

Union Calendar No. 431

104TH CONGRESS
2^D SESSION

H. R. 3923

[Report No. 104-793]

A BILL

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

SEPTEMBER 17, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1996

Mr. SHUSTER (for himself, Mr. DUNCAN, Mr. OBERSTAR, Mr. LIPINSKI, Mr. HUTCHINSON, Mr. BAKER of California, Mr. FRANKS of New Jersey, Mr. BLUTE, Mr. EHLERS, Mr. BACHUS, Ms. BROWN of Florida, Mr. LATHAM, Mrs. KELLY, Mr. LATOURETTE, Mr. MASCARA, Mr. LAZIO of New York, and Mr. LAHOOD) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

SEPTEMBER 17, 1996

Additional sponsors: Mr. RAHALL, Ms. MOLINARI, Mr. CLEMENT, Mr. WELLER, Mr. HOLDEN, Mr. FRISA, Mr. CRAMER, Mr. TRAFICANT, Mr. CLINGER, Mrs. MEEK of Florida, Mr. COBLE, Mr. FROST, Mr. EHRLICH, Mr. KENNEDY of Rhode Island, Mr. COSTELLO, Mr. MCDADE, Mrs. SEASTRAND, Mr. BALDACCI, Mr. PETE GEREN of Texas, Mr. GREENWOOD, Mr. DINGELL, Mr. HALL of Ohio, Mr. MEEHAN, Mr. PAYNE of Virginia, Mr. GILLMOR, and Mr. EVANS

SEPTEMBER 17, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on July 31, 1996]

A BILL

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

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 “Aviation Disaster Fam-*
 5 *ily Assistance Act of 1996”.*

6 **SEC. 2. ASSISTANCE BY NATIONAL TRANSPORTATION SAFE-**
 7 **TY BOARD TO FAMILIES OF PASSENGERS IN-**
 8 **VOLVED IN AIRCRAFT ACCIDENTS.**

9 *(a) AUTHORITY TO PROVIDE ASSISTANCE.—*

10 *(1) IN GENERAL.—Subchapter III of chapter 11*
 11 *of title 49, United States Code, is amended by adding*
 12 *at the end the following:*

13 **“§ 1136. Assistance to families of passengers involved**
 14 **in aircraft accidents**

15 *“(a) IN GENERAL.—As soon as practicable after being*
 16 *notified of an aircraft accident within the United States*
 17 *involving an air carrier or foreign air carrier and resulting*
 18 *in a major loss of life, the Chairman of the National Trans-*
 19 *portation Safety Board shall—*

20 *“(1) designate and publicize the name and phone*
 21 *number of a director of family support services who*

1 *shall be an employee of the Board and shall be re-*
2 *ponsible for acting as a point of contact within the*
3 *Federal Government for the families of passengers in-*
4 *involved in the accident and a liaison between the air*
5 *carrier or foreign air carrier and the families; and*

6 “(2) designate an independent nonprofit organi-
7 *zation, with experience in disasters and posttrauma*
8 *communication with families, which shall have pri-*
9 *mary responsibility for coordinating the emotional*
10 *care and support of the families of passengers in-*
11 *involved in the accident.*

12 “(b) *RESPONSIBILITIES OF THE BOARD.—The Board*
13 *shall have primary Federal responsibility for facilitating*
14 *the recovery and identification of fatally-injured passengers*
15 *involved in an accident described in subsection (a).*

16 “(c) *RESPONSIBILITIES OF DESIGNATED ORGANIZA-*
17 *TION.—The organization designated for an accident under*
18 *subsection (a)(2) shall have the following responsibilities*
19 *with respect to the families of passengers involved in the*
20 *accident:*

21 “(1) *To provide mental health and counseling*
22 *services, in coordination with the disaster response*
23 *team of the air carrier or foreign air carrier involved.*

1 “(2) *To take such actions as may be necessary*
2 *to provide an environment in which the families may*
3 *grieve in private.*

4 “(3) *To meet with the families who have traveled*
5 *to the location of the accident, to contact the families*
6 *unable to travel to such location, and to contact all*
7 *affected families periodically thereafter until such*
8 *time as the organization, in consultation with the di-*
9 *rector of family support services designated for the ac-*
10 *cident under subsection (a)(1), determines that fur-*
11 *ther assistance is no longer needed.*

