

118TH CONGRESS
1ST SESSION

S. 545

To protect the rights of passengers with disabilities in air transportation,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2023

Ms. BALDWIN (for herself, Ms. DUCKWORTH, Mr. MARKEY, Mr. CASEY, Ms. HASSAN, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To protect the rights of passengers with disabilities in 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 “Air Carrier Access
5 Amendments Act of 2023”.

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

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

8 (1) In 1986, President Ronald Reagan signed
9 the Air Carrier Access Act of 1986 (Public Law 99–

1 435; 100 Stat. 1080), adding a provision now codi-
2 fied in section 41705 of title 49, United States Code
3 (in this section referred to as the “ACAA”), prohib-
4 iting disability-based discrimination in air transpor-
5 tation.

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

10 (A) damaged assistive devices;

11 (B) inaccessible aircraft, lavatories, and
12 communication media;

13 (C) delayed assistance;

14 (D) inappropriate treatment of service ani-
15 mals;

16 (E) inadequate disability awareness and
17 sensitivity training; and

18 (F) a lack of suitable seating accommoda-
19 tions.

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

22 (1) access for individuals with disabilities in air
23 transportation must move into the 21st century, or
24 individuals with disabilities will be left behind and
25 unable to compete in today’s job market or enjoy the

1 opportunities available to other citizens of the
2 United States;

3 (2) aircraft must accommodate individuals with
4 disabilities, and air carriers and foreign air carriers
5 must acquire and maintain aircraft that meet broad
6 accessibility standards;

7 (3) the ACAA must be updated to improve ac-
8 cess to air transportation for individuals with dis-
9 abilities;

10 (4) legislation is necessary to modernize stand-
11 ards and requirements that will strengthen accessi-
12 bility in air transportation;

13 (5) the Department of Transportation, in direct
14 consultation with the Access Board, must promul-
15 gate regulations to ensure that all passengers with
16 disabilities receive—

17 (A) prompt and effective boarding,
18 deplaning, and connections between flights;

19 (B) accommodations, including non-
20 standard accommodations, that safely facilitate
21 air travel; and

22 (C) better access to airport facilities, in-
23 cluding the provision of visually and tactilely
24 accessible announcements and full and equal ac-
25 cess to aural communications;

1 (6) legislation is necessary to ensure that indi-
2 viduals with disabilities have adequate remedies
3 available when air carriers and foreign air carriers
4 violate the ACAA; and

5 (7) unlike other civil rights statutes, the ACAA
6 does not contain a private right of action, which is
7 critical to the enforcement of such statutes, and
8 Congress must correct this anomaly.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) ACCESS BOARD.—The term “Access Board”
12 means the Architectural and Transportation Bar-
13 riers Compliance Board.

14 (2) AIR CARRIER.—The term “air carrier” has
15 the meaning given that term in section 40102 of
16 title 49, United States Code.

17 (3) DISABILITY.—The term “disability” means,
18 with respect to an individual—

19 (A) a physical or mental impairment that,
20 on a permanent or temporary basis, substan-
21 tially limits one or more major life activities of
22 such individual;

23 (B) a record of such an impairment; or

24 (C) being regarded as having such an im-
25 pairment.

1 (4) FOREIGN AIR CARRIER.—The term “foreign
2 air carrier” has the meaning given that term in sec-
3 tion 40102 of title 49, United States Code.

4 (5) SECRETARY.—The term “Secretary” means
5 the Secretary of Transportation.

6 **SEC. 4. IMPROVING ACCESS TO AIR TRANSPORTATION FOR**
7 **INDIVIDUALS WITH DISABILITIES.**

8 (a) IN GENERAL.—Section 41705 of title 49, United
9 States Code, is amended to read as follows:

10 **“§ 41705. Accessibility of air transportation for indi-**
11 **viduals with disabilities**

12 “(a) IN GENERAL.—In providing air transportation,
13 an air carrier or foreign air carrier may not discriminate
14 against an individual on the basis of a disability, including
15 by taking any of the actions prohibited under subsection
16 (b) or not taking any of the actions required by subsection
17 (c).

