

110TH CONGRESS
2D SESSION

H. R. 6493

To amend title 49, United States Code, to enhance aviation safety.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2008

Mr. OBERSTAR (for himself, Mr. MICA, Mr. COSTELLO, and Mr. PETRI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend title 49, United States Code, to enhance aviation safety.

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 Safety En-
5 hancement Act of 2008”.

6 **SEC. 2. AVIATION SAFETY WHISTLEBLOWER INVESTIGA-**
7 **TION OFFICE.**

8 Section 106 of title 49, United States Code, is
9 amended by adding at the end the following:

1 “(s) AVIATION SAFETY WHISTLEBLOWER INVES-
2 TIGATION OFFICE.—

3 “(1) ESTABLISHMENT.—There is established in
4 the Federal Aviation Administration (in this section
5 referred to as the ‘Agency’) an Aviation Safety
6 Whistleblower Investigation Office (in this sub-
7 section referred to as the ‘Office’).

8 “(2) DIRECTOR.—

9 “(A) APPOINTMENT.—The head of the Of-
10 fice shall be the Director, who shall be ap-
11 pointed by the Secretary of Transportation.

12 “(B) QUALIFICATIONS.—The Director
13 shall have a demonstrated ability in investiga-
14 tions and knowledge of or experience in avia-
15 tion.

16 “(C) TERM.—The Director shall be ap-
17 pointed for a term of 5 years.

18 “(D) VACANCY.—Any individual appointed
19 to fill a vacancy in the position of the Director
20 occurring before the expiration of the term for
21 which the individual’s predecessor was ap-
22 pointed shall be appointed for the remainder of
23 that term.

24 “(3) COMPLAINTS AND INVESTIGATIONS.—

1 “(A) AUTHORITY OF DIRECTOR.—The Di-
2 rector shall—

3 “(i) receive complaints and informa-
4 tion submitted by employees of persons
5 holding certificates issued under title 14,
6 Code of Federal Regulations, and employ-
7 ees of the Agency concerning the possible
8 existence of an activity relating to a viola-
9 tion of an order, regulation, or standard of
10 the Agency or any other provision of Fed-
11 eral law relating to aviation safety;

12 “(ii) assess complaints and informa-
13 tion submitted under clause (i) and deter-
14 mine whether a substantial likelihood ex-
15 ists that a violation of an order, regulation,
16 or standard of the Agency or any other
17 provision of Federal law relating to avia-
18 tion safety has occurred; and

19 “(iii) based on findings of the assess-
20 ment conducted under clause (ii), make
21 recommendations to the Administrator in
22 writing for further investigation or correc-
23 tive actions.

24 “(B) DISCLOSURE OF IDENTITIES.—The
25 Director shall not disclose the identity of an in-

1 individual who submits a complaint or informa-
2 tion under subparagraph (A)(i) unless—

3 “(i) the individual consents to the dis-
4 closure in writing; or

5 “(ii) the Director determines, in the
6 course of an investigation, that the dislo-
7 sure is unavoidable.

8 “(C) INDEPENDENCE OF DIRECTOR.—The
9 Secretary, the Administrator, or any officer or
10 employee of the Agency may not prevent or pro-
11 hibit the Director from initiating, carrying out,
12 or completing any assessment of a complaint or
13 information submitted subparagraph (A)(i) or
14 from reporting to Congress on any such assess-
15 ment.

16 “(D) ACCESS TO INFORMATION.—In con-
17 ducting an assessment of a complaint or infor-
18 mation submitted under subparagraph (A)(i),
19 the Director shall have access to all records, re-
20 ports, audits, reviews, documents, papers, rec-
21 ommendations, and other material necessary to
22 determine whether a substantial likelihood ex-
23 ists that a violation of an order, regulation, or
24 standard of the Agency or any other provision

1 of Federal law relating to aviation safety has
2 occurred.

3 “(4) RESPONSES TO RECOMMENDATIONS.—The
4 Administrator shall respond to a recommendation
5 made by the Director under subparagraph (A)(iii) in
6 writing and retain records related to any further in-
7 vestigations or corrective actions taken in response
8 to the recommendation.