12 “(4) *To communicate with the families as to the*
13 *roles of the organization, government agencies, and*
14 *the air carrier or foreign air carrier involved with re-*
15 *spect to the accident and the post-accident activities.*

16 “(5) *To arrange a suitable memorial service, in*
17 *consultation with the families.*

18 “(d) *PASSENGER LISTS.—*

19 “(1) *REQUESTS FOR PASSENGER LISTS.—*

20 “(A) *REQUESTS BY DIRECTOR OF FAMILY*
21 *SUPPORT SERVICES.—It shall be the responsibil-*
22 *ity of the director of family support services des-*
23 *ignated for an accident under subsection (a)(1)*
24 *to request, as soon as practicable, from the air*
25 *carrier or foreign air carrier involved in the ac-*

1 *cident a list, which is based on the best available*
2 *information at the time of the request, of the*
3 *names of the passengers that were aboard the*
4 *aircraft involved in the accident.*

5 “(B) *REQUESTS BY DESIGNATED ORGANIZA-*
6 *TION.—The organization designated for an acci-*
7 *dent under subsection (a)(2) may request from*
8 *the air carrier or foreign air carrier involved in*
9 *the accident a list described in subparagraph*
10 *(A).*

11 “(2) *USE OF INFORMATION.—The director of*
12 *family support services and the organization may not*
13 *release to any person information on a list obtained*
14 *under paragraph (1) but may provide information on*
15 *the list about a passenger to the family of the pas-*
16 *senger to the extent that the director of family support*
17 *services or the organization considers appropriate.*

18 “(e) *CONTINUING RESPONSIBILITIES OF THE*
19 *BOARD.—In the course of its investigation of an accident*
20 *described in subsection (a), the Board shall, to the maxi-*
21 *imum extent practicable, ensure that the families of pas-*
22 *sengers involved in the accident—*

23 “(1) *are briefed, prior to any public briefing,*
24 *about the accident, its causes, and any other findings*
25 *from the investigation; and*

1 “(2) are individually informed of and allowed to
2 attend any public hearings and meetings of the Board
3 about the accident.

4 “(f) *USE OF AIR CARRIER RESOURCES.*—To the extent
5 practicable, the organization designated for an accident
6 under subsection (a)(2) shall coordinate its activities with
7 the air carrier or foreign air carrier involved in the acci-
8 dent so that the resources of the carrier can be used to the
9 greatest extent possible to carry out the organization’s re-
10 sponsibilities under this section.

11 “(g) *PROHIBITED ACTIONS.*—

12 “(1) *ACTIONS TO IMPEDE THE BOARD.*—No per-
13 son (including a State or political subdivision) may
14 impede the ability of the Board (including the direc-
15 tor of family support services designated for an acci-
16 dent under subsection (a)(1)), or an organization des-
17 ignated for an accident under subsection (a)(2), to
18 carry out its responsibilities under this section or the
19 ability of the families of passengers involved in the
20 accident to have contact with one another.

21 “(2) *UNSOLICITED COMMUNICATIONS.*—In the
22 event of an accident involving an air carrier provid-
23 ing interstate or foreign air transportation, no unso-
24 licited communication concerning a potential action
25 for personal injury or wrongful death may be made

1 *by an attorney, representative of an attorney, insur-*
2 *ance company, or air carrier litigation representative*
3 *to an individual injured in the accident, or to a rel-*
4 *ative of an individual involved in the accident, before*
5 *the 30th day following the date of the accident.*

6 “(h) *DEFINITIONS.*—*In this section, the following defi-*
7 *nitions apply:*

8 “(1) *AIRCRAFT ACCIDENT.*—*The term ‘aircraft*
9 *accident’ means any aviation disaster regardless of its*
10 *cause or suspected cause.*

11 “(2) *PASSENGER.*—*The term ‘passenger’ includes*
12 *an employee of an air carrier aboard an aircraft.”.*

13 “(2) *CONFORMING AMENDMENT.*—*The table of sec-*
14 *tions for chapter 11 of such title is amended by in-*
15 *serting after the item relating to section 1135 the fol-*
16 *lowing:*

 “1136. *Assistance to families of passengers involved in aircraft accidents.*”.

