

Foreign Air Carrier Family Support Act of 1997

Public Law 105-148, 105th Congress

To amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers.

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

SECTION 1. PLANS TO ADDRESS NEEDS OF FAMILIES OF PASSENGERS INVOLVED IN FOREIGN AIR CARRIER ACCIDENTS.

(a) In General.--Chapter 413 of title 49, United States Code, is amended by adding at the end the following:

``Sec. 41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

``(a) Definitions.--In this section, the following definitions apply:

``(1) Aircraft accident.--The term `aircraft accident' means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and

``(2) Passenger.--The term `passenger' includes an employee of a foreign air carrier or air carrier aboard an aircraft.

``(b) Submission of Plans.--A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

“(c) Contents of Plans.--To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

“(1) Telephone number.--A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life.

“(2) Notification of families.--A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in a significant loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of--

“(A) the organization designated for the accident under section 1136(a)(2); or

“(B) other suitably trained individuals.

“(3) Notice provided as soon as possible.--An assurance that the notice required by paragraph (2) shall be provided as soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all of the passengers have been verified.

“(4) List of passengers.--An assurance that the foreign air carrier shall provide, immediately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to--

“(A) the director of family support services designated for the accident under section 1136(a)(1); and

“(B) the organization designated for the accident under section 1136(a)(2).

“(5) Consultation regarding disposition of remains and effects.--An assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

“(6) Return of possessions.--An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

“(7) Unclaimed possessions retained.--An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

“(8) Monuments.--An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

“(9) Equal treatment of passengers.--An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

“(10) Service and assistance to families of passengers.—
An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

“(11) Compensation to service organizations.--An assurance that the foreign air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) for services and assistance provided by the organization.

“(12) Travel and care expenses.--An assurance that the foreign air carrier will assist the family of any passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

“(13) Resources for plan.--An assurance that the foreign air carrier will commit sufficient resources to carry out the plan.

“(14) Substitute measures.--If a foreign air carrier does not wish to comply with paragraph (10), (11), or (12), a description of proposed adequate substitute measures for the requirements of each paragraph with which the foreign air carrier does not wish to comply.

“(d) Permit and Exemption Requirement.--The Secretary shall not approve an application for a permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

“(e) Limitation on Liability.--A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct.”.

(b) Conforming Amendment.--The table of sections for such chapter is amended by adding at the end the following:

“41313. Plans to address needs of families of passengers involved in foreign air carrier accidents.”.

(c) Effective Date.--The amendments made by this section shall take effect on the 180th day following the date of the enactment of this Act.

“AIR 21”

Public Law 106-181, 106th Congress

To amend title 49, United States Code, to reauthorize programs of the Federal Aviation Administration, and for other purposes.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short note. Title.--This Act may be cited as the “Wendell H. Ford Aviation Investment and Reform Act for the 21st Century”.

TITLE IV--FAMILY ASSISTANCE

SEC. 401. RESPONSIBILITIES OF NATIONAL TRANSPORTATION SAFETY BOARD.

- (a) Prohibition on Unsolicited Communications.--
- (1) In general.--Section 1136(g)(2) is amended--
- (A) by striking “transportation,” and inserting “transportation and in the event of an accident involving a foreign air carrier that occurs within the United States,”;

(B) by inserting after "attorney" the following:
"(including any associate, agent, employee, or other representative of an attorney)"; and

(C) by striking "30th day" and inserting "45th day".

(2) Enforcement.--Section 1151 is amended by inserting "1136(g)(2)," before "or 1155(a)" each place it appears.

(b) Prohibition on Actions To Prevent Mental Health and Counseling Services.--Section 1136(g) is amended by adding at the end the following:

"(3) Prohibition on actions to prevent mental health and counseling services.--No State or political subdivision thereof may prevent the employees, agents, or volunteers of an organization designated for an accident under subsection (a)(2) from providing mental health and counseling services under subsection (c)(1) in the 30-day period beginning on the date of the accident. The director of family support services designated for the accident under subsection (a)(1) may extend such period for not to exceed an additional 30 days if the director determines that the extension is necessary to meet the needs of the families and if State and local authorities are notified of the determination."

(c) Inclusion of Nonrevenue Passengers in Family Assistance Coverage.--Section 1136(h)(2) is amended to read as follows:

"(2) Passenger.--The term 'passenger' includes--

"(A) an employee of an air carrier or foreign air carrier aboard an aircraft; and

"(B) any other person aboard the aircraft without regard to whether the person paid for the transportation, occupied a seat, or held a reservation for the flight."

(d) Statutory Construction.--Section 1136 is amended by adding at the end the following:

"(i) Statutory Construction.--Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident."

