

49 USC 41313 : Plans to address needs of families of passengers involved in foreign air carrier accidents

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From Title 49-TRANSPORTATION

SUBTITLE VII-AVIATION PROGRAMS
PART A-AIR COMMERCE AND SAFETY
subpart ii-economic regulation
CHAPTER 413-FOREIGN AIR TRANSPORTATION

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§41313. Plans to address needs of families of passengers involved in foreign air carrier accidents

(a) DEFINITIONS.-In this section, the following definitions apply:

- (1) AIRCRAFT ACCIDENT.-The term "aircraft accident" means any aviation disaster, regardless of its cause or suspected cause, that occurs within the United States; and
- (2) PASSENGER.-The term "passenger" has the meaning given such term by section 1136.

(b) SUBMISSION OF PLANS.-A foreign air carrier providing foreign air transportation under this chapter shall transmit to the Secretary of Transportation and the Chairman of the National Transportation Safety Board a plan for addressing the needs of the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in any loss of life.

(c) CONTENTS OF PLANS.-To the extent permitted by foreign law which was in effect on the date of the enactment of this section, a plan submitted by a foreign air carrier under subsection (b) shall include the following:

(1) TELEPHONE NUMBER.-A plan for publicizing a reliable, toll-free telephone number and staff to take calls to such number from families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in any loss of life.

(2) NOTIFICATION OF FAMILIES.-A process for notifying, in person to the extent practicable, the families of passengers involved in an aircraft accident that involves an aircraft under the control of the foreign air carrier and results in any loss of life before providing any public notice of the names of such passengers. Such notice shall be provided by using the services of-

- (A) the organization designated for the accident under section 1136(a)(2); or
- (B) other suitably trained individuals.

(3) NOTICE PROVIDED AS SOON AS POSSIBLE.-An assurance that the notice required by paragraph (2) shall be provided as soon as practicable after the foreign air carrier has verified the identity of a passenger on the foreign aircraft, whether or not the names of all of the passengers have been verified.

(4) LIST OF PASSENGERS.-An assurance that the foreign air carrier shall provide, immediately upon request, and update a list (based on the best available information at the time of the request) of the names of the passengers aboard the aircraft (whether or not such names have been verified), to-

- (A) the director of family support services designated for the accident under section 1136(a)(1); and
- (B) the organization designated for the accident under section 1136(a)(2).

(5) CONSULTATION REGARDING DISPOSITION OF REMAINS AND EFFECTS.-An assurance that the family of each passenger will be consulted about the disposition of any remains and personal effects of the passenger that are within the control of the foreign air carrier.

(6) RETURN OF POSSESSIONS.-An assurance that, if requested by the family of a passenger, any possession (regardless of its condition) of that passenger that is within the control of the foreign air carrier will be returned to the family unless the possession is needed for the accident investigation or a criminal investigation.

(7) UNCLAIMED POSSESSIONS RETAINED.-An assurance that any unclaimed possession of a passenger within the control of the foreign air carrier will be retained by the foreign air carrier for not less than 18 months after the date of the accident.

(8) MONUMENTS.-An assurance that the family of each passenger will be consulted about construction by the foreign air carrier of any monument to the passengers built in the United States, including any inscription on the monument.

(9) EQUAL TREATMENT OF PASSENGERS.-An assurance that the treatment of the families of nonrevenue passengers (and any other victim of the accident, including any victim on the ground) will be the same as the treatment of the families of revenue passengers.

(10) SERVICE AND ASSISTANCE TO FAMILIES OF PASSENGERS.-An assurance that the foreign air carrier will work with any organization designated under section 1136(a)(2) on an ongoing basis to ensure that families of passengers receive an appropriate level of services and assistance following an accident.

(11) COMPENSATION TO SERVICE ORGANIZATIONS.-An assurance that the foreign air carrier will provide reasonable compensation to any organization designated under section 1136(a)(2) for services and assistance provided by the organization.

(12) TRAVEL AND CARE EXPENSES.-An assurance that the foreign air carrier will assist the family of any passenger in traveling to the location of the accident and provide for the physical care of the family while the family is staying at such location.

(13) RESOURCES FOR PLAN.-An assurance that the foreign air carrier will commit sufficient resources to carry out the plan.

(14) SUBSTITUTE MEASURES.-If a foreign air carrier does not wish to comply with paragraph (10), (11), or (12), a description of proposed adequate substitute measures for the requirements of each paragraph with which the foreign air carrier does not wish to comply.

(15) TRAINING OF EMPLOYEES AND AGENTS.-An assurance that the foreign air carrier will provide adequate training to the employees and agents of the carrier to meet the needs of survivors and family members following an accident.

(16) CONSULTATION ON CARRIER RESPONSE NOT COVERED BY PLAN.-An assurance that, in the event that the foreign air carrier volunteers assistance to United States citizens within the United States with respect to an aircraft accident outside the United States involving any loss of life, will consult ¹ with the Board and the Department of State on the provision of the assistance.

