

Union Calendar No. 470

117TH CONGRESS
2D SESSION

H. R. 3095

[Report No. 117–651]

To ensure that authorizations issued by the Secretary of Transportation to foreign air carriers do not undermine labor rights or standards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2021

Mr. DEFAZIO (for himself, Mr. LARSEN of Washington, Ms. DAVIDS of Kansas, Mr. LAMB, Mr. KAHELE, Mr. RODNEY DAVIS of Illinois, Mr. FERGUSON, Mr. BACON, Mr. BERGMAN, and Mr. JOHNSON of Ohio) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

DECEMBER 20, 2022

Additional sponsors: Ms. NORTON, Ms. JACKSON LEE, Mr. BOST, Mr. FITZPATRICK, Mr. CARBAJAL, Ms. CHU, Mr. CONNOLLY, Ms. WILSON of Florida, Ms. BROWNLEY, Mr. GALLEGGO, Mrs. TRAHAN, Mr. WELCH, Mr. SHERMAN, Ms. DEGETTE, Mr. EMMER, Mr. KIM of New Jersey, Mr. PAPPAS, Mr. KILMER, Mr. AGUILAR, Ms. MCCOLLUM, Mr. MCKINLEY, Mr. VAN DREW, Mr. RUPPERSBERGER, Mr. RESCHENTHALER, Miss RICE of New York, Ms. BARRAGÁN, Mr. HUFFMAN, Ms. WEXTON, Mr. PALLONE, Mr. PETERS, Mr. THOMPSON of California, Mr. PAYNE, Mr. KIND, Mr. HERN, Mr. CROW, Ms. WILD, Mr. WILSON of South Carolina, Mr. SMITH of New Jersey, Ms. SÁNCHEZ, Mr. LOWENTHAL, Mr. CARTWRIGHT, Mr. LEVIN of California, Mr. NORCROSS, Mr. MCGOVERN, Mr. RUIZ, Mr. NADLER, Mr. PERLMUTTER, Mr. MRVAN, Mr. PASCRELL, Mr. BRENDAN F. BOYLE of Pennsylvania, Mrs. AXNE, Mr. KINZINGER, Mr. SIRES, Mr. GARAMENDI, Mr. CRENSHAW, Mr. CÁRDENAS, Mr. MALINOWSKI, Ms. ROSS, Ms. PINGREE, Ms. SPANBERGER, Ms. BLUNT ROCHESTER, Mr. SMITH of Washington, Mr. GOTTHEIMER, Mr. ALLEN, Mr. COURTNEY, Mr. TURNER, Mr. ALLRED, Mr. CLEAVER, Mr. NEGUSE, Mr. HIGGINS of New York, Mr. JOHNSON of Georgia, Mr. POCAN, Mr. JOYCE of Ohio, Mr. SCHRADER, Mrs. WATSON COLEMAN, Mr. GARCÍA of Illinois, Ms. DELAURO, Ms. DELBENE, Ms. STEFANIK, Mr. NEHLS, Mr.