SEC. 402. AIR CARRIER PLANS.

(a) Contents of Plans.--

(1) Flight reservation information.--Section 41113(b) is amended by adding at the end the following:

“(14) An assurance that, upon request of the family of a passenger, the air carrier will inform the family of whether the passenger's name appeared on a preliminary passenger manifest for the flight involved in the accident.”.

(2) Training of employees and agents.--Section 41113(b) is further amended by adding at the end the following:

“(15) An assurance that the air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.”.

(3) Consultation on carrier response not covered by plan.--Section 41113(b) is further amended by adding at the end the following:

“(16) An assurance that the air carrier, in the event that the air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving major loss of life, the air carrier will consult with the Board and the Department of State on the provision of the assistance.”.

(4) Submission <<NOTE: 49 USC 41113 note.>> of updated plans.--The amendments made by paragraphs (1), (2), and (3) shall take effect on the 180th day following the date of the enactment of this Act. On or before such 180th day, each air carrier holding a certificate of public convenience and necessity under section 41102 of title 49, United States Code, shall submit to the Secretary and the Chairman of the National Transportation Safety Board an updated plan under section 41113 of such title that meets the requirements of the amendments made by paragraphs (1), (2), and (3).

(5) Conforming amendments.--Section 41113 is amended--

(A) in subsection (a) by striking “Not later than 6 months after the date of the enactment of this section, each air carrier” and inserting “Each air carrier”;
and

(B) in subsection (c) by striking “After the date that is 6 months after the date of the enactment of this section, the Secretary” and inserting “The Secretary”.

(b) Limitation on Liability.--Section 41113(d) is amended by inserting `` , or in providing information concerning a preliminary passenger manifest," before ``pursuant to a plan".

(c) Statutory Construction.--Section 41113 is amended by adding at the end the following:

``(f) Statutory Construction.--Nothing in this section may be construed as limiting the actions that an air carrier may take, or the obligations that an air carrier may have, in providing assistance to the families of passengers involved in an aircraft accident.".

SEC. 403. FOREIGN AIR CARRIER PLANS.

(a) Inclusion of Nonrevenue Passengers in Family Assistance Coverage.--Section 41313(a)(2) is amended to read as follows:

``(2) Passenger.--The term `passenger' has the meaning given such term by section 1136.".

(b) Accidents for Which Plan Is Required.--Section 41313(b) is amended by striking ``significant" and inserting ``major".

(c) Contents of Plans.--

(1) In general.--Section 41313(c) is amended by adding at the end the following:

``(15) Training of employees and agents.--An assurance that the foreign air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

``(16) Consultation on carrier response not covered by plan.--An assurance that the foreign air carrier, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving major loss of life, the foreign air carrier will consult with the Board and the Department of State on the provision of the assistance.".

(2) Submission <<NOTE: 49 USC 41313 note.>> of updated plans.--The amendment made by paragraph (1) shall take effect on the 180th day following the date of the enactment of this Act. On or before such 180th day, each foreign air carrier providing foreign air transportation under chapter 413 of title 49, United States Code, shall submit to the Secretary and the Chairman of the National Transportation Safety Board an updated plan under section 41313 of such title that meets the requirements of the amendment made by paragraph (1).

SEC. 404. DEATH ON THE HIGH SEAS.

(a) Right of Action in Commercial Aviation Accidents.--The first section of the Act of March 30, 1920 (46 U.S.C. App. 761; popularly known as the "Death on the High Seas Act") is amended--

- (1) by inserting "(a) subject to subsection (b)," before "whenever"; and
- (2) by adding at the end the following:

"(b) In the case of a commercial aviation accident, whenever the death of a person shall be caused by wrongful act, neglect, or default occurring on the high seas 12 nautical miles or closer to the shore of any State, or the District of Columbia, or the Territories or dependencies of the United States, this Act shall not apply and the rules applicable under Federal, State, and other appropriate law shall apply."

(b) Compensation in Commercial Aviation Accidents.--Section 2 of such Act (46 U.S.C. App. 762) is amended--

- (1) by inserting "(a)" before "the recovery"; and
- (2) by adding at the end the following:

"(b)(1) If the death resulted from a commercial aviation accident occurring on the high seas beyond 12 nautical miles from the shore of any State, or the District of Columbia, or the Territories or dependencies of the United States, additional compensation for nonpecuniary damages for wrongful death of a decedent is recoverable. Punitive damages are not recoverable.

"(2) In this subsection, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship."

(c) Effective <<NOTE: 46 USC app. 761 note.>> Date.--The amendments made by subsections (a) and (b) shall apply to any death occurring after July 16, 1996.