

116TH CONGRESS
1ST SESSION

H. R. 5112

To establish that no Federal statute is intended to preempt a cause of action against an airport maintained in any State small claims or superior court by any individual or city within 5 miles of an airport when an action is brought for noise or nuisance caused by ground-based noise in violation of a State statute as specified, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2019

Ms. SPEIER (for herself, Ms. ESHOO, Ms. NORTON, and Mr. RASKIN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To establish that no Federal statute is intended to preempt a cause of action against an airport maintained in any State small claims or superior court by any individual or city within 5 miles of an airport when an action is brought for noise or nuisance caused by ground-based noise in violation of a State statute as specified, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Low-frequency Ener-
3 getic Acoustics and Vibrations Exasperate Act” or the
4 “LEAVE Act”.

5 **SEC. 2. STANDARD FOR NOISE OR NUISANCE ACTIONS.**

6 (a) STANDARD.—Notwithstanding any other provi-
7 sion of law, a standard enforceable in State court may be
8 set by one or more States participating in a study de-
9 scribed in subsection (b) upon publication of such study.

10 (b) STUDY.—

11 (1) IN GENERAL.—One or more States may
12 conduct one or more studies of ground-based noise
13 from aircraft operations at an airport within a
14 State.

15 (2) COLLABORATION.—States may collaborate
16 on developing the methodology and standards for a
17 study under this Act.

18 (3) CONTENT.—A study under this Act shall—

19 (A) identify the amount of ground-based
20 noise emanating from one or more airports in
21 the State or States during the study period;

22 (B) identify the noise level above which
23 there is present a substantial negative impact to
24 residents and businesses within 5 miles of any
25 airport that is studied; and

1 (C) identify any diminution of real prop-
2 erty values from those that might otherwise be
3 attained in the absence of the noise that creates
4 a substantial negative impact.

5 (4) BASELINE.—A study under this Act shall
6 identify a baseline value of ground-based noise above
7 which an airport in the study is presumed to be per-
8 mitting an excess of noise to propagate to a commu-
9 nity within 5 miles of an airport.

10 (5) FACTORS.—Recognizing that topography,
11 characteristics of airport construction, weather, and
12 variable air traffic volumes are among many factors
13 affecting the amount of perceived ground-based
14 noise emanating from an airport, a State—

15 (A) need not establish a uniform standard
16 of exceedance for every airport;

17 (B) need not limit its analysis to such fac-
18 tors; and

19 (C) shall establish a reasonable method-
20 ology for establishing such a standard and
21 apply such methodology across the State or
22 States.

23 (6) METHODOLOGY.—The methodology for es-
24 tablishing the standard may take into account—

1 (A) a history of ground-based noise ema-
2 nating from the airport;

3 (B) the reasonable expectations of im-
4 pacted residents for the quiet use and enjoy-
5 ment of owned or rented property; and

6 (C) any other factors that a State con-
7 siders appropriate to reduce substantial nega-
8 tive impacts of noise propagating to a commu-
9 nity within 5 miles of an airport.

10 (7) SETTING ASIDE OF METHODOLOGY OR
11 STANDARD.—A methodology or standard established
12 by a State shall not be set aside unless a Federal
13 court determines such methodology or standard to
14 be arbitrary or capricious.

15 (8) PUBLICATION.—A study described in this
16 subsection shall be published.

17 (c) PREEMPTION.—Congress hereby finds and de-
18 clares that no Federal statute is intended to preempt a
19 cause of action against an airport maintained in any State
20 small claims or superior court, by any individual or city
21 within 5 miles of the airport, when an exceedance of a
22 standard established by a State pursuant to this Act for
23 an airport is averred.

24 (d) DEFINITIONS.—In this Act, the following defini-
25 tions apply:

1 (1) GROUND-BASED NOISE.—The term
2 “ground-based noise” means noise emanating from
3 an aircraft operating on the ground predominately
4 consisting of noise of 200 Hz or below.

5 (2) SUBSTANTIAL NEGATIVE IMPACT.—The
6 term “substantial negative impact” means a noise
7 exceedance that is injurious to health, offensive to
8 the senses, or an obstruction to the free use of prop-
9 erty, and interferes with the comfortable enjoyment
10 of life or property by an entire community or neigh-
11 borhood, or by any considerable number of persons,
12 whether or not the entire community or those con-
13 siderable number of persons participate in the cause
14 of action.

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