



New York State ASSEMBLY

Sheldon Silver - Speaker

Monday, April 7, 2008

Bill Text - A08406

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Bill Summary](#)

S T A T E O F N E W Y O R K

8406--B

2007-2008 Regular Sessions

I N A S S E M B L Y

May 15, 2007

Introduced by M. of A. GIANARIS, LANCMAN, BENEDETTO, LAFAYETTE, P. RIVERA, GABRYSZAK, KOON, DeLMONTE, YOUNG, O`DONNELL, ROSENTHAL, McDONOUGH, THIELE, ALFANO, BURLING -- Multi-Sponsored by -- M. of A. BING, BOYLAND, CONTE, FINCH, GALEF, GIGLIO, GREENE, V. LOPEZ, MAISEL, MAYERSOHN, McENENY, McKEVITT, QUINN, RABBITT, REILLY, ROBINSON, SCOZ-ZAFAVA, SPANO, TOWNS, WALKER, WEISENBERG -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law and the general business law, in relation to creating a consumer bill of rights regarding airline passengers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph c of subdivision 2 of section 553 of the execu-
2 tive law, as amended by chapter 691 of the laws of 2003, is amended to
3 read as follows:

4 c. on behalf of the board, initiate, intervene in, or participate in
5 any proceedings before the public service commission, to the extent
6 authorized by section twenty-four-a, seventy-one, eighty-four or nine-
7 ty-six of the public service law or any other applicable provision of
8 law, where he deems such initiation, intervention or participation to be

9 necessary or appropriate; {and}

10 S 2. Paragraph d of subdivision 2 of section 553 of the executive law
11 is relettered paragraph e and a new paragraph d is added to read as
12 follows:

13 D. ON BEHALF OF THE BOARD AND IN CONJUNCTION WITH THE OFFICE OF THE
14 AIRLINE CONSUMER ADVOCATE, INITIATE, INVESTIGATE, ATTEMPT TO RESOLVE
15 AND, IF NECESSARY, REFER TO THE ATTORNEY GENERAL ANY MATTERS OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

LBD11268-05-7

A. 8406--B

2

1 COMPLAINTS RECEIVED PURSUANT TO ARTICLE FOURTEEN-A OF THE GENERAL BUSI-
2 NESS LAW AS PROVIDED IN SUCH ARTICLE; AND

3 S 3. Paragraphs b and c of subdivision 2 of section 553 of the execu-
4 tive law, as amended by chapter 650 of the laws of 1974, are amended and
5 a new paragraph d is added to read as follows:

6 b. advise and make recommendations to the governor on matters affect-
7 ing the consumers of the state and promote and encourage the protection
8 of the legitimate interests of consumers within the state; {and}

9 c. on behalf of the board, initiate, intervene in, or participate in
10 any proceedings before the public service commission, to the extent
11 authorized by sections twenty-four-a, seventy-one, eighty-four or nine-
12 ty-six of the public service law or any other applicable provision of
13 law, where he deems such initiation, intervention or participation to be
14 necessary or appropriate{.}; AND

15 D. ON BEHALF OF THE BOARD AND IN CONJUNCTION WITH THE OFFICE OF
16 AIRLINE CONSUMER ADVOCATE, INITIATE, INVESTIGATE, ATTEMPT TO RESOLVE
17 AND, IF NECESSARY, REFER TO THE ATTORNEY GENERAL ANY MATTERS OR
18 COMPLAINTS RECEIVED PURSUANT TO ARTICLE FOURTEEN-A OF THE GENERAL BUSI-
19 NESS LAW AS PROVIDED IN SUCH ARTICLE.

20 S 4. The general business law is amended by adding a new article 14-A
21 to read as follows:

22 ARTICLE 14-A

23 AIRLINE PASSENGER RIGHTS

24 SECTION 251-F. DEFINITIONS.

25 251-G. CONSUMER BILL OF RIGHTS REGARDING AIRLINE PASSENGERS.

26 251-H. OFFICE OF THE AIRLINE CONSUMER ADVOCATE.

27 251-I. LIMITATIONS ON APPLICABILITY OF ARTICLE.

28 251-J. SEVERABILITY.

29 S 251-F. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

30 1. "CARRIER" MEANS ANY PARTNERSHIP, CORPORATION OR OTHER BUSINESS
31 ENTITY REGULATED BY THE FEDERAL AVIATION ADMINISTRATION THAT CONDUCTS
32 SCHEDULED PASSENGER AIR TRANSPORTATION.

33 2. "AIRCRAFT" MEANS ANY CONTRIVANCE FOR PASSENGER FLIGHT IN THE AIR.

