

FAA Reauthorization Briefing Part 2: Disability-Related Passenger Rights

On October 5, 2018, President Trump signed into law the “FAA Reauthorization Act of 2018.” The Act, which has wide-ranging implications for the aviation industry, funds the FAA for the next five years. The legislation affects, among other issues, aviation-related consumer protection, labor law, airline fees, and disability accommodations in air travel. This briefing focuses on provisions in the Reauthorization Act that affect airlines’ obligations to accommodate passengers with disabilities.

Review of Service Animal Requirements

- **What the law says:** DOT must conduct a rulemaking to determine if it should more narrowly define the term “service animal” and to develop minimum acceptance standards for passengers who travel with service or emotional support animals in-cabin. DOT must issue a final rule by March 2020.
- **What the law means for airlines:** Airlines will have an opportunity to comment on DOT’s proposed rule. Airlines have urged DOT to tighten its regulations to prevent passengers from falsely claiming that a pet is a service or emotional support animal.

Civil Penalties Relating to Harm to Passengers with Disabilities

- **What the law says:** DOT may increase the maximum penalty an airline may be required to pay for bodily harm or damage to a passenger’s wheelchair or other mobility aid by 300 percent of what is currently provided for under the law (each act of harm or injury constitutes a separate offense).
- **What the law means for airlines:** Airlines will face up to three times the maximum penalty of \$32,140 for each incident of bodily injury and/or damage to a passenger’s wheelchair or other mobility aid, in addition to the current requirement that airlines reimburse the passenger for the full purchase price for each damaged mobility aid.

Airline Passengers with Disabilities Bill of Rights

- **What the law says:** DOT must develop an “Airline Passengers with Disabilities Bill of Rights,” which in plain language would explain the protections afforded to passengers with disabilities in air travel. The requirement is not intended to expand or restrict the rights already applicable to individuals traveling with a disability. The Bill of Rights document will be displayed on airlines’ websites and be provided to any passengers who request disability-related assistance.
- **What the law means for airlines:** DOT must consult with stakeholders regarding the document’s content (except for certain minimum content mandated by Congress) before it is published. Airlines will then be required to submit a personnel training plan to DOT to ensure that airline employee training programs will cover the protections guaranteed in the document. The legislation does not contain a deadline for the finalization or implementation of the Bill of Rights.

Improving Wheelchair Assistance for Individuals with Disabilities

- **What the law says:** DOT must consider and, if necessary, make recommendations to improve wheelchair-related assistance training, assistance provided to passengers traveling in wheelchairs, and consumer complaint resolution.
- **What the law means for airlines:** Airlines and their contractors are already bound by DOT-mandated training requirements. Any change to existing training regulations would require DOT to initiate a rulemaking to amend the existing requirements.



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Transparency for Disabled Passengers

- **What the law says:** Within 60 days, DOT must enforce a 2016 rule that requires airlines to report data for mishandled baggage and wheelchairs.
- **What the law means for airlines:** Airlines are required to report the number of mishandled bags and the number of enplaned bags. The rule, if enforced, also requires separate statistics for mishandled wheelchairs and scooters that are transported in aircraft cargo compartments.

Regulations Ensuring Assistance for Passengers with Disabilities in Air Transportation

- **What the law says:** DOT must review and, if necessary, revise regulations governing the assistance of passengers traveling with disabilities and associated airline employee training.
- **What the law means for airlines:** As noted above, DOT already regulates the airlines' assistance of passengers traveling with disabilities and associated training requirements. Airlines will have an opportunity to comment on any DOT proposal to revise its existing regulations.

Review of Practices for Ticketing, Pre-Flight Seat Assignments, and Stowing of Assistive Devices

- **What the law says:** A new "Advisory Committee on the Air Travel Needs of Passengers with Disabilities" will review current DOT regulations related to ticketing, pre-flight seat assignments, and stowing assistive devices for passengers with disabilities. The Advisory Committee is required to provide DOT with recommendations, if any, as to how existing disability consumer protection regulations should be modified.
- **What the law means for airlines:** The DOT Secretary will appoint one airline industry stakeholder to the Advisory Committee. The committee includes eight members.

Should you have any questions regarding the issues discussed in this Alert, please do not hesitate to contact a member of Cozen O'Connor's Transportation & Trade Department.