

116TH CONGRESS
2D SESSION

H. R. 7128

To ensure the safety of air passengers and the public by authorizing States to implement reasonable guidelines and restrictions on passenger air travel, to amend title 49, United States Code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2020

Mr. CASE introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To ensure the safety of air passengers and the public by authorizing States to implement reasonable guidelines and restrictions on passenger air travel, to amend title 49, United States Code, 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 “Air Travel Public
5 Health Emergency Protection Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Passenger air travel is or can be a major
2 vector in the spread of certain communicable dis-
3 eases such as COVID–19.

4 (2) Air passengers who have been infected by
5 such communicable diseases, especially during a de-
6 clared national public health emergency, present a
7 serious public health risk not only to their fellow
8 passengers but to all who come in contact with them
9 at their destinations and upon their return.

10 (3) Further, such air passengers present a seri-
11 ous negative economic consequence to the airlines on
12 which they fly and to the destinations at which they
13 arrive, especially destinations reliant on the travel
14 and tourism industry, as they destroy public con-
15 fidence in the health and safety of air travel and of
16 such destinations.

17 (4) The best mechanism to address these nega-
18 tive consequences during a declared national public
19 health emergency is for potential air passengers to
20 be tested for symptoms of the relevant commu-
21 nicable disease before boarding airlines and to be de-
22 nied boarding if such symptoms are indicated.

23 (5) The Federal Aviation Administration has
24 taken the position that it does not have existing
25 statutory authority to impose a public health-related

1 requirement on passenger airlines that they test all
2 potential air passengers for symptoms of the rel-
3 evant communicable disease before boarding airlines
4 and deny boarding if such symptoms are indicated,
5 and further that individual States are not authorized
6 to impose such requirements in the exercise of their
7 police power to protect the public health and foster
8 economic and social stability.

9 (6) As a result, some States, in furtherance of
10 those goals, have been required to adopt far more
11 risky and less effective methods which consume
12 scarce resources, including a post-arrival self-polic-
13 ing quarantine which is widely disregarded.

14 **SEC. 3. PURPOSE.**

15 The purpose of this Act shall be to authorize any
16 State to impose reasonable public health-protective condi-
17 tions on the boarding of any passenger on a passenger
18 airline at the point of origin of a direct flight to such State
19 during a public health emergency.

20 **SEC. 4. PUBLIC HEALTH ACCOMMODATIONS.**

21 (a) IN GENERAL.—The Administrator of the Federal
22 Aviation Administration shall allow States, territories of
23 the United States, and Indian Tribes to implement reason-
24 able guidelines and restrictions to ensure the public health
25 and safety of air passengers and the public.

1 (b) AMENDMENTS TO TITLE 49.—Title 49 of the
2 United States Code is amended—

3 (1) in section 40103—

4 (A) in subsection (a)(2) by striking “A cit-
5 izen” and inserting “Except as provided in sub-
6 section (f), a citizen”; and

7 (B) by adding at the end the following:

8 “(f) PUBLIC HEALTH EMERGENCY EXCEPTION.—

9 During a public health emergency, the Administrator shall
10 allow States, territories of the United States, and Indian
11 Tribes to implement and enforce reasonable restrictions
12 on air passengers at the point of origin of a direct flight
13 to such State, territory, or Indian Tribe jurisdiction in ac-
14 cordance with requirements and restrictions determined by
15 the State, territory, or Indian Tribe at the point of des-
16 tination which may include, a temperature or other rapid
17 check for any communicable disease which is the subject
18 of the public health emergency, and which requirements
19 and restrictions may include denial of boarding if such in-
20 tended passenger is indicated for such disease. Such rea-
21 sonable restrictions shall be implemented at the expense
22 of the air carrier as determined necessary by a State, ter-
23 ritory, or Indian Tribe.

24 “(g) DEFINITIONS.—For purposes of this section, the
25 following definitions apply:

1 “(1) PUBLIC HEALTH EMERGENCY.—The term
2 ‘public health emergency’ means a declaration under
3 section 319(a) of the Public Health Service Act (42
4 U.S.C. 247d(a)) related to a communicable disease.

5 “(2) REASONABLE RESTRICTION.—The term
6 ‘reasonable restriction’ means any good faith restric-
7 tion or condition imposed or implemented on in-
8 tended passengers prior to boarding a plane by a
9 State, territory of the United States, or Indian Tribe
10 to prevent the spread of a communicable disease
11 during a public health emergency.”; and

12 (2) in section 47107 by adding at the end the
13 following:

14 “(x) WAIVER OF REQUIREMENTS.—

15 “(1) IN GENERAL.—Notwithstanding the re-
16 quirements of this section, during a public health
17 emergency, the Secretary shall waive any grant as-
18 surance that conflicts with a reasonable restriction
19 implemented by a State, territory, or Indian Tribe
20 as set forth in section 40103(f) without an airport
21 owner or operator submitting a request for such a
22 waiver.

23 “(2) DEFINITIONS.—For purposes of this sub-
24 section, the following definitions apply:

1 “(A) PUBLIC HEALTH EMERGENCY.—The
2 term ‘public health emergency’ means a dec-
3 laration under section 319(a) of the Public
4 Health Service Act (42 U.S.C. 247d(a)) related
5 to a communicable disease.

6 “(B) REASONABLE RESTRICTION.—The
7 term ‘reasonable restriction’ means any good
8 faith restriction or condition imposed or imple-
9 mented on intended passengers prior to board-
10 ing a plane by a State, territory of the United
11 States, or Indian Tribe to prevent the spread of
12 a communicable disease during a public health
13 emergency.”.

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