18 “(b) PROHIBITED ACTIONS.—

19 “(1) IN GENERAL.—Subject to paragraph (2),
20 an air carrier or foreign air carrier may not—

21 “(A) directly or through a contractual, li-
22 censing, or other arrangement, discriminate in
23 the full and equal enjoyment (within the mean-
24 ing of that term under section 302(a) of the
25 Americans with Disabilities Act of 1990 (42

1 U.S.C. 12182(a))) of air transportation, includ-
2 ing the use of standards or criteria or methods
3 of administration;

4 “(B) deny the opportunity of an individual
5 or a class of individuals, on the basis of a dis-
6 ability or disabilities of the individual or class,
7 to participate in or benefit from the goods,
8 services, facilities, advantages, accommodations,
9 or other opportunities provided by the air car-
10 rier or foreign air carrier;

11 “(C) afford an individual or a class of indi-
12 viduals, on the basis of a disability or disabil-
13 ities of the individual or class, with the oppor-
14 tunity to participate in or benefit from a good,
15 service, facility, advantage, accommodation, or
16 other opportunity that is not equal to, or is dif-
17 ferent or separate from a good, service, facility,
18 advantage, accommodation, or other oppor-
19 tunity afforded to other individuals;

20 “(D) deny any goods, services, facilities,
21 privileges, advantages, accommodations, or
22 other opportunities to an individual because of
23 the known disability of another individual with
24 whom the individual is known to have a rela-
25 tionship or association;

1 “(E) impose or apply eligibility criteria
2 that screen out or have the effect of screening
3 out individuals with disabilities or a class of in-
4 dividuals with disabilities from fully enjoying
5 any good, service, facility, privilege, advantage,
6 accommodation, or other opportunity provided
7 by the air carrier or foreign air carrier, unless
8 the air carrier or foreign air carrier can dem-
9 onstrate that such criteria are necessary for the
10 provision of the good, service, facility, privilege,
11 advantage, accommodation, or other oppor-
12 tunity;

13 “(F) directly or through a contractual, li-
14 censing, or other arrangement, use standards or
15 criteria or methods of administration that—

16 “(i) have the effect of discriminating
17 on the basis of disability; or

18 “(ii) perpetuate discrimination against
19 others who are subject to common adminis-
20 trative control; or

21 “(G) operate an aircraft that does not
22 comply with this section and regulations pre-
23 scribed under this section, unless the aircraft,
24 to the maximum extent feasible, is made readily
25 accessible to and usable by individuals with dis-

1 abilities, including individuals who use wheel-
2 chairs, in accordance with this section and upon
3 issuance of regulations prescribed under this
4 section, not later than 7 years after the date of
5 enactment of the Air Carrier Access Amend-
6 ments Act of 2023.

7 “(2) EXCEPTION.—

8 “(A) IN GENERAL.—Subject to subpara-
9 graph (B), an air carrier or foreign air carrier
10 may provide an individual or a class of individ-
11 uals, on the basis of a disability or disabilities
12 of the individual or class, with a good, service,
13 facility, privilege, advantage, accommodation, or
14 other opportunity that is different or separate
15 from the good, service, facility, privilege, advan-
16 tage, accommodation, or other opportunity pro-
17 vided to other individuals if doing so is nec-
18 essary to—

19 “(i) provide the individual or class of
20 individuals with a good, service, facility,
21 privilege, advantage, accommodation, or
22 other opportunity that is as effective as the
23 good, service, facility, privilege, advantage,
24 accommodation, or other opportunity pro-
25 vided to other individuals; or

1 “(ii) comply with statutory, regu-
2 latory, or other requirements related to
3 safety and security enforced by the De-
4 partment of Transportation, the Federal
5 Aviation Administration, or applicable for-
6 eign aviation authorities.

7 “(B) ACCEPTANCE.—An individual or a
8 class of individuals shall retain the authority to
9 decide whether to accept or refuse a good, serv-
10 ice, facility, privilege, advantage, accommoda-
11 tion, or other opportunity referred to in sub-
12 paragraph (A).

13 “(C) SELECTION OF GOODS, SERVICES,
14 AND OTHER OPPORTUNITIES PROVIDED TO
15 OTHERS.—If, in accordance with subparagraph
16 (A), an air carrier or foreign air carrier pro-
17 vides to an individual or a class of individuals
18 a good, service, facility, privilege, advantage, ac-
19 commodation, or other opportunity that is dif-
20 ferent or separate from the good, service, facil-
21 ity, privilege, advantage, accommodation, or
22 other opportunity provided to other individuals,
23 the air carrier or foreign air carrier may not
24 deny to an individual with a disability the op-
25 portunity to participate in the good, service, fa-

1 cility, privilege, advantage, accommodation, or
2 other opportunity provided to such other indi-
3 viduals.

