transportation” means the transportation of passengers and their property by aircraft.
(3) REWARD PROGRAM.—The term “reward program” means any reward program offered by an air carrier, including a frequent flyer program, under which a consumer earns mileage or other credits from the air carrier that can be exchanged for goods, services, or other benefits.

SEC. 213. CONSUMER COMPLAINT PROCESS IMPROVEMENT.

(a) IN GENERAL.—Section 42302 of title 49, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following:

“(b) POINT OF SALE.—Each air carrier, foreign air carrier, and ticket agent shall inform each consumer of a carrier service, at the point of sale, that the consumer can file a complaint about that service with the carrier and with the Aviation Consumer Protection Division of the Department of Transportation.”;

(3) by amending subsection (c), as redesignated, to read as follows:

“(c) INTERNET WEBSITE OR OTHER ONLINE SERVICE NOTICE.—Each air carrier and foreign air carrier
shall include on a publicly available Internet website, any related mobile device application, and online service—

“(1) the hotline telephone number established under subsection (a) or the telephone number for the Aviation Consumer Protection Division of the Department of Transportation;

“(2) an active link and the email address, telephone number, and mailing address of the air carrier or foreign air carrier, as applicable, for a consumer to submit a complaint to the carrier about the quality of service;

“(3) notice that the consumer can file a complaint with the Aviation Consumer Protection Division of the Department of Transportation;

“(4) an active link to the Internet website of the Aviation Consumer Protection Division of the Department of Transportation for a consumer to file a complaint; and

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

(4) in subsection (d), as redesignated—

(A) in the matter preceding paragraph (1), by striking “An air carrier or foreign air carrier providing scheduled air transportation using
any aircraft that as originally designed has a passenger capacity of 30 or more passenger seats” and inserting “Each air carrier and foreign air carrier”; (B) in paragraph (1), by striking “air carrier” and inserting “carrier”; and (C) in paragraph (2), by striking “air carrier” and inserting “carrier”; and (5) by adding after subsection (d), as redesignated, the following: “(e) REPORTING REQUIREMENT.—Upon receipt of any complaint, an air carrier shall send the content of the complaint to the Aviation Consumer Protection Division of the Department of Transportation.”. (b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe regulations to implement the requirements of section 42302 of title 49, United States Code, as amended by subsection (a).

SEC. 214. REPORT BY ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION.

Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Advisory Committee for Aviation Consumer Protection shall submit to the appropriate committees of Congress a report mak-
ing recommendations for improving consumer protections for passengers in air transportation.

**TITLE III—PENALTIES FOR AIR CARRIERS**

**SEC. 301. INCREASE IN CIVIL PENALTY FOR VIOLATIONS OF PASSENGER PROTECTION LAWS.**

(a) In General.—Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

“(7) Violations of Passenger Protection Laws.—The maximum civil penalty specified under paragraph (1) shall not apply with respect to a violation of a law relating to the treatment of passengers in air transportation.”.

(b) Regulations.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall specify in regulations the provisions of law to which paragraph (7) of section 46301(a) of title 49, United States Code, as added by subsection (a), applies.

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

Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the appropriate committees of Congress a report—
(1) listing all complaints received from passengers alleging violations of passenger protection laws;

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

(3) if the Secretary chose not to pursue the imposition of civil penalties with respect to such complaints, a description of the reasoning of the Secretary for doing so.

SEC. 303. STUDY OF DISTRIBUTION OF CIVIL PENALTIES TO CONSUMERS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report—

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

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

(b) CONSULTATIONS.—The Secretary shall consult with consumer advocacy organizations and the Advisory Committee for Aviation Consumer Protection in developing the report required by subsection (a).
SEC. 304. PROHIBITION ON NEGOTIATION OF REDUCTIONS IN CIVIL PENALTIES.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe regulations prohibiting an air carrier from negotiating with the Federal Aviation Administration for a reduction in a civil penalty imposed for a violation of a law relating to the treatment of passengers in air transportation.

TITLE IV—COMPETITIVENESS OF AIR CARRIERS

SEC. 401. ANALYSIS OF INTERNATIONAL AIR CARRIER ALLIANCES.

(a) In General.—The Comptroller General of the United States shall conduct an analysis of certain cooperative agreements between United States air carriers and foreign air carriers (in this section referred to as “alliances”) that—

(1) have been created pursuant to section 41309 of title 49, United States Code; and

(2) have been exempted from antitrust laws (as defined in the first section of the Clayton Act (15 U.S.C. 12)) pursuant to section 41308 of title 49, United States Code.

(b) Scope.—The analysis conducted under subsection (a) shall assess—
(1) the consequences of alliances, including reduced competition, stifling new entrants into markets, increasing prices in markets, and other adverse consequences;

(2) the representations made by air carriers to the Secretary for the necessity of an antitrust exemption;

(3) the Department of Transportation’s expectations of public benefits resulting from alliances, including whether such expected benefits were actually achieved;

(4) the adequacy of the Department of Transportation’s efforts in the approval and monitoring of alliances, including whether the Department possesses relevant experience and expertise in the fields of antitrust and consumer protection;

(5) whether there has been sufficient transparency in the approval of alliances, including opportunities for public review and comment;

(6) the role of the Department of Justice in the oversight of alliances;

(7) whether there are alternatives to antitrust immunity that could be conferred that would also produce public benefits;
whether alliances should be required to expire;

(9) the level of competition between air carriers who are members of the same alliance;

(10) the level of competition between alliances;

(11) whether the Department of Transportation should amend, modify, or revoke any exemption from the antitrust laws granted by the Secretary in connection with an alliance; and

(12) the effect of alliances on the number and quality of jobs for flight crew employees of United States air carriers, including the share of alliance flying done by such employees.

(e) RECOMMENDATIONS.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress the results of the analysis conducted under subsection (a), which shall include recommendations on the reforms needed to improve competition and enhance choices for consumers, including—

(1) whether oversight of alliances should be exercised by the Department of Justice rather than by the Department of Transportation; and

(2) whether antitrust immunity for alliances should expire.
SEC. 402. ANALYSIS OF AIR CARRIER MERGERS.

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

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

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

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

(A) fares have changed;

(B) competition and consumer choice have changed;

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

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

(E) operational performance has improved; and
investment in aircraft, amenities, and workforce has changed.