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SENATE BILL 5068

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State of Washington

61st Legislature

2009 Regular Session

By Senators Jacobsen and Tom

Read first time 01/12/09. Referred to Committee on Labor, Commerce & Consumer Protection.

1 AN ACT Relating to the rights of airline passengers; amending RCW  
2 47.68.020; adding new sections to chapter 47.68 RCW; creating new  
3 sections; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that the  
6 number of passenger complaints about the airline industry has increased  
7 significantly. Further, the legislature is committed to airline  
8 passenger policies that put the safety of all passengers first and  
9 foremost, while not imposing unrealistic economic burdens that  
10 adversely affect airline profitability or create exorbitant ticket  
11 price increases.

12 **Sec. 2.** RCW 47.68.020 and 1993 c 208 s 4 are each amended to read  
13 as follows:

14 As used in this chapter, unless the context clearly indicates  
15 otherwise:

16 (1) "Aeronautics" means the science and art of flight and including  
17 but not limited to transportation by aircraft; the operation,  
18 construction, repair, or maintenance of aircraft, aircraft power plants

1 and accessories, including the repair, packing, and maintenance of  
2 parachutes; the design, establishment, construction, extension,  
3 operation, improvement, repair, or maintenance of airports or air  
4 navigation facilities; and instruction in flying or ground subjects  
5 pertaining thereto.

6 (2) "Aircraft" means any contrivance now known, or hereafter  
7 invented, used or designed for navigation of or flight in the air.

8 (3) "Airline carrier" means any partnership, corporation, or  
9 other business entity regulated by the federal aviation administration  
10 that conducts scheduled passenger air transportation.

11 (4) "Airport" means any area of land or water which is used, or  
12 intended for use, for the landing and take-off of aircraft, and any  
13 appurtenant areas which are used, or intended for use, for airport  
14 buildings or other airport facilities or right-of-way, together with  
15 all airport buildings and facilities located thereon.

16 ((+4)) (5) "Department" means the state department of  
17 transportation.

18 ((+5)) (6) "Office" means the office of the airline consumer  
19 advocate as established in section 4 of this act.

20 (7) "Secretary" means the state secretary of transportation.

21 ((+6)) (8) "State" or "this state" means the state of Washington.

22 ((+7)) (9) "Air navigation facility" means any facility, other  
23 than one owned or operated by the United States, used in, available for  
24 use in, or designed for use in aid of air navigation, including any  
25 structures, mechanisms, lights, beacons, markers, communicating  
26 systems, or other instrumentalities or devices used or useful as an  
27 aid, or constituting an advantage or convenience, to the safe taking-  
28 off, navigation, and landing of aircraft, or the safe and efficient  
29 operation or maintenance of an airport, and any combination of any or  
30 all of such facilities.

31 ((+8)) (10) "Operation of aircraft" or "operate aircraft" means  
32 the use, navigation, or piloting of aircraft in the airspace over this  
33 state or upon any airport within this state.

34 ((+9)) (11) "Airman or airwoman" means any individual who engages,  
35 as the person in command, or as pilot, mechanic, or member of the crew  
36 in the navigation of aircraft while under way, and any individual who  
37 is directly in charge of the inspection, maintenance, overhauling, or  
38 repair of aircraft engines, airframes, propellers, or appliances, and

1 any individual who serves in the capacity of aircraft dispatcher or  
2 air-traffic control tower operator; but does not include any individual  
3 employed outside the United States, or any individual employed by a  
4 manufacturer of aircraft, aircraft engines, airframes, propellers, or  
5 appliances to perform duties as inspector or mechanic in connection  
6 therewith, or any individual performing inspection or mechanical duties  
7 in connection with aircraft owned or operated by the person.

8 ~~((+10))~~ (12) "Aeronautics instructor" means any individual who for  
9 hire or reward engages in giving instruction or offering to give  
10 instruction in flying or ground subjects pertaining to aeronautics, but  
11 excludes any instructor in a public school, university, or institution  
12 of higher learning duly accredited and approved for carrying on  
13 collegiate work, who instructs in flying or ground subjects pertaining  
14 to aeronautics, while in the performance of his or her duties at such  
15 school, university, or institution.

16 ~~((+11))~~ (13) "Air school" means any person who advertises,  
17 represents, or holds out as giving or offering to give instruction in  
18 flying or ground subjects pertaining to aeronautics whether for or  
19 without hire or reward; but excludes any public school, university, or  
20 institution of higher learning duly accredited and approved for  
21 carrying on collegiate work.

22 ~~((+12))~~ (14) "Person" means any individual, firm, partnership,  
23 corporation, company, association, joint stock association, or body  
24 politic; and includes any trustee, receiver, assignee, or other similar  
25 representative thereof.

26 ~~((+13))~~ (15) "Municipal" means pertaining to a municipality, and  
27 "municipality" means any county, city, town, authority, district, or  
28 other political subdivision or public corporation of this state.