4 “(c) REQUIRED ACTIONS.—An air carrier or foreign
5 air carrier shall—

6 “(1) afford goods, services, facilities, privileges,
7 advantages, accommodations, and other opportuni-
8 ties to an individual with a disability in the most in-
9 tegrated setting appropriate to the needs of the indi-
10 vidual;

11 “(2) make reasonable modifications to policies,
12 practices, or procedures, when such modifications
13 are necessary to afford goods, services, facilities,
14 privileges, advantages, accommodations, or other op-
15 portunities to individuals with disabilities, unless the
16 air carrier or foreign air carrier can demonstrate
17 that making such modifications would fundamentally
18 alter the nature of the goods, services, facilities,
19 privileges, advantages, accommodations, or other op-
20 portunities; and

21 “(3) take such measures as may be necessary
22 to ensure that no individual with a disability is ex-
23 cluded, denied services, segregated, or otherwise
24 treated differently from other individuals because of
25 the absence of auxiliary aids or services, unless the

1 air carrier or foreign air carrier can demonstrate
2 that taking such measures would—

3 “(A) fundamentally alter the nature of a
4 good, service, facility, privilege, advantage, ac-
5 commodation, or other opportunity being of-
6 fered; or

7 “(B) result in an undue burden to an air
8 carrier or foreign air carrier.

9 “(d) CONSUMER COMPLAINTS.—

10 “(1) IN GENERAL.—The Secretary shall ensure
11 that individuals with disabilities traveling in air
12 transportation are able to—

13 “(A) file complaints with the Department
14 of Transportation in response to disability-re-
15 lated discrimination prohibited under this sec-
16 tion or regulations prescribed under this sec-
17 tion; and

18 “(B) receive assistance from the Depart-
19 ment of Transportation through a toll-free hot-
20 line telephone number, publicly available inter-
21 net website, or comparable electronic means of
22 communication.

23 “(2) NOTICE TO PASSENGERS WITH DISABIL-
24 ITIES.—Each air carrier or foreign air carrier shall
25 include on its publicly available internet website, any

1 related mobile device application, and online serv-
2 ice—

3 “(A) the hotline telephone number estab-
4 lished under section 42302 or the telephone
5 number for the Aviation Consumer Protection
6 Division of the Department of Transportation
7 and the Department’s disability assistance hot-
8 line telephone number or a comparable elec-
9 tronic means of communication;

10 “(B) a notice that a consumer can file a
11 disability-related complaint with the Aviation
12 Consumer Protection Division;

13 “(C) an active link to the internet website
14 of the Aviation Consumer Protection Division
15 for a consumer to file a disability-related com-
16 plaint; and

17 “(D) a notice that the consumer can file a
18 disability-related complaint with the air carrier
19 or foreign air carrier and the process and any
20 timelines for filing such a complaint.

21 “(3) INVESTIGATION OF COMPLAINTS.—

22 “(A) IN GENERAL.—The Secretary shall—

23 “(i) not later than 120 days after the
24 receipt of any complaint of a violation of
25 this section or a regulation prescribed

1 under this section, investigate such com-
2 plaint;

3 “(ii) provide, in writing, to the indi-
4 vidual that filed the complaint and the air
5 carrier or foreign air carrier alleged to
6 have violated this section or a regulation
7 prescribed under this section, the deter-
8 mination of the Secretary with respect
9 to—

10 “(I) whether the air carrier or
11 foreign air carrier violated this section
12 or a regulation prescribed under this
13 section;

14 “(II) the facts underlying the
15 complaint; and

16 “(III) any action the Secretary is
17 taking in response to the complaint;
18 and

19 “(iii) assess civil penalties for, at a
20 minimum, each of the following violations:

21 “(I) Delay of, loss of, or signifi-
22 cant damage to a wheelchair or scoot-
23 er.

24 “(II) Physical harm to or fatal
25 injury of a passenger in the provision

1 of a service related to the require-
2 ments of this section.

3 “(III) Failure to provide proper
4 assistance in boarding or deplaning a
5 passenger with disabilities when aisle
6 chair assistance is required.

