

Union Calendar No. 521

116TH CONGRESS
2^D SESSION

H. R. 3632

[Report No. 116–636]

To ensure that authorizations issued by the Secretary of Transportation to foreign air carriers do not undermine labor rights or standards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2019

Mr. DEFAZIO (for himself, Mr. LARSEN of Washington, Mr. RODNEY DAVIS of Illinois, Mr. FERGUSON, and Ms. DAVIDS of Kansas) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

DECEMBER 9, 2020

Additional sponsors: Mr. FITZPATRICK, Mr. LEWIS, Mr. AGUILAR, Mr. PAPPAS, Mr. VISCLOSKY, Mr. JOHNSON of Ohio, Ms. SCHAKOWSKY, Mrs. WATSON COLEMAN, Mrs. NAPOLITANO, Mr. RYAN, Mr. HUFFMAN, Mr. RUSH, Ms. NORTON, Mr. BACON, Mr. LEVIN of California, Mr. SIRES, Mrs. BEATTY, Mr. COOK, Ms. KUSTER of New Hampshire, Mr. LYNCH, Ms. MCCOLLUM, Mr. SHERMAN, Mr. CARTWRIGHT, Mr. GARAMENDI, Mr. HIGGINS of New York, Ms. DELAURO, Mr. BRADY, Mr. COHEN, Mr. PETERS, Mr. LIPINSKI, Ms. BROWNLEY of California, Mr. BROOKS of Alabama, Mr. DESAULNIER, Mr. POCAN, Mr. CARBAJAL, Mr. PALLONE, Ms. DEGETTE, Mr. CURTIS, Ms. JUDY CHU of California, Mr. BROWN of Maryland, Mr. RUPPERSBERGER, Mr. PAYNE, Mr. CARSON of Indiana, Mr. KINZINGER, Mr. PASCRELL, Mr. BOST, Mr. NORCROSS, Mr. ALLRED, Ms. KAPTUR, Mr. RESCENTIALER, Mr. GONZALEZ of Texas, Ms. SPANBERGER, Ms. FINKENAUER, Mr. DAVID SCOTT of Georgia, Mr. VELA, Mr. JOHNSON of Georgia, Mrs. FLETCHER, Mr. KATKO, Ms. CRAIG, Mr. GARCÍA of Illinois, Mr. ROSE of New York, Mr. ESPAILLAT, Ms. JACKSON LEE, Mr. ZELDIN, Mr. LUJÁN, Miss RICE of New York, Mr. WELCH, Mr. KILDEE, Mr. GALLEGO, Ms. PORTER, Ms. GARCIA of Texas, Ms. JAYAPAL, Mr. BERGMAN, Mr. GOMEZ, Mr. SUOZZI, Ms. VELÁZQUEZ, Mr. KENNEDY, Mrs. AXNE, Mrs. TORRES of California, Mr. CÁRDENAS, Mr. TURNER, Mr. SCHRADER, Mr. GREEN of Texas, Mr.