17 “(b) *PENALTIES.*—*Section 1155(a)(1) of such title is*
18 *amended—*

19 “(1) *by striking ‘or 1134(b) or (f)(1)’ and insert-*
20 *ing ‘, section 1134(b), section 1134(f)(1), or section*
21 *1136(g)’; and*

22 “(2) *by striking ‘either of’ and inserting ‘any*
23 *of’.*

1 **SEC. 3. AIR CARRIER PLANS TO ADDRESS NEEDS OF FAMI-**
2 **LIES OF PASSENGERS INVOLVED IN AIR-**
3 **CRAFT ACCIDENTS.**

4 (a) *IN GENERAL.*—Chapter 411 of title 49, United
5 States Code, is amended by adding at the end the following:

6 **“§41113. Plans to address needs of families of pas-**
7 **sengers involved in aircraft accidents**

8 “(a) *SUBMISSION OF PLANS.*—Not later than 6 months
9 after the date of the enactment of this section, each air car-
10 rier holding a certificate of public convenience and necessity
11 under section 41102 of this title shall submit to the Sec-
12 retary and the Chairman of the National Transportation
13 Safety Board a plan for addressing the needs of the families
14 of passengers involved in any aircraft accident involving
15 an aircraft of the air carrier and resulting in a major loss
16 of life.

17 “(b) *CONTENTS OF PLANS.*—A plan to be submitted
18 by an air carrier under subsection (a) shall include, at a
19 minimum, the following:

20 “(1) A plan for publicizing a reliable, toll-free
21 telephone number, and for providing staff, to handle
22 calls from the families of the passengers.

23 “(2) A process for notifying the families of the
24 passengers, before providing any public notice of the
25 names of the passengers, either by utilizing the serv-
26 ices of the organization designated for the accident

1 *under section 1136(a)(2) of this title or the services*
2 *of other suitably trained individuals.*

3 *“(3) An assurance that the notice described in*
4 *paragraph (2) will be provided to the family of a pas-*
5 *senger as soon as the air carrier has verified that the*
6 *passenger was aboard the aircraft (whether or not the*
7 *names of all of the passengers have been verified) and,*
8 *to the extent practicable, in person.*

9 *“(4) An assurance that the air carrier will pro-*
10 *vide to the director of family support services des-*
11 *ignated for the accident under section 1136(a)(1) of*
12 *this title, and to the organization designated for the*
13 *accident under section 1136(a)(2) of this title, imme-*
14 *diately upon request, a list (which is based on the best*
15 *available information at the time of the request) of*
16 *the names of the passengers aboard the aircraft*
17 *(whether or not such names have been verified), and*
18 *will periodically update the list.*

19 *“(5) An assurance that the family of each pas-*
20 *senger will be consulted about the disposition of all*
21 *remains and personal effects of the passenger.*

22 *“(6) An assurance that if requested by the family*
23 *of a passenger, any possession of the passenger within*
24 *the control of the air carrier (regardless of its condi-*
25 *tion) will be returned to the family unless the posses-*

1 *sion is needed for the accident investigation or any*
2 *criminal investigation.*

3 *“(7) An assurance that any unclaimed posses-*
4 *sion of a passenger within the control of the air car-*
5 *rier will be retained by the air carrier for at least 18*
6 *months.*

7 *“(8) An assurance that the family of each pas-*
8 *senger will be consulted about construction by the air*
9 *carrier of any monument to the passengers, including*
10 *any inscription on the monument.*

11 *“(9) An assurance that the treatment of the fam-*
12 *ilies of nonrevenue passengers (and any other victim*
13 *of the accident) will be the same as the treatment of*
14 *the families of revenue passengers.*

15 *“(10) An assurance that the air carrier will*
16 *work with any organization designated under section*
17 *1136(a)(2) of this title on an ongoing basis to ensure*
18 *that families of passengers receive an appropriate*
19 *level of services and assistance following each acci-*
20 *dent.*

21 *“(11) An assurance that the air carrier will pro-*
22 *vide reasonable compensation to any organization*
23 *designated under section 1136(a)(2) of this title for*
24 *services provided by the organization.*

1 “(12) *An assurance that the air carrier will as-*
2 *ist the family of a passenger in traveling to the loca-*
3 *tion of the accident and provide for the physical care*
4 *of the family while the family is staying at such loca-*
5 *tion.*

6 “(13) *An assurance that the air carrier will*
7 *commit sufficient resources to carry out the plan.*

