

119TH CONGRESS
2D SESSION

S. _____

To amend title 49, United States Code, to provide for certain remedies for air transportation passengers with disabilities who are discriminated against, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. BALDWIN (for herself, Ms. DUCKWORTH, Mr. SANDERS, Mr. WYDEN, Mr. WELCH, and Ms. HASSAN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 49, United States Code, to provide for certain remedies for air transportation passengers with disabilities who are discriminated against, 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 “Air Carrier Access
5 Amendments Act”.

6 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) In 1986, President Ronald Reagan signed
2 the Air Carrier Access Act of 1986 (Public Law 99–
3 435; 100 Stat. 1080), adding a provision now codi-
4 fied in section 41705 of title 49, United States Code
5 (in this section referred to as the “ACAA”), prohib-
6 iting disability-based discrimination in air transpor-
7 tation.

8 (2) Despite the effort, individuals, including
9 veterans, with disabilities continue to experience sig-
10 nificant barriers to and with traveling by air, such
11 as—

12 (A) damaged assistive devices and physical
13 harm;

14 (B) inaccessible aircraft and communica-
15 tions;

16 (C) inadequate assistance;

17 (D) inappropriate treatment of service ani-
18 mals; and

19 (E) a lack of suitable seating accommoda-
20 tions.

21 (b) SENSE OF CONGRESS.—It is the sense of Con-
22 gress that—

23 (1) access for individuals with disabilities in air
24 transportation must move into the 21st century, or
25 individuals with disabilities will be left behind and

1 unable to compete in today’s job market or enjoy the
2 opportunities available to other citizens of the
3 United States;

4 (2) the ACAA must be updated to improve ac-
5 cess to air transportation for individuals with dis-
6 abilities;

7 (3) legislation is necessary to ensure that indi-
8 viduals with disabilities have adequate remedies
9 available when air carriers and foreign air carriers
10 violate the ACAA; and

11 (4) unlike other civil rights statutes, the ACAA
12 does not contain a private right of action, which is
13 critical to the enforcement of such statutes, and
14 Congress must correct this anomaly.

15 **SEC. 3. DISCRIMINATION AGAINST INDIVIDUALS WITH DIS-**
16 **ABILITIES.**

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

19 (1) in subsection (c)—

20 (A) in paragraph (1)—

21 (i) in subparagraph (A) by striking
22 “and” at the end;

23 (ii) in subparagraph (B)(iii) by strik-
24 ing the period and inserting “; and”; and

1 (iii) by adding at the end the fol-
2 lowing:

3 “(C) assess a civil penalty under section
4 46301 for, at a minimum, each of the following
5 violations:

6 “(i) Delay of, loss of, or significant
7 damage to a wheelchair or scooter.

8 “(ii) Physical harm to or fatal injury
9 of a passenger in the provision of a service
10 related to the requirements of this section.

11 “(iii) Failure to provide proper assist-
12 ance in boarding or deplaning a passenger
13 with disabilities in a case in which aisle
14 chair assistance is required.

15 “(iv) Denial of boarding for a pas-
16 senger with disabilities or denial of access
17 for a service animal in a manner not in
18 compliance with requirements enforced by
19 the Department of Transportation, the
20 Federal Aviation Administration, or appli-
21 cable foreign aviation authorities.

22 “(v) An act of gross negligence with
23 respect to a passenger with disabilities in
24 air transportation.”;

1 (B) by redesignating paragraphs (2)
2 through (4) as paragraphs (3) through (5), re-
3 spectively; and

4 (C) by inserting after paragraph (1) the
5 following:

6 “(2) REFERRAL.—If the Secretary has reason-
7 able cause to believe that any air carrier or foreign
8 air carrier or group of air carriers or foreign air car-
9 riers is engaged in a pattern or practice of discrimi-
10 nation under this section, or any person or group of
11 persons has been discriminated against under this
12 section and such discrimination raises an issue of
13 general public importance, the Secretary shall, after
14 the assessment of the civil penalty under section
15 46301, refer the matter to the Attorney General for
16 further action.”; and

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

18 “(d) CIVIL ACTION.—

19 “(1) AGGRIEVED PERSONS.—

20 “(A) IN GENERAL.—Any person aggrieved
21 by an air carrier or foreign air carrier’s viola-
22 tion of this section or a regulation prescribed
23 under this section may, during the 2-year pe-
24 riod beginning on the date of the violation,
25 bring a civil action against such air carrier or

1 foreign carrier in an appropriate district court
2 of the United States for appropriate relief, in-
3 cluding compensatory and punitive damages.

4 “(B) COSTS AND FEES.—A court shall
5 award reasonable attorney’s fees, reasonable ex-
6 pert fees, and court costs to the prevailing
7 party in any action brought under subpara-
8 graph (A).

9 “(C) EXHAUSTION OF ADMINISTRATIVE
10 REMEDIES.—Any person aggrieved by an air
11 carrier or foreign air carrier’s violation of this
12 section or a regulation prescribed under this
13 section shall not be required to exhaust admin-
14 istrative remedies before bringing a civil action
15 under subparagraph (A).

16 “(D) RULE OF CONSTRUCTION.—Nothing
17 in this paragraph shall be construed to preempt
18 other Federal or State laws affording to individ-
19 uals with disabilities greater legal rights or pro-
20 tections than those granted under this section.

21 “(2) ENFORCEMENT BY ATTORNEY GEN-
22 ERAL.—

23 “(A) IN GENERAL.—The Attorney General
24 may bring a civil action on behalf of individuals
25 aggrieved by an air carrier or foreign air car-

1 rier’s violation of this section or a regulation
2 prescribed under this section against such air
3 carrier or foreign air carrier in any appropriate
4 district court of the United States.

5 “(B) AUTHORITY OF COURT.—In a civil
6 action under subparagraph (A), the court
7 may—

8 “(i) grant any equitable relief that the
9 court considers to be appropriate;

10 “(ii) when requested by the Attorney
11 General, award such other relief as the
12 court considers to be appropriate, includ-
13 ing damages to individuals described in
14 subparagraph (A); and

15 “(iii) assess a civil penalty against the
16 air carrier or foreign air carrier.”.