

July 2009

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 fifth such annual report to Congress, which covers disability-related complaints that U.S. and foreign passenger air carriers operating to, from, and within the U.S. received during the 2008 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 2010 report to Congress covering disability-related complaints carriers received during the 2009 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

Section 382.70 also requires the covered carriers to retain copies of the applicable complaints and records of the action taken for each complaint for three 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 31, 2005. Carriers are required to submit all subsequent reports on the last Monday in January of that year for the prior calendar year. For example, carriers were required to submit their 2005 calendar year disability-related complaint data by January 30, 2006, their 2006 calendar year disability-related complaint data by January 29, 2007, their 2007 calendar year disability-related complaint data by January 28, 2008 and their 2008 calendar year disability-related complaint data by January 26, 2009.

Summary of Findings

For the 2008 reporting period, 50 U.S. carriers and 117 foreign carriers submitted the required disability-related complaint data. The total number of carriers that submitted data for the 2008 reporting period decreased by 6 compared to the 2007 reporting period; 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 2008 while other carriers received authority to operate passenger service to, from, or within the U.S. during the same time period. The Department is continuing its efforts to inform new carriers of their reporting obligations as well as to identify carriers that the reporting rule may apply to that have not filed the required reports.

The 50 U.S. carriers that submitted data for the 2008 calendar year reported receiving 12,557 disability-related air travel complaints, and the 117 foreign air carriers reported receiving 1,449 complaints during the same time period, for a total of 14,006 complaints received by these 167 carriers. Similar to the last few years, nearly half of the complaints reported (6,801) concerned the failure to provide adequate assistance to persons using wheelchairs. Overall disability-related complaints received by carriers for calendar year 2008 decreased by approximately 8 percent over complaints received by carriers for calendar year 2007, with 1,369 less complaints received by U.S. carriers and 85 more complaints received by foreign air carriers. However, domestic and international passenger enplanements by U.S. carriers also decreased between 2007 and 2008 from approximately 775.8 million to approximately 747 million and overall consumer complaints received by DOT decreased by approximately 19 percent from 2007 to 2008 reflecting a general decrease in service problems in the air transportation industry. A table that presents a summary of the disability complaint data for 2004, 2005, 2006, 2007 and 2008 is set forth below.

	Total Number of Disability Complaints Received by Domestic Carriers	Total Number of Disability Complaints Received by Foreign Carriers	Total Number of Disability Complaints Received by All Carriers
2004	10,193	1,326	11,519
2005	12,194	1,398	13,592
2006	12,075	1,691	13,766
2007	13,926	1,364	15,290
2008	12,557	1,449	14,006

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 millions of 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 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 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. The Department's Enforcement Office also reviews complaints filed directly with DOT's Aviation Consumer Protection Division.

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.

1** According to data obtained through the National Household Travel Survey conducted by DOT's Bureau of Transportation Statistics in 2001 and 2002, more than 17 million persons with disabilities in the U.S. travel by air each year. Data collection for the next survey will begin in 2008 and the survey results will be released in the Fall of 2009.