29 ~~((+14))~~ (16) "Airport hazard" means any structure, object of  
30 natural growth, or use of land, which obstructs the airspace required  
31 for the flight of aircraft in landing or taking off at an airport or is  
32 otherwise hazardous to such landing or taking off.

33 ~~((+15))~~ (17) "State airway" means a route in the navigable  
34 airspace over and above the lands or waters of this state, designated  
35 by the department as a route suitable for air navigation.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 47.68 RCW  
37 to read as follows:

1 (1) Whenever airline passengers are delayed more than three hours  
2 on an aircraft that is on the tarmac, the airline carrier shall ensure  
3 that passengers are provided for as needed with:

4 (a) Electric generation service to provide temporary power for  
5 fresh air and lights;

6 (b) Waste removal service for holding tanks of on-board restrooms;  
7 and

8 (c) Access to medical attention, adequate food and drinking water,  
9 and other refreshments.

10 (2) All airline carriers shall provide clear and conspicuous notice  
11 on consumer complaint contact information by providing forms or posting  
12 signs, or both, at all service desks and other appropriate areas as  
13 necessary in an airport, which contain information in a form and manner  
14 prescribed by the office including, but not limited to, the following:

15 (a) A telephone number and mailing address of the office, the  
16 aviation consumer protection division, and the office of aviation  
17 enforcement of the United States department of transportation;

18 (b) Explanations of the rights of airline passengers; and

19 (c) Basic information on the office.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.68 RCW  
21 to read as follows:

22 (1) The office of the airline consumer advocate is created in the  
23 attorney general's office. The attorney general shall designate one or  
24 more employees to serve in the office.

25 (2) The office shall:

26 (a) Assist customers in resolving problems with airline carriers;

27 (b) Identify areas in which customers have problems in dealings  
28 with airline carriers;

29 (c) Propose solutions, including administrative changes to  
30 practices and procedures of the airline carrier or airport;

31 (d) Preserve and promote the rights of the customer;

32 (e) Promote open and direct communications; and

33 (f) In conjunction with appropriate staff of the attorney general,  
34 initiate, investigate, attempt to resolve, and if necessary refer to  
35 the attorney general any matters or complaints received under this  
36 section.

1 (3)(a) Any complaints regarding violations of section 3 of this act  
2 must be filed with the office who may, in conjunction with staff of the  
3 attorney general, conduct an investigation and may request in writing  
4 the production of documents and records as part of its investigation.

5 (b) At the conclusion of an investigation, the office shall either:

6 (i) Dismiss the complaint if it determines that a violation has not  
7 occurred; or

8 (ii) Determine that a violation has likely occurred and, if so,  
9 attempt to resolve the matter by settlement, which may include a  
10 monetary settlement to cover the costs and expenses incurred by the  
11 office in investigating the violation. If a settlement is not  
12 achieved, then the matter must be referred to the attorney general for  
13 further proceedings including, if necessary, legal action.

14 (c) The attorney general may recover a civil penalty not to exceed  
15 one thousand dollars per violation, per passenger. The civil penalty  
16 imposed under this section may be sought in a civil action brought by  
17 the attorney general in any court of competent jurisdiction. If the  
18 attorney general prevails in a civil action, the court may award the  
19 attorney general reasonable attorneys' fees and an amount equal to the  
20 costs and expenses incurred by the attorney general in investigating a  
21 violation of section 3 of this act, as the court deems appropriate. If  
22 the attorney general reaches a settlement, the settlement must include  
23 an amount equal to the costs and expenses incurred by the attorney  
24 general in investigating a violation of section 3 of this act.

25 (4) The office shall prepare an annual report that:

26 (a) Includes a summary of the activities of the office;

27 (b) Identifies the initiatives that the office has taken to improve  
28 airline services;

29 (c) Contains a summary of the most serious problems encountered by  
30 customers, including a description of the nature of these problems;

31 (d) Contains an inventory of the initiatives and problems described  
32 in (b) and (c) of this subsection for which action has been taken, the  
33 status and results of the actions taken, and an inventory of the  
34 initiative and problems for which action has not been taken and the  
35 reasons why action has not been taken;

36 (e) Contains recommendations for legislative or administrative  
37 proposals appropriate to resolve problems encountered by customers; and

38 (f) Includes other information that the office deems advisable.

1        NEW SECTION.    **Sec. 5.**    This act does not require an airline  
2 carrier, airport, or other entity to take action in contravention of  
3 any written directive of the federal aviation administration or other  
4 federal agency having jurisdiction over the entity.

5        NEW SECTION.    **Sec. 6.**    If any provision of this act or its  
6 application to any person or circumstance is held invalid, the  
7 remainder of the act or the application of the provision to other  
8 persons or circumstances is not affected.

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