

AMENDED IN SENATE JUNE 1, 2010
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)
(Coauthor: Assembly Member Torres)

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, *that became* 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, if the federal Department of Transportation ~~discontinues levying~~ *no longer has the authority to levy* fines pursuant to its above-described regulations, 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. *The commission would be required to notify the Department of Finance and the relevant policy and fiscal committees of the Legislature if it determines the federal Department of Transportation no longer has the authority to levy fines and conditions the commission’s exercise of its enforcement authority upon the Legislature making an appropriation for that purpose.*

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:

1 Article 2. Airline Passenger Rights

2
3 5515. As used in this article, the following terms have the
4 following meanings:

5 (a) “Air carrier” means an air carrier providing transportation
6 of passengers by aircraft as a common carrier certificated by the
7 Secretary of Transportation under Section 41102 of, or operating
8 under an exemption granted by the Secretary of Transportation
9 pursuant to Section 41101 of, Title 49 of the United States Code.

10 (b) “Aircraft” means an aircraft as defined in Section 40102 of
11 Title 49 of the United States Code.

12 (c) “Airport” means an air carrier airport as defined in Section
13 47102 of Title 49 of the United States Code.

14 5516. Whenever passengers have boarded an aircraft and
15 departure of the aircraft from the airport is delayed by more than
16 two hours, or whenever more than two hours have passed following
17 landing of the aircraft, and passengers have not disembarked from
18 the aircraft, an air carrier shall provide passengers, as needed, with
19 all of the following:

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

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

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

25 5517. (a) An air carrier shall provide clear and conspicuous
26 notice regarding passenger or consumer complaint contact
27 information by providing forms and placing signs at all airport
28 service desks and other appropriate areas in the airport as necessary.

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

31 (1) The telephone number and mailing address of the employee
32 or officer of the air carrier in charge of consumer complaints and
33 the telephone number and mailing address of the Office of Aviation
34 Enforcement and Proceedings of the United States Department of
35 Transportation.

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

37 5518. ~~If—(a) Subject to an appropriation pursuant to~~
38 ~~subdivision (b), if the federal Department of Transportation~~
39 ~~discontinues levying fines on air carriers no longer has the~~
40 ~~authority to levy fines upon an air carrier, as authorized by Part~~

1 259 (commencing with Section 259.1) or Section 399.81 of Title
2 14 of the Code of Federal Regulations, for departing or arriving
3 passenger aircraft that are delayed on the ground, the commission
4 may levy a civil penalty of up to twenty-seven thousand five
5 hundred dollars (\$27,500) per passenger upon an air carrier for
6 violation of this article. The commission may also levy interest
7 upon the civil penalty, which shall be calculated as of the date on
8 which the civil penalty is unpaid and delinquent. The commission
9 shall deposit all civil penalties and interest collected pursuant to
10 this section into the General Fund.

11 *(b) If the commission determines, pursuant to subdivision (a),*
12 *that the federal Department of Transportation no longer has the*
13 *authority to levy fines upon an air carrier, the commission shall*
14 *notify the Department of Finance and the relevant policy and fiscal*
15 *committees of the Legislature and request an appropriation*
16 *sufficient to enable it to undertake any enforcement activities*
17 *pursuant to subdivision (a). The commission shall not exercise its*
18 *enforcement authority pursuant to subdivision (a) unless the*
19 *Legislature makes an appropriation for that purpose. However,*
20 *the commission, utilizing then existing resources and those*
21 *procedures authorized in Chapter 9 (commencing with Section*
22 *1701) of Part 1 of Division 1, may undertake those preliminary*
23 *steps necessary to preserve the enforcement authority of the*
24 *commission.*