34 3. "AIRPORT" MEANS ANY LANDING AREA USED BY AIRCRAFT FOR RECEIVING OR
35 DISCHARGING PASSENGERS, EQUIPPED WITH A CONTROL TOWER, HANGARS, AIRCRAFT
36 MAINTENANCE AND REFUELING FACILITIES, AND ACCOMMODATIONS FOR PASSENGERS

37 AND CARGO.

38 4. "BOARD" MEANS THE CONSUMER PROTECTION BOARD AS ESTABLISHED IN
39 SECTION FIVE HUNDRED FIFTY OF THE EXECUTIVE LAW.

40 S 251-G. CONSUMER BILL OF RIGHTS REGARDING AIRLINE PASSENGERS. 1.
41 WHENEVER AIRLINE PASSENGERS HAVE BOARDED AN AIRCRAFT AND ARE DELAYED
42 MORE THAN THREE HOURS ON THE AIRCRAFT PRIOR TO TAKEOFF, THE CARRIER
43 SHALL ENSURE THAT PASSENGERS ARE PROVIDED AS NEEDED WITH:

44 (A) ELECTRIC GENERATION SERVICE TO PROVIDE TEMPORARY POWER FOR FRESH
45 AIR AND LIGHTS;

46 (B) WASTE REMOVAL SERVICE IN ORDER TO SERVICE THE HOLDING TANKS FOR
47 ON-BOARD RESTROOMS; AND

48 (C) ADEQUATE FOOD AND DRINKING WATER AND OTHER REFRESHMENTS.

49 2. ALL CARRIERS SHALL PROVIDE CLEAR AND CONSPICUOUS NOTICE ON CONSUMER
50 COMPLAINT CONTACT INFORMATION BY PROVIDING FORMS AND/OR CAUSING SIGNS TO
51 BE POSTED AT ALL SERVICE DESKS AND OTHER APPROPRIATE AREAS AS NECESSARY
52 IN THEIR RESPECTIVE AREAS IN AN AIRPORT WHICH SHALL CONTAIN INFORMATION
53 IN SUCH FORM AND MANNER AS THE AIRLINE CONSUMER ADVOCATE SHALL
54 PRESCRIBE, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

55 (A) A TELEPHONE NUMBER AND MAILING ADDRESS OF THE OFFICE OF THE
56 AIRLINE CONSUMER ADVOCATE, THE AVIATION CONSUMER PROTECTION DIVISION,

A. 8406--B

3

1 AND THE OFFICE OF AVIATION ENFORCEMENT OF THE UNITED STATES DEPARTMENT
2 OF TRANSPORTATION;

3 (B) EXPLANATIONS OF THE RIGHTS OF AIRLINE PASSENGERS; AND

4 (C) BASIC INFORMATION ON THE OFFICE OF THE AIRLINE CONSUMER ADVOCATE.

5 S 251-H. OFFICE OF THE AIRLINE CONSUMER ADVOCATE. 1. THERE SHALL BE IN
6 THE BOARD AN OFFICE TO BE KNOWN AS THE OFFICE OF AIRLINE CONSUMER ADVO-
7 CATE. THE EXECUTIVE DIRECTOR OF THE BOARD SHALL DESIGNATE ONE OR MORE
8 EMPLOYEES OF THE BOARD TO SERVE IN SUCH OFFICE.

9 2. (A) THE OFFICE OF THE AIRLINE CONSUMER ADVOCATE SHALL HAVE THE
10 FOLLOWING FUNCTIONS, POWERS, AND DUTIES:

11 (I) TO ASSIST CUSTOMERS IN RESOLVING PROBLEMS WITH AIRLINE CARRIERS;

12 (II) TO IDENTIFY AREAS IN WHICH CUSTOMERS HAVE PROBLEMS IN DEALINGS
13 WITH CARRIERS;

14 (III) TO PROPOSE SOLUTIONS, INCLUDING ADMINISTRATIVE CHANGES TO PRAC-
15 TICES AND PROCEDURES OF THE CARRIER OR AIRPORT;

16 (IV) TO PRESERVE AND PROMOTE THE RIGHTS OF THE CUSTOMER;

17 (V) TO PROMOTE OPEN AND DIRECT COMMUNICATIONS; AND

18 (VII) IN CONJUNCTION WITH OTHER APPROPRIATE STAFF OF THE BOARD, TO
19 INITIATE, INVESTIGATE, ATTEMPT TO RESOLVE, AND IF NECESSARY REFER TO THE
20 ATTORNEY GENERAL ANY MATTERS OR COMPLAINTS RECEIVED PURSUANT TO THIS
21 ARTICLE.