KATKO, Mr. LAWSON of Florida, Mr. ZELDIN, Mr. FOSTER, Mr. CARSON, Mr. LYNCH, Mr. VALADAO, Mr. GIBBS, Mr. NEAL, Ms. MENG, Mr. FORTENBERRY, Mr. KRISHNAMOORTHY, Mr. EVANS, Mrs. MILLER-MEEKS, Mr. RYAN of Ohio, Mr. SWALWELL, Mr. BRADY, Mrs. LURIA, Mr. KILDEE, Ms. KUSTER, Mrs. FLETCHER, Mr. STAUBER, Mr. GARBARINO, Mr. LEVIN of Michigan, Mr. SUOZZI, Ms. GARCIA of Texas, Ms. MALLIOTAKIS, Mr. TAKANO, Ms. BONAMICI, Mrs. BEATTY, Mr. ELLZEY, Mr. CASE, Ms. SCHAKOWSKY, Mr. MOOLENAAR, Ms. JAYAPAL, Mr. BISHOP of Georgia, Mr. JEFFRIES, Mr. GOMEZ, Mr. HOLLINGSWORTH, Mr. CICILLINE, Ms. CLARK of Massachusetts, Ms. STRICKLAND, Mr. VICENTE GONZALEZ of Texas, Mrs. HARTZLER, Ms. ROYBAL-ALLARD, Mrs. NAPOLITANO, Mr. BURGESS, Mr. COSTA, Ms. PORTER, Mr. DELGADO, Mrs. CAROLYN B. MALONEY of New York, Mr. VARGAS, Mr. BROOKS, Mr. DESAULNIER, Ms. SEWELL, Ms. CASTOR of Florida, Ms. SCHRIER, Ms. CRAIG, Mrs. LAWRENCE, Mr. VEASEY, Mr. STANTON, Ms. WILLIAMS of Georgia, Ms. MANNING, Mr. MOULTON, Ms. DEAN, Mr. SOTO, Mr. CASTEN, Mr. TIFFANY, Mr. WALTZ, Mr. GOODEN of Texas, Mr. ESPAILLAT, and Ms. BROWN of Ohio

DECEMBER 20, 2022

Reported from the Committee on Transportation and Infrastructure; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To ensure that authorizations issued by the Secretary of Transportation to foreign air carriers do not undermine labor rights or standards, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair and Open Skies
5 Act”.

6 **SEC. 2. FOREIGN AIR TRANSPORTATION UNDER UNITED**
7 **STATES-EUROPEAN UNION AIR TRANSPORT**
8 **AGREEMENT.**

9 The Secretary of Transportation may not issue a per-
10 mit under section 41302 of title 49, United States Code,
11 or an exemption under section 40109 of such title, author-
12 izing a person to provide foreign air transportation as a
13 foreign air carrier under the United States-European
14 Union Air Transport Agreement of April 2007 (as amend-
15 ed), unless the Secretary—

16 (1) finds that issuing the permit or exemption
17 would be consistent with Article 17 bis of the Agree-
18 ment; and

19 (2) imposes on the permit or exemption such
20 conditions as may be necessary to ensure that the
21 person complies with Article 17 bis.

22 **SEC. 3. PUBLIC INTEREST TEST.**

23 Section 41302(2) of title 49, United States Code, is
24 amended—

1 (1) in subparagraph (A) by striking “under an
2 agreement with the United States Government; or”
3 and inserting “; and”; and

4 (2) in subparagraph (B) by striking “the for-
5 eign air transportation” and inserting “after consid-
6 ering the totality of the circumstances, including the
7 factors set forth in section 40101(a), the foreign air
8 transportation”.

9 **SEC. 4. PUBLIC INTEREST REQUIREMENTS.**

10 (a) **POLICY.**—Section 40101(a) of title 49, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(17) preventing entry into United States mar-
14 kets by flag of convenience carriers.

15 “(18) preventing the undermining of labor
16 standards.”.

17 (b) **INTERNATIONAL AIR TRANSPORTATION.**—Sec-
18 tion 40101(e)(9) of title 49, United States Code, is
19 amended—

20 (1) in subparagraph (D) by striking “and” at
21 the end;

22 (2) in subparagraph (E) by striking the period
23 at the end and inserting “; and”; and

24 (3) by adding at the end the following:

25 “(F) undermining labor standards.”.

1 (c) FLAG OF CONVENIENCE CARRIER DEFINED.—
2 Section 40102(a) of title 49, United States Code, is
3 amended—

4 (1) by redesignating paragraphs (21) through
5 (47) as paragraphs (22) through (48), respectively;
6 and

7 (2) by inserting after paragraph (20) the fol-
8 lowing:

9 “(21) ‘flag of convenience carrier’ means a for-
10 eign air carrier that is established in a country other
11 than the home country of its majority owner or own-
12 ers in order to avoid regulations of the home coun-
13 try.”.

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