

ANNUAL REPORT
FOR 2012
ON
DISABILITY-RELATED
AIR TRAVEL COMPLAINTS

**Report of the Secretary of Transportation to the
United States Congress**

February 2014

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Annual Report on Disability-Related Air Travel Complaints

August 2013

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 ninth such annual report to Congress, which covers disability-related complaints that U.S. and foreign air carriers conducting passenger operations to, from, and within the U.S. received during the 2012 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. This annual report employs a graphic-intensive format for its data presentation to allow readers to find areas of interest easily and grasp the essence of an issue quickly.

Background

On May 13, 2008, the Department published its most recent final rule implementing the requirements of AIR-21 (See 14 CFR 382.157, 73 FR 27614).¹ 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

¹ The original rule that implemented the requirements of AIR-21 was published July 8, 2003 (See 14 CFR 382.70, 68 FR 40488).

- 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 382.157 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 have been required to submit all subsequent reports on the last Monday in January for the prior calendar year. Therefore, carriers were required to submit their 2012 calendar year disability-related complaint data by January 28, 2013.

Summary of Findings

For the 2012 reporting period, 45 U.S. carriers and 120 foreign carriers submitted the required disability-related complaint data. The total number of carriers that submitted data for the 2012 reporting period has slightly decreased in comparison to the 2011 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 2011, 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 the carriers to which the reporting rule may apply that have not filed the required

reports. Since 2006, the Department has issued 19 cease and desist orders assessing civil penalties totaling more than \$500,000 for violations by both U.S. and foreign air carriers of the Department's disability-related complaint reporting requirements.

The 45 U.S. carriers that submitted data for the 2012 calendar year reported receiving 20,584 disability-related air travel complaints, and the 120 foreign air carriers reported receiving 2,859 complaints during the same time period, for a total of 23,443 complaints received by these 165 carriers. Nearly half of the complaints reported (11,283) concerned the failure to provide adequate assistance to persons using wheelchairs. The overall number of disability-related complaints received by carriers for calendar year 2012 (23,443.) increased by approximately 9.7 percent over the number received by carriers in calendar year 2011 (21,372) even though the number of passengers remained relatively unchanged.² This is a significantly increase in comparison to the 2 percent increase in complaints from calendar year 2010 to calendar year 2011 that were reported to the Department. The increase in the overall number of complaints is largely the result of an increase in complaints (1631) received by U.S. air carriers. The number of complaints received by foreign air carriers only increased by 440. Although a reason for the large year-over-year increase in disability-related complaints is impossible to establish, that increase lagged behind the increase in overall consumer complaints received by DOT. The overall number of consumer complaints received directly by DOT for calendar year 2012 increased by approximately 32 percent when compared to calendar year 2011.³

The Department's Aviation Consumer Protection Division routinely has discussions with individual carriers when it notices spikes or significant variations in complaint types or complaint levels. In addition, the Department reached out to U.S. and foreign air carriers in 2011 to emphasize the requirements of the ACAA regulation. Finally, the Department has hosted numerous training forums around the world, since the publication of the revised ACAA regulation in 2008, to educate foreign carriers on their responsibilities to travelers with disabilities.

A table that presents a summary of the disability complaint data from 2004 to 2012 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

² Domestic and international passenger enplanements by U.S. and foreign carriers increased only slightly between 2011 and 2012 from approximately 804.5 million to approximately 815.3 million, an increase of 1.3 percent.

³ Some of the increase in the number of disability-related complaints reported by carriers may be due to more accurate counting that may result from enforcement activity in this area by the Department. See below.

2008	12,557	1,449	14,006
2009	15,496	1,572	17,068
2010	19,347	1,654	21,001
2011	18,953	2,419	21,372
2012	20,584	2,859	23,443

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.⁴

The complaint numbers should not be interpreted as reflecting violations of law as the data being provided were taken directly from reports submitted by carriers. The Department has not audited or verified these consumer complaint numbers nor has the Department reviewed the substance of the complaints filed with the carriers to determine whether the incidents constituted violations of the ACAA or the provisions of 14 CFR Part 382. The Department’s Enforcement Office does, however, investigate each complaint filed directly with DOT’s Aviation Consumer Protection Division. The Department’s Enforcement Office also audits carriers as it deems necessary to ensure accurate reporting. In 2009, 2010, 2011 and 2012, the Enforcement Office conducted a number of on-site investigations, which involved reviewing carrier records to, among other things, verify the accuracy of the carrier’s disability reporting. As a result of these on-site investigations, the Enforcement Office discovered several instances where carriers were undercounting disability-related complaints and assessed fines against them. Most recently, in January, February and May 2012, three carriers were fined \$100,000 for violating numerous provisions of the ACAA regulation, including undercounting disability-related complaints.

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.

⁴ According to data obtained through the National Household Travel Survey conducted by DOT’s Bureau of Transportation Statistics (BTS) in 2001 and 2002, more than 17 million persons with disabilities in the U.S. travel by air each year. The most recent National Household Travel Survey was completed in 2009; however, the 2009 National Household Travel Survey does not include data regarding the number of persons with disabilities that traveled by air. However, based on the increase of domestic and international enplanement by U.S. carriers from approximately 625.3 million persons in 2001 to approximately 742.7 million persons in 2012, it can be assumed that more than 20 million persons with disabilities traveled by air in the U.S. in 2012.