



Passenger Bill of Rights

When the issue of passenger rights was addressed in the U.S. Senate and House of Representatives in 1999, ASTA was the lead industry organization backing a legislated bill of rights. However, Congress decided to allow the marketplace to govern this issue. Recently, several airlines made headlines as passengers were once again stranded onboard aircrafts throughout the country.

While ASTA believes there is no question that, absent an unforeseen but clear and present threat to safety, passengers should not be forced to remain on aircraft without adequate food, water and toilet facilities for periods such as eight or more hours waiting to take off, the issues are much broader, as evidenced by the November 2006 report from the DOT's Inspector General. Further, ASTA feels it imperative that any solutions that are developed must be appropriate to the circumstances and should not create new problems worse than those sought to be cured.

ASTA testified at a hearing held by the U.S. House of Representatives Committee on Transportation and Infrastructure's Subcommittee on Aviation to address aviation consumer issues. In his testimony, ASTA Senior Vice President for Legal and Industry Affairs, Paul Ruden, recommended that Congress act immediately to (1) limit federal preemption of state consumer protection laws, (2) require that service policies be integrated into airline contracts of carriage, (3) replenish DOT enforcement budgets and (4) promptly convene a meeting of responsible interests, including ASTA and representatives of consumers, airlines, airports, the FAA and the DOT inspector general, to develop a plan for resolving operational issues such as tarmac detentions.

Ruden said:

"ASTA believes there are three steps Congress could take right away that would have potentially huge benefits in the area of customer treatment by airlines.

- *First, enact a limitation on the scope of statutory preemption of state consumer protection laws. This single step would correct the excessively broad interpretation of 49 USC sec. 41713 of the Federal Aviation Act that has effectively deprived many air travelers of legal remedies at the state level.*
- *Second, Congress should appropriate funds sufficient to equip [the Department of Transportation] DOT's enforcement staff with the resources needed to fulfill their statutory mission of compelling airline compliance under section 41712 of the Federal Aviation Act (the former section 411) that forbids unfair and deceptive practices.*
- *Third, Congress should mandate that all elements of the airlines' service commitments be made part of their contracts of carriage. This would mean that provable violations of those portions of the commitments that are real promises and not aspirational "best efforts to do better" would be actionable in state courts as breaches of contract. This step would make clear that a promise is a promise."*

Pending Legislation:

As more customers voice their demand for a 'Passenger Bill of Rights' regarding air travel, several legislators have proposed legislation that would ensure air passengers have access to necessary services while on a grounded air carrier and are not unnecessarily held on a grounded air carrier before or after a flight. In order to address the air passengers' concerns, the following bills have been introduced:

- **Airline Passenger Bill of Rights Act of 2007, [S. 678](#):** Introduced by Senator Barbara Boxer (D-CA) and Olympia Snowe (R-ME), S. 678, its key provision is to ensure air passengers have access to necessary services while on a grounded air carrier and are not unnecessarily held on a grounded air carrier before or after a flight. In addition, it also calls for air passengers to have the option to deplane if the air carrier has not departed for three hours. **Current status:** Pending before Senate Commerce Committee. Hearing held.
- **Airline Passenger Bill of Rights Act of 2007, [H.R. 1303](#):** Introduced by Representative Mike Thomson, H.R. 1303, this bill establishes standards for air carrier services including customer complaints, notification of delays/cancellations, baggage return within 24 hours, departure and arrival delays and publication of information regarding lowest fare information and schedules. In addition to carrier service standards, the bill also provides for procedures for departure delays and diverted flights. **Current status:** Pending before House Aviation Committee. Hearing held; ASTA testified.
- **FAA Reauthorization Legislation, [H.R. 2881](#):** The House FAA Reauthorization bill includes a provision regarding air passenger service improvements language calling for emergency contingency plans that will leave passengers in the same or worse place than they are now. Specifically, the bill mandates that the emergency contingency plans will describe how the air carrier will provide essential items such as food, water and restroom facilities for passengers onboard an aircraft that is delayed on the ground for an extended period of time. Given the vagueness of the language used in the legislation, ASTA registered its concern that there is no guarantee that the passengers' needs would be met. Despite ASTA's concerns, the House passed this bill on September 20, 2007 by a vote of 267-151.

Prior to the passage of the legislation, the House also adopted various amendments that helped strengthen passenger rights, such as the requirement that the Department of Transportation investigate consumer complaints such as flight cancellations, overbooking, baggage concerns and other issues. In addition to amendments, H.R. 3539 was included with the passage of H.R. 2881, extending the passenger ticket tax through September 30, 2011.

Before the FAA Reauthorization was passed in the House, ASTA compiled the attached chart to compare where the major carriers stand in addressing on-aircraft delays and how they will prevent customers from being stranded on the aircraft. This chart was distributed to key members of the House of Representatives. To obtain an electronic version of the chart with hyperlinks to each air carrier's plan, go to:

http://www.astanet.com/airline_customer_commitments.pdf

Current status: Passed by a vote of 267-151.



- **FAA Reauthorization Legislation, [S. 1300](#):** The Senate FAA Reauthorization bill includes a provision providing that passengers trapped on a runway have the basic right to deplane within three hours unless the airline has filed with the FAA its own alternate plan for treatment of passengers in such situations. The legislation also requires airlines to provide passengers with necessary services such as food, water and restroom facilities while a plane is delayed on the ground. However, it is important to note that the language does not clearly make three hours the deplaning minimum standard. While this provision was in the Boxer Snowe bill, S. 1300 allows a carrier to have a plan to detain and not allow passengers to deplane for virtually any length of time. ASTA has registered its non-support for S. 1300 as the bill has a limited approach to resolving the passenger rights issue.
Current status: Placed on Senate Calendar for floor action.