

118TH CONGRESS
1ST SESSION

S. 209

To prohibit air carriers from imposing fees that are not reasonable and proportional to the costs incurred by the air carriers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1, 2023

Mr. MARKEY (for himself, Mr. BLUMENTHAL, Mr. BROWN, Mr. SANDERS, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To prohibit air carriers from imposing fees that are not reasonable and proportional to the costs incurred by the air carriers, 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 “Forbidding Airlines
5 from Imposing Ridiculous Fees Act of 2023” or the
6 “FAIR Fees Act of 2023”.

1 **SEC. 2. REGULATIONS PROHIBITING THE IMPOSITION OF**
2 **FEEES THAT ARE NOT REASONABLE AND PRO-**
3 **PORTIONAL TO THE COSTS INCURRED.**

4 (a) IN GENERAL.—Not later than 270 days after the
5 date of the enactment of this Act, the Secretary of Trans-
6 portation shall prescribe regulations—

7 (1) prohibiting an air carrier from imposing
8 fees described in subsection (b) that are unreason-
9 able or disproportional to the costs incurred by the
10 air carrier; and

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

14 (b) FEES DESCRIBED.—The fees described in this
15 subsection are—

16 (1) any fee for a change or cancellation of a
17 reservation for a flight in passenger air transpor-
18 tation;

19 (2) any fee relating to checked or carry-on bag-
20 gage to be transported on a flight in passenger air
21 transportation;

22 (3) any fee relating to the choice or assignment
23 of seats on a flight in passenger air transportation;
24 and

25 (4) any other fee imposed by an air carrier re-
26 lating to a flight in passenger air transportation.

1 (c) CONSIDERATIONS.—In establishing the standards
2 required by subsection (a)(2), the Secretary shall con-
3 sider—

4 (1) with respect to a fee described in subsection
5 (b)(1) imposed by an air carrier for a change or can-
6 cellation of a flight reservation—

7 (A) any net benefit or cost to the air car-
8 rier from the change or cancellation, taking into
9 consideration—

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

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

17 (iii) any difference in the fare likely to
18 be paid for a ticket sold to another pas-
19 senger for a seat made available by the
20 change or cancellation, as compared to the
21 fare that was paid for the seat for which
22 the reservation was changed or canceled;
23 and

24 (iv) the likelihood that the passenger
25 changing or canceling the reservation will,

1 as a result, fill a seat on another flight by
2 the same air carrier;

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

5 (C) any related labor costs;

6 (2) with respect to a fee described in subsection
7 (b)(2) imposed by an air carrier relating to checked
8 baggage—

9 (A) the costs of processing checked bag-
10 gage electronically; and

11 (B) any related labor costs;

12 (3) with respect to a fee described in subsection
13 (b)(3) imposed by an air carrier relating to the
14 choice or assignment of seats on a flight in pas-
15 senger air transportation, ensuring that passengers
16 traveling with children age 13 or younger are able
17 to be seated with those children at no additional
18 charge to the passengers traveling with such chil-
19 dren or to any other passenger traveling on the
20 flight involved; and

21 (4) any other considerations the Secretary con-
22 siders appropriate.

23 (d) UPDATED REGULATIONS.—The Secretary shall
24 update the standards required by subsection (a)(2) not
25 less frequently than every 3 years.

1 (e) DEFINITIONS.—In this section:

2 (1) AIR CARRIER.—The term “air carrier”
3 means any air carrier that holds an air carrier cer-
4 tificate under section 41101 of title 49, United
5 States Code.

6 (2) PASSENGER AIR TRANSPORTATION.—The
7 term “passenger air transportation” means, with re-
8 spect to the transportation of passengers by aircraft
9 as a common carrier for compensation, foreign air
10 transportation, interstate air transportation, and
11 intrastate air transportation, as such terms are de-
12 fined in section 40102 of title 49, United States
13 Code.

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