

106TH CONGRESS  
1ST SESSION

# H. R. 2051

To amend title 49, United States Code, to require the Secretary of Transportation to investigate and hold public hearings in response to petitions claiming unreasonably high air fares or inadequate air carrier competition at airports.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 1999

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

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## A BILL

To amend title 49, United States Code, to require the Secretary of Transportation to investigate and hold public hearings in response to petitions claiming unreasonably high air fares or inadequate air carrier competition at airports.

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. PETITIONS CLAIMING UNREASONABLY HIGH**  
4 **AIR FARES OR INADEQUATE AIR CARRIER**  
5 **COMPETITION AT AIRPORTS.**

6 Section 41712 of title 49, United States Code, is  
7 amended—

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

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

4           “(b) PETITIONS CLAIMING UNREASONABLY HIGH  
5 AIR FARES OR INADEQUATE AIR CARRIER COMPETITION  
6 AT AIRPORTS.—

7           “(1) IN GENERAL.—If the Secretary receives a  
8           petition submitted by the sponsor of a commercial  
9           service airport (or by the attorney general of a State  
10          on behalf of 1 or more persons, including govern-  
11          mental entities, with respect to an airport) claiming  
12          that fares for scheduled air transportation at the  
13          airport are unreasonably high, or that competition  
14          between air carriers at the airport is inadequate, the  
15          Secretary shall investigate and hold a public hearing  
16          on the petition before the expiration of the 90-day  
17          period beginning on the date of receipt of the peti-  
18          tion.

19          “(2) LOCATION OF HEARING.—A public hearing  
20          under paragraph (1) shall be held in the community  
21          served by the airport if requested in the petition and  
22          if practicable.

23          “(3) INFORMATION TO BE PROVIDED BY AIR  
24          CARRIERS.—An air carrier providing air transpor-  
25          tation at the airport shall provide to the Secretary

1 pursuant to section 41708 such information con-  
2 cerning fares for air transportation and air service  
3 at the airport as the Secretary considers necessary  
4 to making findings in response to the petition.

5 “(4) OPPORTUNITY TO TESTIFY.—A sponsor of  
6 an airport or an attorney general of a State submit-  
7 ting a petition under paragraph (1), and each air  
8 carrier providing air transportation at the airport,  
9 shall be provided an opportunity to testify at the  
10 public hearing conducted with respect to the peti-  
11 tion. The Secretary may also take testimony from  
12 other interested persons and shall consider all writ-  
13 ten petitions received in response to each petition.

14 “(5) FINDINGS.—Not later than 60 days after  
15 the date on which a public hearing is convened with  
16 respect to a petition submitted under this sub-  
17 section, the Secretary shall issue written findings in  
18 response to the issues raised in the petition, includ-  
19 ing, at a minimum, findings as to—

20 “(A) subject to paragraph (8), whether  
21 fares for air transportation at the airport are  
22 substantially higher than at comparable air-  
23 ports in the Nation;

1           “(B) whether air carrier costs to provide  
2           air transportation at the airport appear sub-  
3           stantially higher than at comparable airports;

4           “(C) whether barriers to entry are discour-  
5           aging or preventing other air carriers from ini-  
6           tiating competitive air transportation at the air-  
7           port;

8           “(D) whether marketing practices de-  
9           scribed in subsection (c) or other air carrier  
10          practices are contributing to such barriers to  
11          entry or are otherwise resulting in higher air  
12          carrier costs or higher fares for air transpor-  
13          tation; and

14          “(E) as appropriate, whether any pro-  
15          grams under the Secretary’s authority could be  
16          helpful to airports in marketing their facilities  
17          to air carriers, reducing fares for air transpor-  
18          tation, or minimizing barriers to entry by other  
19          air carriers seeking to provide air transpor-  
20          tation at the airport.

21          “(6) SUBSEQUENT PETITIONS.—If the Sec-  
22          retary receives a petition under this section with re-  
23          spect to an airport for which the Secretary has pre-  
24          viously conducted an investigation and public hear-  
25          ing under this subsection, the Secretary may decide

1 not to conduct a subsequent investigation and public  
2 hearing in response to the new petition. In deciding  
3 whether to conduct the investigation and public  
4 hearing, the Secretary shall consider whether  
5 changed circumstances may have limited the con-  
6 tinuing validity of the Secretary's previous findings  
7 with respect to the airport.

8 “(7) REPORTS TO CONGRESS.—Not later than  
9 180 days after the date of enactment of this sub-  
10 section, and at the end of each 180-day period there-  
11 after, the Secretary shall transmit to Congress a re-  
12 port on the results of the investigations, if any, com-  
13 pleted under this subsection during that period.

14 “(8) LIMITATION ON STATUTORY CONSTRUC-  
15 TION.—Nothing in this subsection may be construed  
16 to authorize the Secretary to set or invalidate any  
17 fare for air transportation.

18 “(c) MARKETING PRACTICES THAT ADVERSELY AF-  
19 FECT AIR CARRIER COMPETITION.—

20 “(1) REVIEW.—Not later than 180 days after  
21 the date of enactment of this subsection, the Sec-  
22 retary shall review the marketing practices of air  
23 carriers that may inhibit the availability of quality,  
24 affordable air transportation services to commercial  
25 service airports, including—

1           “(A) marketing arrangements between air  
2 carriers and travel agents;

3           “(B) code-sharing partnerships;

4           “(C) frequent flyer incentive programs and  
5 restrictions on purchases of frequent flyer mile-  
6 age by other air carriers;

7           “(D) computer reservation system displays;

8           “(E) gate arrangements at airports;

9           “(F) exclusive dealing arrangements; and

10          “(G) any other marketing practices that  
11 may have similar impacts.

12          “(2) REGULATIONS.—If the Secretary finds,  
13 after conducting the review required by paragraph  
14 (1), that 1 or more marketing practices of air car-  
15 riers inhibit the availability of quality, affordable air  
16 transportation services at commercial service air-  
17 ports, the Secretary, after providing notice and an  
18 opportunity for public comment, shall issue regula-  
19 tions to address the marketing practices.”.

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