(17) NOTICE CONCERNING LIABILITY FOR MANMADE STRUCTURES.-

(A) IN GENERAL.-An assurance that, in the case of an accident that results in any damage to a manmade structure or other property on the ground that is not government-owned, the foreign air carrier will promptly provide notice, in writing, to the extent practicable, directly to the owner of the structure or other property about liability for any property damage and means for obtaining compensation.

(B) MINIMUM CONTENTS.-At a minimum, the written notice shall advise an owner (i) to contact the insurer of the property as the authoritative source for information about coverage and compensation; (ii) to not rely on unofficial information offered by foreign air carrier representatives about compensation by the foreign air carrier for accident-site property damage; and (iii) to obtain photographic or other detailed evidence of property damage as soon as possible after the accident, consistent with restrictions on access to the accident site.

(18) SIMULTANEOUS ELECTRONIC TRANSMISSION OF NTSB HEARING.-An assurance that, in the case of an accident in which the National Transportation Safety Board conducts a public hearing or comparable proceeding at a location greater than 80 miles from the accident site, the foreign air carrier will ensure that the proceeding is made available simultaneously by electronic means at a location open to the public at both the origin city and destination city of the foreign air carrier's flight if that city is located in the United States.

(d) PERMIT AND EXEMPTION REQUIREMENT.-The Secretary shall not approve an application for a permit under section 41302 unless the applicant has included as part of the application or request for exemption a plan that meets the requirements of subsection (c).

(e) LIMITATION ON LIABILITY.-A foreign air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of the foreign air carrier in preparing or providing a passenger list pursuant to a plan submitted by the foreign air carrier under subsection (c), unless the liability was caused by conduct of the foreign air carrier which was grossly negligent or which constituted intentional misconduct.

(Added Pub. L. 105-148, §1(a), Dec. 16, 1997, 111 Stat. 2681 ; amended Pub. L. 106-181, title IV, §403(a)-(c)(1), Apr. 5, 2000, 114 Stat. 130 ; Pub. L. 108-176, title VIII, §809(b), Dec. 12, 2003, 117 Stat. 2589 ; Pub. L. 115-254, div. B, title V, §539(d), div. C, §1109(b), Oct. 5, 2018, 132 Stat. 3370 , 3434.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c), is the date of enactment of Pub. L. 105-148, which was approved Dec. 16, 1997.

AMENDMENTS

2018-Subsec. (b). Pub. L. 115-254, §1109(b)(1), substituted "any loss of life" for "a major loss of life".

Subsec. (c)(1). Pub. L. 115-254, §1109(b)(2)(A), substituted "any loss of life" for "a significant loss of life".

Subsec. (c)(2). Pub. L. 115-254, §1109(b)(2)(B), substituted "any loss of life" for "a significant loss of life" in introductory provisions.

Subsec. (c)(9). Pub. L. 115-254, §1109(b)(2)(C), amended par. (9) generally. Prior to amendment, text read as follows: "An assurance that the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers."

Subsec. (c)(16). Pub. L. 115–254, §1109(b)(2)(D), substituted "any loss of life" for "major loss of life" and "will consult" for "the foreign air carrier will consult".

Pub. L. 115–254, §539(d), substituted "An assurance that" for "An assurance that the foreign air carrier".

Subsec. (c)(17)(A). Pub. L. 115–254, §1109(b)(2)(E), substituted "any damage" for "significant damage".

2003-Subsec. (c)(17), (18). Pub. L. 108–176 added pars. (17) and (18).

2000-Subsec. (a)(2). Pub. L. 106–181, §403(a), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "The term 'passenger' includes an employee of a foreign air carrier or air carrier aboard an aircraft."

Subsec. (b). Pub. L. 106–181, §403(b), substituted "major" for "significant".

Subsec. (c)(15), (16). Pub. L. 106–181, §403(c)(1), added pars. (15) and (16).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108–176, set out as a note under section 106 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 403(a) and (b) of Pub. L. 106–181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106–181, set out as a note under section 106 of this title.

Pub. L. 106–181, **title IV, §403(c)(2), Apr. 5, 2000**, 114 Stat. 131, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on the 180th day following the date of the enactment of this Act [Apr. 5, 2000]. On or before such 180th day, each foreign air carrier providing foreign air transportation under chapter 413 of title **49**, United States Code, shall submit to the Secretary [of Transportation] and the Chairman of the National Transportation Safety Board an updated plan under section **41313** of such title that meets the requirements of the amendment made by paragraph (1)."

EFFECTIVE DATE

Pub. L. 105–148, **§1(c), Dec. 16, 1997**, 111 Stat. 2683, provided that: "The amendments made by this section [enacting this section] shall take effect on the 180th day following the date of the enactment of this Act [Dec. 16, 1997]."

¹ *So in original. Probably should be "the foreign air carrier will consult".*