9 “(5) INCIDENT REPORTS.—If the Director de-
10 termines that a violation of an order, regulation, or
11 standard of the Agency or any other provision of
12 Federal law relating to aviation safety has occurred
13 that requires immediate corrective action, the Direc-
14 tor shall report the violation expeditiously to the Ad-
15 ministrator and the Inspector General of the De-
16 partment of Transportation.

17 “(6) REPORTING OF CRIMINAL VIOLATIONS TO
18 INSPECTOR GENERAL.—If the Director has reason-
19 able grounds to believe that there has been a viola-
20 tion of Federal criminal law, the Director shall re-
21 port the violation expeditiously to the Inspector Gen-
22 eral.

23 “(7) ANNUAL REPORTS TO CONGRESS.—Not
24 later than October 1 of each year, the Director shall
25 submit to Congress a report containing—

1 “(A) information on the number of submis-
2 sions of complaints and information received by
3 the Director under paragraph (3)(A)(i) in the
4 preceding 12-month period;

5 “(B) summaries of those submissions;

6 “(C) summaries of further investigations
7 and corrective actions recommended in response
8 to the submissions; and

9 “(D) summaries of the responses of the
10 Administrator to such recommendations.”.

11 **SEC. 3. MODIFICATION OF CUSTOMER SERVICE INITIATIVE.**

12 (a) FINDINGS.—Congress finds the following:

13 (1) Subsections (a) and (d) of section 40101 of
14 title 49, United States Code, directs the Federal
15 Aviation Administration (in this section referred to
16 as the “Agency”) to make safety its highest pri-
17 ority.

18 (2) In 1996, to ensure that there would be no
19 appearance of a conflict of interest for the Agency
20 in carrying out its safety responsibilities, Congress
21 amended section 40101(d) of such title to remove
22 the responsibilities of the Agency to promote air-
23 lines.

24 (3) Despite these directives from Congress re-
25 garding the priority of safety, the Agency issued a

1 vision statement in which it stated that it has a “vi-
2 sion” of “being responsive to our customers and ac-
3 countable to the public” and, in 2003, issued a cus-
4 tomer service initiative that required aviation inspec-
5 tors to treat air carriers and other aviation certifi-
6 cate holders as “customers” rather than regulated
7 entities.

8 (4) The initiatives described in paragraph (3)
9 appear to have given regulated entities and Agency
10 inspectors the impression that the management of
11 the Agency gives an unduly high priority to the sat-
12 isfaction of regulated entities regarding its inspec-
13 tion and certification decisions and other lawful ac-
14 tions of its safety inspectors.

15 (5) As a result of the emphasis on customer
16 satisfaction, some managers of the Agency have dis-
17 couraged vigorous enforcement and replaced inspec-
18 tors whose lawful actions adversely affected an air
19 carrier.

20 (b) MODIFICATION OF INITIATIVE.—Not later than
21 90 days after the date of enactment of this Act, the Ad-
22 ministrator of the Federal Aviation Administration shall
23 modify the customer service initiative, mission and vision
24 statements, and other statements of policy of the Agen-
25 cy—

1 (1) to remove any reference to air carriers or
2 other entities regulated by the Agency as “cus-
3 tomers”;

4 (2) to clarify that in regulating safety the only
5 customers of the Agency are individuals traveling on
6 aircraft; and

7 (3) to clarify that air carriers and other entities
8 regulated by the Agency do not have the right to se-
9 lect the employees of the Agency who will inspect
10 their operations.

11 (c) SAFETY PRIORITY.—In carrying out the Adminis-
12 trator’s responsibilities, the Administrator shall ensure
13 that safety is given a higher priority than preventing the
14 dissatisfaction of an air carrier or other entity regulated
15 by the Agency with an employee of the Agency.