8 “(c) *CERTIFICATE REQUIREMENT.—After the date that*
9 *is 6 months after the date of the enactment of this section,*
10 *the Secretary may not approve an application for a certifi-*
11 *cate of public convenience and necessity under section*
12 *41102 of this title unless the applicant has included as part*
13 *of such application a plan that meets the requirements of*
14 *subsection (b).*

15 “(d) *LIMITATION ON LIABILITY.—An air carrier shall*
16 *not be liable for damages in any action brought in a Fed-*
17 *eral or State court arising out of the performance of the*
18 *air carrier in preparing or providing a passenger list pur-*
19 *suant to a plan submitted by the air carrier under sub-*
20 *section (b), unless such liability was caused by conduct of*
21 *the air carrier which was grossly negligent or which con-*
22 *stituted intentional misconduct.*

23 “(e) *AIRCRAFT ACCIDENT AND PASSENGER DE-*
24 *FINED.—In this section, the terms ‘aircraft accident’ and*

1 ‘passenger’ have the meanings such terms have in section
2 1136 of this title.”.

3 (b) *CONFORMING AMENDMENT.*—*The table of sections*
4 *for such chapter is amended by adding at the end the follow-*
5 *ing:*

“41113. *Plans to address needs of families of passengers involved in aircraft acci-*
dents.”.

6 **SEC. 4. ESTABLISHMENT OF TASK FORCE.**

7 (a) *ESTABLISHMENT.*—*The Secretary of Transpor-*
8 *tation, in cooperation with the National Transportation*
9 *Safety Board, the Federal Emergency Management Agency,*
10 *the American Red Cross, air carriers, and families which*
11 *have been involved in aircraft accidents shall establish a*
12 *task force consisting of representatives of such entities and*
13 *families, representatives of air carrier employees, and rep-*
14 *resentatives of such other entities as the Secretary considers*
15 *appropriate.*

16 (b) *MODEL PLAN AND RECOMMENDATIONS.*—*The task*
17 *force established pursuant to subsection (a) shall develop—*

18 (1) *a model plan to assist air carriers in re-*
19 *sponding to aircraft accidents;*

20 (2) *recommendations on methods to ensure that*
21 *attorneys and representatives of media organizations*
22 *do not intrude on the privacy of families of pas-*
23 *sengers involved in an aircraft accident;*

1 (3) *recommendations on methods to ensure that*
2 *the families of passengers involved in an aircraft ac-*
3 *cident who are not citizens of the United States re-*
4 *ceive appropriate assistance;*

5 (4) *recommendations on methods to ensure that*
6 *State mental health licensing laws do not act to pre-*
7 *vent out-of-state mental health workers from working*
8 *at the site of an aircraft accident or other related*
9 *sites;*

10 (5) *recommendations on the extent to which*
11 *military experts and facilities can be used to aid in*
12 *the identification of the remains of passengers in-*
13 *volved in an aircraft accident; and*

14 (6) *recommendations on methods to improve the*
15 *timeliness of the notification provided by air carriers*
16 *to the families of passengers involved in an aircraft*
17 *accident, including—*

18 (A) *an analysis of the steps that air car-*
19 *riers would have to take to ensure that an accu-*
20 *rate list of passengers on board the aircraft*
21 *would be available within 1 hour of the accident*
22 *and an analysis of such steps to ensure that such*
23 *list would be available within 3 hours of the ac-*
24 *cident;*

1 (B) an analysis of the added costs to air
2 carriers and travel agents that would result if
3 air carriers were required to take the steps de-
4 scribed in subparagraph (A); and

5 (C) an analysis of any inconvenience to
6 passengers, including flight delays, that would
7 result if air carriers were required to take the
8 steps described in subparagraph (A).

9 (c) *REPORT.*—Not later than 1 year after the date of
10 the enactment of this Act, the Secretary shall transmit to
11 Congress a report containing the model plan and rec-
12 ommendations developed by the task force under subsection
13 (b).

14 **SEC. 5. LIMITATION ON STATUTORY CONSTRUCTION.**

15 Nothing in this Act or any amendment made by this
16 Act may be construed as limiting the actions that an air
17 carrier may take, or the obligations that an air carrier may
18 have, in providing assistance to the families of passengers
19 involved in an aircraft accident.