

106TH CONGRESS
1ST SESSION

H. R. 1678

To amend title 49, United States Code, to require the Secretary of Transportation to initiate investigations of unfair methods of competition by major air carriers against new entrant air carriers.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 1999

Mr. SWEENEY introduced the following bill; which was referred to the
Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to require the Secretary of Transportation to initiate investigations of unfair methods of competition by major air carriers against new entrant air carriers.

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 “Airline Competition
5 and Fairness Act of 1999”.

1 **SEC. 2. UNFAIR METHODS OF COMPETITION AGAINST NEW**
2 **ENTRANT AIR CARRIERS.**

3 Section 41712 of title 49, United States Code, is
4 amended—

5 (1) by inserting “(a) IN GENERAL.—” before
6 “On the initiative”; and

7 (2) by adding at the end the following:

8 “(b) UNFAIR METHODS OF COMPETITION AGAINST
9 NEW ENTRANT AIR CARRIERS.—

10 “(1) IN GENERAL.—In any case in which a
11 major air carrier is competing with a new entrant
12 air carrier in providing air transportation on a route
13 between a hub airport of the major air carrier and
14 another airport, the Secretary shall initiate an inves-
15 tigation under subsection (a) to determine whether
16 the major air carrier has been or is engaged in an
17 unfair method of competition if the Secretary finds
18 that—

19 “(A) the major air carrier has added seat
20 capacity on the route and has sold such a large
21 number of seats on the route at very low fares
22 that the ensuing self-diversion of revenue has
23 resulted in lower local revenue than would have
24 resulted from a reasonable alternative response
25 by the major air carrier to the competition;

1 “(B) the number of passengers that the
2 major air carrier has carried on the route at the
3 new entrant air carrier’s low fares (or at similar
4 fares that are substantially below the major air
5 carrier’s previous fares) has exceeded the new
6 entrant air carrier’s total seat capacity on the
7 route, resulting, through self-diversion, in lower
8 local revenue than would have resulted from a
9 reasonable alternative response by the major air
10 carrier to the competition; or

11 “(C) the number of passengers that the
12 major air carrier has carried on the route at the
13 new entrant air carrier’s low fares (or at similar
14 fares that are substantially below the major air
15 carrier’s previous fares) has exceeded the num-
16 ber of low-fare passengers carried by the new
17 entrant air carrier on the route, resulting,
18 through self-diversion, in lower local revenue
19 than would have resulted from a reasonable al-
20 ternative response by the major air carrier to
21 the competition.

22 “(2) EXCEPTION.—Even if the Secretary makes
23 a finding described in paragraph (1), the Secretary
24 is not required to initiate an investigation in accord-
25 ance with paragraph (1) if the Secretary also finds

1 that there are strong reasons to believe that the
2 major air carrier's response to competition from the
3 new entrant air carrier does not violate subsection
4 (a).

5 “(c) DEFINITIONS.—In this section, the following
6 definitions apply:

7 “(1) NEW ENTRANT AIR CARRIER.—The term
8 ‘new entrant air carrier’ means an air carrier that
9 has been providing air transportation according to a
10 published schedule for less than 10 years and pur-
11 sues a competitive strategy of charging low fares.

12 “(2) HUB AIRPORT.—The term ‘hub airport’
13 means an airport that each year has at least .25
14 percent of the total annual boardings in the United
15 States.

16 “(3) MAJOR AIR CARRIER.—The term ‘major
17 air carrier’ means a passenger air carrier that is cer-
18 tificated under chapter 411 of this title and included
19 in Carrier Group III under criteria contained in sec-
20 tion 04 of part 241 of title 14, Code of Federal Reg-
21 ulations.”.

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