

AMENDED IN SENATE APRIL 26, 2010

AMENDED IN SENATE APRIL 12, 2010

SENATE BILL

No. 1264

Introduced by Senators Leno and Simitian
(Principal coauthor: Assembly Member Lieu)

February 19, 2010

An act to add Article 2 (commencing with Section 5515) to Chapter 9 of Division 2 of the Public Utilities Code, relating to commercial airlines.

LEGISLATIVE COUNSEL'S DIGEST

SB 1264, as amended, Leno. Commercial airlines: passenger rights.

Pursuant to existing law, the federal Department of Transportation has adopted regulations, effective April 29, 2010, requiring air carriers, as defined, to do all of the following: (1) adopt contingency plans for lengthy tarmac delays that include specified passenger services and to publish those plans on their Internet Web site, (2) adopt a customer service plan that addresses specified matter and audit compliance with the plan, and (3) designate Advocates for Passengers' Interests and inform consumers how to file a complaint about scheduled service, acknowledge receipt of each complaint, and send a substantive response to each complainant. The regulations make an air carrier's failure to comply with its contingency plan for lengthy tarmac delays an unfair and deceptive practice subject to enforcement by the department. The regulations additionally make unrealistic scheduling of flights and the holding out of certain chronically delayed flights an unfair and deceptive practice and an unfair method of competition.

Existing law requires the Public Utilities Commission to require every commercial air operator, as defined, to procure, and continue in effect,

adequate protection against liability for personal bodily injuries and property damage as a result of an accident, that may be imposed by law upon the operator and upon any person using, operating, or renting an aircraft, as defined, with the permission of the operator.

This bill would require, whenever passengers have boarded an aircraft, as defined, and departure of the aircraft from the airport, as defined, is delayed by more than 2 hours, or more than 2 hours have passed following landing of the aircraft and passengers have not disembarked from the aircraft, that the air carrier, as defined, provide passengers, as needed, with (1) electrical service that is sufficient to provide the passengers with fresh air and light, (2) waste removal service in order to service the holding tanks for onboard restrooms, and (3) adequate food and drinking water and other refreshment.

This bill would require an air carrier to provide clear and conspicuous notice regarding passenger or consumer complaint contact information. The bill would authorize the commission to levy a civil penalty of up to \$27,500 per passenger upon an air carrier for violation of the above-described requirements, ~~unless if~~ *unless if* the federal Department of Transportation ~~has imposed a fine~~ *discontinues levying fines* pursuant to its above-described regulations ~~for the same act~~, along with interest upon any unpaid and delinquent penalty, and requires the commission to pay any moneys collected through the levy into the General Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 2 (commencing with Section 5515) is
 2 added to Chapter 9 of Division 2 of the Public Utilities Code, to
 3 read:

4
 5 Article 2. Airline Passenger Rights
 6

7 5515. As used in this article, the following terms have the
 8 following meanings:

9 (a) "Air carrier" means an air carrier providing transportation
 10 of passengers by aircraft as a common carrier certificated by the
 11 Secretary of Transportation under Section 41102 of, or operating
 12 under an exemption granted by the Secretary of Transportation
 13 pursuant to Section 41101 of, Title 49 of the United States Code.

1 (b) "Aircraft" means an aircraft as defined in Section 40102 of
2 Title 49 of the United States Code.

3 (c) "Airport" means an air carrier airport as defined in Section
4 47102 of Title 49 of the United States Code.

5 5516. Whenever passengers have boarded an aircraft and
6 departure of the aircraft from the airport is delayed by more than
7 two hours, or whenever more than two hours have passed following
8 landing of the aircraft, and passengers have not disembarked from
9 the aircraft, an air carrier shall provide passengers, as needed, with
10 all of the following:

11 (a) Electrical service that is sufficient to provide the passengers
12 with fresh air and light.

13 (b) Waste removal service in order to service the holding tanks
14 for onboard restrooms.

15 (c) Adequate food and drinking water and other refreshment.

16 5517. (a) An air carrier shall provide clear and conspicuous
17 notice regarding passenger or consumer complaint contact
18 information by providing forms and placing signs at all airport
19 service desks and other appropriate areas in the airport as necessary.

20 (b) The notice shall include, but need not be limited to, both of
21 the following:

22 (1) The telephone number and mailing address of the employee
23 or officer of the air carrier in charge of consumer complaints and
24 the telephone number and mailing address of the Office of Aviation
25 Enforcement and Proceedings of the United States Department of
26 Transportation.

27 (2) An explanation of the rights of airline passengers.

28 5518. ~~The~~ *If the federal Department of Transportation*
29 *discontinues levying fines on air carriers, as authorized by Part*
30 *259 (commencing with Section 259.1) or Section 399.81 of Title*
31 *14 of the Code of Federal Regulations, for departing or arriving*
32 *passenger aircraft that are delayed on the ground, the commission*
33 *may levy a civil penalty of up to twenty-seven thousand five*
34 *hundred dollars (\$27,500) per passenger upon an air carrier for*
35 *violation of this article. The commission may also levy interest*
36 *upon the civil penalty, which shall be calculated as of the date on*
37 *which the civil penalty is unpaid and delinquent. The commission*
38 *shall not impose a civil penalty if the federal Department of*
39 *Transportation has imposed a fine upon an air carrier for the same*
40 *act pursuant to Part 259 (commencing with Section 259.1) or*

- 1 ~~Section 399.81 of Title 14 of the Code of Federal Regulations.~~
- 2 The commission shall deposit all civil penalties and interest
- 3 collected pursuant to this section into the General Fund.

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