



Congress Introduces Two Bills Targeting Airline Overbooking Practices

Action Comes as Fallout Over United Express Flight 3411 Continues

May 2, 2017

In the wake of the [widely-publicized](#) forced removal by airport security of a passenger involuntarily bumped from United Express Flight 3411 at Chicago's O'Hare International Airport on April 9, 2017, two bills seeking to change airline overbooking practices have been introduced in Congress.

The first of these bills, [H.R.2124](#), introduced in the U.S. House of Representatives on April 25, 2017 and sponsored by Jan Schakowsky (D-IL-9), entitled the "Bumping on Overbooked Airplanes Requires Dealing Fairly Act" or "BOARD Fairly Act," would: (i) prohibit carriers from involuntarily bumping any passenger holding confirmed reserved space in order to provide a seat for another passenger (a practice permitted today under DOT's [oversales rules](#), provided the carrier first solicits volunteers and pays out minimum required cash compensation amounts); (ii) require carriers to solicit volunteers to surrender seats before the passenger boards the aircraft; and (iii) require carriers to steadily increase compensation offered to volunteers until a volunteer accepts the offer.

The second bill, [S.947](#), introduced in the U.S. Senate on April 26, 2017 and sponsored by Margaret Wood Hassan (D-N.H.), entitled the "Transparency Improvements and Compensation to Keep Every Ticketholder Safe Act of 2017" or "TICKETS Act," would: (1) prohibit carriers from involuntarily denying boarding once a passenger is cleared by a gate agent to board the flight, except for safety, security or health risk reasons; (b) eliminate DOT's "dollar amount limitation" on minimum required cash compensation for passengers involuntarily bumped from a flight (currently capped at \$1,350 per passenger under DOT's oversales rules, with the exact amount based on the original fare paid and delay incurred by the passenger); (c) direct DOT to determine whether carrier overbooking levels (i.e., seats sold in excess of the aircraft passenger seating capacity) should be limited and, if so, whether such a limit should be based on a percentage of the seating capacity (e.g., 103% of seating capacity); (d) require airline employees traveling



The firm's practice encompasses virtually every aspect of aviation law, including counseling U.S. and foreign airlines on aviation consumer protection requirements. The firm also makes available the latest updates on aviation regulatory and litigation developments on its [Flight Paths](#) blog. For further information regarding the matters identified in this article, please contact:

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for work (whether the operator's own employees or another carrier's employees, as often is the case with crewmembers being re-positioned for other flights) to be checked-in for the flight no later than one hour before scheduled departure; (e) require carriers and entities selling their tickets (e.g., travel agencies) to specify, on the passenger's flight itinerary and receipt, the operating carrier's policies on oversold flights and requiring passengers to give up seats to carrier employees; and (f) require carriers to post such policies publically at each of their airport gates. (Presently, DOT's oversales rules require carriers to provide, and ensure their authorized travel agencies provide, a standardized overbooking notice with each issued ticket, using exact language mandated by DOT, with carriers also required to display the notice at each ticket selling position in the United States. However, the currently mandated DOT notice does not require the level of specificity proposed in the Senate TICKETS Act.) Unlike the House BOARD Fairly Act, the Senate TICKETS Act explicitly states that it would cover both U.S. air carriers and foreign air carriers.

The House and Senate bills come at a time of intense federal inquiry into and public debate over airline overbooking practices, including a bi-partisan [letter](#) sent to United by members of the Senate Committee on Commerce, Science, and Transportation demanding a full accounting of the United Express Flight 3411 incident, extensive [information](#) provided by United in response to that letter, a DOT [review](#) of the incident, two congressional committee [hearings](#) on airline customer service during the week of May 1, 2017, and United's [public release](#) of a Flight 3411 Review and Action Report. Additionally, and in response to the incident, United has announced several policy changes, including but not limited to: no longer asking law enforcement to remove passengers from flights, and not requiring passengers already seated on the aircraft to give up their seat involuntarily, absent a safety or security reason; requiring crew members traveling for work to be booked onto a flight at least one hour before departure; and increasing, to \$10,000, the maximum compensation levels that airline personnel may offer to volunteers willing to relinquish their seats. Separately, Delta Air Lines has similarly [increased](#) its maximum compensation levels for volunteers, while other airlines have indicated plans to re-examine their overbooking policies; and on May 2, 2017, Airlines for America (A4A) announced that all its carrier members voluntarily have committed to (i) not remove boarded passengers from an aircraft in a bumping situation and (ii) ensure crew being transported are booked in advance.

As of May 2, 2017, the BOARD Fairly Act has two (2) co-sponsors (both Democrats) and has been referred to the House Committee on Transportation and Infrastructure for further action, while the TICKETS Act has nine (9) co-sponsors (all Democrats) and has been referred to the Senate Committee on Commerce, Science, and Transportation for further action.

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