

Annual Report On Disability-Related Air Travel Complaints

October 2006

Report of the Secretary of Transportation to the United States Congress

Pursuant to the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21)

INTRODUCTION

Overview

The Air Carrier Access Act (ACAA, 49 U.S.C. 41705) prohibits discriminatory treatment of persons with disabilities in air transportation. The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR-21; Public Law 106-181) requires, among other things, that the Secretary of Transportation “regularly review all complaints received by air carriers alleging discrimination on the basis of disability” and “report annually to Congress on the results of such review.” This is the second such annual report to Congress, which covers disability-related complaints that U.S. and foreign passenger air carriers operating to and from the U.S. received during the 2005 calendar year, as reported to the U.S. Department of Transportation (Department or DOT) by those carriers.

This report has two components: (1) a summary of the data reported to the Department by U.S. and foreign air carriers; and (2) a detailed breakdown of the data for each carrier. To allow readers to find areas of interest easily and grasp the essence of an issue quickly, this annual report employs a graphic-intensive format for its data presentation. The 2007 report to Congress covering disability-related complaints carriers received during the 2006 calendar year will follow this same format.

Background

On July 8, 2003, the Department published a final rule to implement the requirements of AIR-21 (See 14 CFR 382.70, 68 FR 40488). This rule requires certificated U.S. air carriers and foreign air carriers operating to, from, or within the United States, conducting passenger operations with at least one aircraft having a designed seating capacity for more than 60 passengers, to record complaints that they receive alleging discrimination or inadequate accessibility on the basis of a disability. The complaints are to be categorized according to the passenger's type of disability and the nature of the complaint. The passenger's disability must be recorded as one of the following types:

- vision impaired
- hearing impaired
- vision and hearing impaired
- mentally impaired
- communicable disease
- allergies (e.g., food allergies, chemical sensitivity)
- paraplegic
- quadriplegic
- other wheelchair
- oxygen
- stretcher
- other assistive device (cane, respirator, etc.)
- other disability

The nature of the alleged discrimination or service problem related to the disability must be recorded in the following categories:

- refusal to board
- refusal to board without an attendant
- security issues concerning disability
- aircraft not accessible
- airport not accessible
- advance-notice dispute
- seating accommodation
- failure to provide adequate or timely assistance
- damage to assistive device
- storage or delay of assistive device
- service animal problem
- unsatisfactory information
- other

The 2003 rule also requires the covered carriers to retain copies of the applicable complaints and records of the action taken for each complaint for 3 years, and to submit the required disability-related complaint data to the DOT annually. The first required report covered disability-related complaints received by carriers during calendar year 2004, which was due to the Department on January 25, 2005. The second annual report covered complaints carriers received during the 2005 calendar year; this second report was due to the Department on January 30, 2006.

Summary of Findings

For the 2005 reporting period, 56 U.S. carriers and 100 foreign carriers submitted the required disability-related complaint data. The total number of carriers that submitted data for the 2005 reporting period compared to the 2004 reporting period increased slightly; however, it should be noted that a number of U.S. and foreign carriers ceased operations or discontinued passenger service to the U.S. in 2005 while other carriers received authority to operate passenger service to the U.S. during the same time period. The Department is continuing its efforts to identify carriers that the reporting rule may apply to that did not file the required reports.¹

The 56 U.S. carriers that submitted data for the 2005 calendar year reported receiving 12,194 disability-related air travel complaints, and the 100 foreign air carriers reported receiving 1,390 complaints during the same time period, for a total of 13,584 complaints received by these 156 carriers. Similar to last year, more than half of the complaints reported (7,106) concerned the failure to provide adequate assistance to persons using wheelchairs. Overall disability-related complaints received by carriers for calendar year 2005 increased more than 15 percent over complaints received by carriers for calendar year 2004, with 2,000 more complaints received by U.S. carriers and 65 more complaints received by foreign air carriers. As noted in last year's Report to Congress, although the overall number of complaints may appear to be large, it must be noted that approximately 17 million persons with disabilities in the United States travel by air each year, and the vast majority of them do not file a disability-related air travel complaint.

¹ The Department, through its Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office), has instituted an investigation of a number of carriers for failure to file the required annual report of disability-related complaint data to DOT in 2005 and 2006. One of those investigations has resulted in a consent order and an assessed civil penalty of \$10,000. Investigations and settlement negotiations involving a number of other airlines are in various stages of completion.

The substance of the complaints filed with the carriers has not been reviewed to determine whether the incidents constituted violations of the Air Carrier Access Act or the provisions of 14 CFR Part 382. Such an undertaking would require resources well beyond the Department's investigative capabilities. Therefore, the complaint numbers should not be interpreted as reflecting violations of law. Moreover, the data being provided were taken directly from reports submitted by carriers and have not been audited or verified by the Department. However, the Department's Enforcement Office will audit carriers as it deems necessary in the future to ensure accurate reporting.

Four categories of information are being presented in this report: data from each carrier; summary totals for U.S. air carriers; summary totals for foreign air carriers; and summary totals for all carriers. The data are presented in charts similar to the charts in which covered U.S. and foreign air carriers are required to submit their reports; each chart contains 13 categories of disabilities on the horizontal axis and 13 categories of complaints on the vertical axis.