McKINLEY, Mr. RUIZ, Mrs. TRAHAN, Mr. CRENSHAW, Mr. KIND, Mr. SMITH of Washington, Mrs. DAVIS of California, Ms. SÁNCHEZ, Mr. KHANNA, Mr. KIM, Mrs. KIRKPATRICK, Mr. COSTA, Mr. HASTINGS, Mr. SEAN PATRICK MALONEY of New York, Mr. CONNOLLY, Mr. VARGAS, Ms. SLOTKIN, Mr. SWALWELL of California, Ms. BONAMICI, Mr. LOEBSACK, Mr. SCOTT of Virginia, Mr. TAKANO, Mr. KILMER, Mr. ENGEL, Mr. NEAL, Mr. FLORES, Mr. EMMER, Mr. GRIJALVA, Mr. RASKIN, Mr. HECK, Mr. MCGOVERN, Ms. ADAMS, Mr. COURTNEY, Mrs. HARTZLER, Mr. HOLLINGSWORTH, Mr. MOULTON, Ms. WEXTON, Mr. BURGESS, Mr. BISHOP of Georgia, Mr. FOSTER, Mr. FORTENBERRY, Mr. GOTTHEIMER, Mr. KELLY of Mississippi, Mr. SMITH of New Jersey, Mr. CICILLINE, Mr. VEASEY, Mr. KEVIN HERN of Oklahoma, Mr. MOOLENAAR, Ms. DELBENE, Mr. OLSON, Mr. MARSHALL, Mr. JOYCE of Ohio, Mr. NORMAN, Mr. GOODEN, Mr. STEWART, Mrs. RODGERS of Washington, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. CHABOT, Mr. STAUBER, Mr. BERA, Mr. GOSAR, Mr. LEVIN of Michigan, Mr. WATKINS, Mr. TED LIEU of California, Ms. OMAR, Ms. BLUNT ROCHESTER, Ms. SCHRIER, Mr. GIBBS, Mr. JEFFRIES, and Mr. HARDER of California

DECEMBER 9, 2020

Deleted sponsor: Mr. COHEN (added August 6, 2019; deleted September 18, 2019)

DECEMBER 9, 2020

Reported from the Committee on Transportation and Infrastructure; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To ensure that authorizations issued by the Secretary of Transportation to foreign air carriers do not undermine labor rights or standards, 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 “Fair and Open Skies
5 Act”.

6 **SEC. 2. FOREIGN AIR TRANSPORTATION UNDER UNITED**
7 **STATES-EUROPEAN UNION AIR TRANSPORT**
8 **AGREEMENT.**

9 The Secretary of Transportation may not issue a per-
10 mit under section 41302 of title 49, United States Code,
11 or an exemption under section 40109 of such title, author-
12 izing a person to provide foreign air transportation as a
13 foreign air carrier under the United States-European
14 Union Air Transport Agreement of April 2007 (as amend-
15 ed), unless the Secretary—

16 (1) finds that issuing the permit or exemption
17 would be consistent with Article 17 bis of the Agree-
18 ment; and

19 (2) imposes on the permit or exemption such
20 conditions as may be necessary to ensure that the
21 person complies with Article 17 bis.

22 **SEC. 3. PUBLIC INTEREST TEST.**

23 Section 41302(2) of title 49, United States Code, is
24 amended—

1 (1) in subparagraph (A) by striking “under an
2 agreement with the United States Government; or”
3 and inserting “; and”; and

4 (2) in subparagraph (B) by striking “the for-
5 eign air transportation” and inserting “after consid-
6 ering the totality of the circumstances, including the
7 factors set forth in section 40101(a), the foreign air
8 transportation”.

9 **SEC. 4. PUBLIC INTEREST REQUIREMENTS.**

10 (a) **POLICY.**—Section 40101(a) of title 49, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(17) preventing entry into United States mar-
14 kets by flag of convenience carriers.

15 “(18) preventing the undermining of labor
16 standards.”.

17 (b) **INTERNATIONAL AIR TRANSPORTATION.**—Sec-
18 tion 40101(e)(9) of title 49, United States Code, is
19 amended—

20 (1) in subparagraph (D) by striking “and” at
21 the end;

22 (2) in subparagraph (E) by striking the period
23 at the end and inserting “; and”; and

24 (3) by adding at the end the following:

25 “(F) undermining labor standards.”.

1 (c) FLAG OF CONVENIENCE CARRIER DEFINED.—
2 Section 40102(a) of title 49, United States Code, is
3 amended—

4 (1) by redesignating paragraphs (21) through
5 (47) as paragraphs (22) through (48), respectively;
6 and

7 (2) by inserting after paragraph (20) the fol-
8 lowing:

9 “(21) ‘flag of convenience carrier’ means a for-
10 eign air carrier that is established in a country other
11 than the home country of its majority owner or own-
12 ers in order to avoid regulations of the home coun-
13 try.”.

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