7 “(IV) Denial of boarding for a
8 passenger with disabilities or denial of
9 access for a service animal in a man-
10 ner not in compliance with require-
11 ments enforced by the Department of
12 Transportation, the Federal Aviation
13 Administration, or applicable foreign
14 aviation authorities.

15 “(V) Gross negligence of a pas-
16 senger with disabilities in air trans-
17 portation.

18 For purposes of section 46301, a separate
19 violation occurs under this section for each
20 individual act of discrimination prohibited
21 by subsections (a) through (c).

22 “(B) REFERRAL.—If the Secretary has
23 reasonable cause to believe that any air carrier
24 or foreign air carrier or group of air carriers or
25 foreign air carriers is engaged in a pattern or

1 practice of discrimination under this section, or
2 any person or group of persons has been dis-
3 criminated against under this section and such
4 discrimination raises an issue of general public
5 importance, the Secretary shall, after the as-
6 sessment of the civil penalty, refer the matter
7 to the Attorney General for further action.

8 “(C) PUBLICATION OF DATA.—The Sec-
9 retary shall publish disability-related complaint
10 data in a manner comparable to other aviation
11 consumer complaint data.

12 “(D) REVIEW AND REPORT.—The Sec-
13 retary shall regularly review all complaints re-
14 ceived by air carriers and foreign air carriers
15 alleging discrimination on the basis of disability
16 and shall report annually to Congress on the
17 disposition of such complaints.

18 “(e) 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,

1 bring a civil action in an appropriate district
2 court of the United States.

3 “(B) AVAILABLE RELIEF.—If a court finds
4 in favor of the plaintiff in a civil action brought
5 under subparagraph (A), the court may award
6 to the plaintiff equitable and legal relief, includ-
7 ing compensatory and punitive damages, and
8 shall, in addition to any such relief, award rea-
9 sonable attorney’s fees, reasonable expert fees,
10 and costs of the action to the plaintiff.

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

18 “(D) RULE OF CONSTRUCTION.—Nothing
19 in this paragraph shall be construed to invali-
20 date or limit other Federal or State laws afford-
21 ing to individuals with disabilities greater legal
22 rights or protections than those granted by this
23 section.

24 “(2) ENFORCEMENT BY ATTORNEY GEN-
25 ERAL.—

1 “(A) IN GENERAL.—The Attorney General
2 may bring a civil action on behalf of individuals
3 aggrieved by an air carrier or foreign air car-
4 rier’s violation of this section or a regulation
5 prescribed under this section in any appropriate
6 district court of the United States.

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

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

12 “(ii) award such other relief as the
13 court considers to be appropriate, includ-
14 ing monetary damages to individuals ag-
15 grieved by an air carrier or foreign air car-
16 rier’s violation of this section or a regula-
17 tion prescribed under this section, when re-
18 quested by the Attorney General; and

19 “(iii) assess a civil penalty against the
20 air carrier or foreign air carrier.

21 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion shall require an air carrier or foreign air carrier to
23 permit an individual to participate in or benefit from
24 goods, services, facilities, privileges, advantages, accom-
25 modations, or other opportunities if the individual poses

1 a significant risk to the health or safety of others that
 2 cannot be eliminated by a modification to policies, prac-
 3 tices, or procedures or by the provision of auxiliary aids
 4 or services.

5 “(g) DEFINITIONS.—In this section:

6 “(1) ACCESS BOARD.—The term ‘Access Board’
 7 means the Architectural and Transportation Bar-
 8 riers Compliance Board.

9 “(2) AIR CARRIER.—The term ‘air carrier’ has
 10 the same meaning given that term in section 40102.

11 “(3) AIRCRAFT.—The term ‘aircraft’ means a
 12 transport category airplane designed for operation
 13 by an air carrier or foreign air carrier type-certifi-
 14 cated under part 21 of title 14, Code of Federal
 15 Regulations, with a passenger seating capacity of 30
 16 or more.

17 “(4) DISABILITY.—The term ‘disability’ means,
 18 with respect to an individual—

19 “(A) a physical or mental impairment that,
 20 on a permanent or temporary basis, substan-
 21 tially limits one or more major life activities of
 22 such individual;

23 “(B) a record of such an impairment; or

24 “(C) being regarded as having such an im-
 25 pairment.