16 **SEC. 4. POST-EMPLOYMENT RESTRICTIONS FOR FAA**
17 **FLIGHT STANDARDS INSPECTORS.**

18 (a) IN GENERAL.—Section 44711 of title 49, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

21 “(d) POST-EMPLOYMENT RESTRICTIONS FOR
22 FLIGHT STANDARDS INSPECTORS.—

23 “(1) PROHIBITION.—A person holding an oper-
24 ating certificate issued under title 14, Code of Fed-
25 eral Regulations, may not knowingly employ, or

1 make a contractual arrangement with, an individual
2 to act as an agent or representative of the certificate
3 holder in any matter before the Federal Aviation Ad-
4 ministration (in this subsection referred to as the
5 ‘Agency’) if the individual, in the preceding 2-year
6 period—

7 “(A) served as, or was responsible for over-
8 sight of, a flight standards inspector of the
9 Agency; and

10 “(B) had responsibility to inspect, or over-
11 see inspection of, the operations of the certifi-
12 cate holder.

13 “(2) WRITTEN AND ORAL COMMUNICATIONS.—

14 For purposes of paragraph (1), an individual shall
15 be considered to be acting as an agent or representa-
16 tive of a certificate holder in a matter before the
17 Agency if the individual makes any written or oral
18 communication on behalf of the certificate holder to
19 the Agency (or any of its officers or employees) in
20 connection with a particular matter, whether or not
21 involving a specific party and without regard to
22 whether the individual has participated in, or had
23 responsibility for, the particular matter while serving
24 as a flight standards inspector of the Agency.”

1 (b) APPLICABILITY.—The amendment made by sub-
2 section (a) shall not apply to an individual employed by
3 a certificate holder as of the date of enactment of this
4 Act.

5 **SEC. 5. ASSIGNMENT OF FAA PRINCIPAL MAINTENANCE IN-**
6 **SPECTORS.**

7 (a) IN GENERAL.—An individual serving as a prin-
8 cipal maintenance inspector of the Federal Aviation Ad-
9 ministration (in this section referred to as the “Agency”)
10 may not be responsible for overseeing the operations of
11 a single air carrier for a continuous period of more than
12 5 years.

13 (b) TRANSITIONAL PROVISION.—An individual serv-
14 ing as a principal maintenance inspector of the Agency
15 with respect to an air carrier as of the date of enactment
16 of this Act may be responsible for overseeing the oper-
17 ations of the carrier until the last day of the 5-year period
18 specified in subsection (a) or last day of the 2-year period
19 beginning on such date of enactment, whichever is later.

20 (c) ISSUANCE OF ORDER.—Not later than 30 days
21 after the date of enactment of this Act, the Administrator
22 of the Federal Aviation Administration shall issue an
23 order to carry out this section.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Administrator
3 such sums as may be necessary to carry out this section.

4 **SEC. 6. HEADQUARTERS REVIEW OF AIR TRANSPORTATION**
5 **OVERSIGHT SYSTEM DATABASE.**

6 (a) REVIEWS.—The Administrator of the Federal
7 Aviation Administration shall establish a process by which
8 the air transportation oversight system database of the
9 Federal Aviation Administration (in this section referred
10 to as the “Agency”) is reviewed by a team of employees
11 of the Agency on a monthly basis to ensure that—

12 (1) any trends in regulatory compliance are
13 identified; and

14 (2) appropriate corrective actions are taken in
15 accordance with Agency regulations, advisory direc-
16 tives, policies, and procedures.

17 (b) MONTHLY TEAM REPORTS.—

18 (1) IN GENERAL.—The team of employees con-
19 ducting a monthly review of the air transportation
20 oversight system database under subsection (a) shall
21 submit to the Administrator, the Associate Adminis-
22 trator for Aviation Safety, and the Director of
23 Flight Standards a report on the results of the re-
24 view.

1 (2) CONTENTS.—A report submitted under
2 paragraph (1) shall identify—

3 (A) any trends in regulatory compliance
4 discovered by the team of employees in con-
5 ducting the monthly review; and

6 (B) any corrective actions taken or pro-
7 posed to be taken in response to the trends.

8 (c) QUARTERLY REPORTS TO CONGRESS.—The Ad-
9 ministrator, on a quarterly basis, shall submit to the Com-
10 mittee on Transportation and Infrastructure of the House
11 of Representatives and the Committee on Commerce,
12 Science, and Transportation of the Senate a report on the
13 results of reviews of the air transportation oversight sys-
14 tem database conducted under this section, including cop-
15 ies of reports received under subsection (b).

○