1 “(5) FOREIGN AIR CARRIER.—The term ‘for-
2 foreign air carrier’ has the meaning given that term in
3 section 40102.

4 “(6) MOST INTEGRATED SETTING.—The term
5 ‘most integrated setting’ has the meaning given that
6 term in appendix A of part 35 of title 28, Code of
7 Federal Regulations.

8 “(7) UNDUE BURDEN.—The term ‘undue bur-
9 den’ has the meaning given that term in section
10 36.104 of title 28, Code of Federal Regulations.”.

11 (b) TECHNICAL ASSISTANCE.—Not later than 1 year
12 after the date of enactment of this Act, the Secretary shall
13 ensure the availability and provision of appropriate tech-
14 nical assistance manuals to individuals and entities with
15 rights or responsibilities under section 41705 of title 49,
16 United States Code, as amended by subsection (a).

17 (c) CLERICAL AMENDMENT.—The chapter analysis
18 for chapter 417 of title 49, United States Code, is amend-
19 ed by striking the item relating to section 41705 and in-
20 serting the following:

“41705. Accessibility of air transportation for individuals with disabilities.”.

21 **SEC. 5. STANDARDS.**

22 (a) AIRCRAFT ACCESS STANDARDS.—

23 (1) STANDARDS.—

24 (A) IN GENERAL.—Not later than 2 years
25 after the date of the enactment of this Act, the

1 Secretary shall, in direct consultation with the
2 Access Board, prescribe regulations setting
3 forth the minimum standards to ensure that
4 aircraft, and related boarding and deplaning
5 equipment, are accessible, in terms of design
6 for, transportation of, and communication with,
7 individuals with disabilities, including individ-
8 uals who use wheelchairs.

9 (B) APPLICATION.—The standards pre-
10 scribed under subparagraph (A) shall apply to
11 existing aircraft operated by air carriers or for-
12 eign air carriers on the date that is 5 years
13 after the regulations prescribed under subpara-
14 graph (A) become effective.

15 (2) COVERED AIRCRAFT, EQUIPMENT, AND FEA-
16 TURES.—The standards prescribed under paragraph
17 (1)(A) shall address, at a minimum—

18 (A) boarding and deplaning equipment, in-
19 cluding ensuring that there is a route accessible
20 for individuals to board and deplane the aircraft
21 from their personal assistive devices, including
22 wheelchairs;

23 (B) seating accommodations, which shall
24 include in-cabin wheelchair restraints (if
25 deemed technologically feasible);

1 (C) lavatories;

2 (D) captioning and audio description of in-
3 flight entertainment and captioning of any
4 other aural communication;

5 (E) individual video displays;

6 (F) visually and tactilely accessible an-
7 nouncements;

8 (G) adequate in-cabin stowage for assistive
9 devices; and

10 (H) proper stowage of assistive devices in
11 the cargo hold to prevent damage, which in-
12 cludes ensuring that cargo doors and the cargo
13 holds allow such devices to be enplaned and
14 stowed upright.

15 (b) AIRPORT FACILITIES.—Not later than 2 years
16 after the date of enactment of this Act, the Secretary
17 shall, in direct consultation with the Access Board, pre-
18 scribe regulations setting forth minimum standards under
19 section 41705 of title 49, United States Code (commonly
20 known as the “Air Carrier Access Act”)(as amended by
21 section 4), that ensure all gates (including counters),
22 ticketing areas, and customer service desks covered under
23 such section at airports are accessible to and usable by
24 all individuals with disabilities, including through the pro-

1 vision of visually and tactilely accessible announcements
2 and full and equal access to aural communications.

3 (c) WEBSITES, SOFTWARE APPLICATIONS, AND KI-
4 OSKS.—Not later than 2 years after the date of enactment
5 of this Act, the Secretary shall, in direct consultation with
6 the Access Board, prescribe regulations setting forth min-
7 imum standards to ensure that individuals with disabilities
8 are able to access kiosks, software applications, and
9 websites in a manner that is equally as effective as individ-
10 uals without disabilities, with a substantially equivalent
11 ease of use. Such standards shall be consistent with the
12 standards set forth in the Web Content Accessibility
13 Guidelines 2.1 Level AA of the Web Accessibility Initiative
14 of the World Wide Web Consortium or any subsequent
15 version.

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