22 (B) ANY COMPLAINTS REGARDING VIOLATIONS OF SECTION TWO HUNDRED FIFTY-
23 ONE-G OF THIS ARTICLE SHALL BE FILED WITH THE OFFICE OF THE AIRLINE
24 CONSUMER ADVOCATE WHO MAY, ON BEHALF OF THE BOARD AND IN CONJUNCTION
25 WITH OTHER STAFF OF THE BOARD, CONDUCT AN INVESTIGATION AND MAY REQUEST
26 IN WRITING THE PRODUCTION OF DOCUMENTS AND RECORDS AS PART OF ITS INVES-
27 TIGATION. TRADE SECRETS AND PROPRIETARY BUSINESS INFORMATION CONTAINED

28 IN THE DOCUMENTS OR RECORDS RECEIVED BY THE BOARD PURSUANT TO A WRITTEN
29 REQUEST OR A SUBPOENA ARE CONFIDENTIAL. IF THE PERSON UPON WHOM SUCH
30 REQUEST WAS MADE FAILS TO PRODUCE THE DOCUMENTS OR RECORDS WITHIN THIRTY
31 DAYS AFTER THE DATE OF THE REQUEST, THE BOARD MAY ISSUE AND SERVE
32 SUBPOENAS TO COMPEL THE PRODUCTION OF SUCH DOCUMENTS AND RECORDS. IF ANY
33 PERSON SHALL REFUSE TO COMPLY WITH A SUBPOENA ISSUED UNDER THIS SECTION,
34 THE BOARD MAY PETITION A COURT OF COMPETENT JURISDICTION TO ENFORCE THE
35 SUBPOENA AND SUCH SANCTIONS AS THE COURT MAY DIRECT. AFTER COMPLETION OF
36 AN INVESTIGATION, THE BOARD SHALL EITHER: (I) DISMISS THE COMPLIANT
37 FOLLOWING A DETERMINATION THAT NO VIOLATION OCCURRED; OR (II) DETERMINE
38 THAT A VIOLATION HAS LIKELY OCCURRED AND, IF SO, SHALL ATTEMPT TO
39 RESOLVE THE MATTER BY SETTLEMENT, WHICH MAY INCLUDE A MONETARY SETTLE-
40 MENT TO COVER THE ORDINARY COSTS AND EXPENSES INCURRED BY THE BOARD. IF
41 NO SETTLEMENT IS ACHIEVED, THEN THE MATTER SHALL BE REFERRED TO THE
42 ATTORNEY GENERAL FOR FURTHER PROCEEDINGS, INCLUDING, IF NECESSARY, LEGAL
43 ACTION.

44 (C) ANY RECORDS, DOCUMENTS, PAPERS, MAPS, BOOKS, TAPES, PHOTOGRAPHS,
45 FILES, SOUND RECORDINGS OR OTHER BUSINESS MATERIAL, REGARDLESS OF FORM
46 OR CHARACTERISTICS, OBTAINED BY THE BOARD PURSUANT TO SUBPOENA SHALL BE
47 CONFIDENTIAL. AT THE CONCLUSION OF AN INVESTIGATION, ANY MATTER DETER-
48 MINED BY THE BOARD, THE ATTORNEY GENERAL, OR BY A FEDERAL OR STATE JUDI-
49 CIAL OR ADMINISTRATIVE BODY, TO BE A TRADE SECRET OR PROPRIETARY CONFI-
50 DENTIAL BUSINESS INFORMATION HELD BY EITHER THE BOARD OR THE ATTORNEY
51 GENERAL PURSUANT TO SUCH INVESTIGATION SHALL BE CONSIDERED CONFIDENTIAL.
52 SUCH MATERIALS MAY BE USED IN ANY ADMINISTRATIVE OR JUDICIAL PROCEEDING
53 SO LONG AS THE CONFIDENTIAL OR PROPRIETARY NATURE OF THE MATERIAL IS
54 MAINTAINED.

55 (D) THE ATTORNEY GENERAL SHALL BE AUTHORIZED TO RECOVER A CIVIL PENAL-
56 TY NOT TO EXCEED ONE THOUSAND DOLLARS PER VIOLATION; PROVIDED, HOWEVER,

A. 8406--B

4

1 THAT FOR A VIOLATION OF SUBDIVISION ONE OF SECTION TWO HUNDRED
2 FIFTY-ONE-G OF THIS ARTICLE THE CIVIL PENALTY SHALL NOT EXCEED ONE THOU-
3 SAND DOLLARS PER PASSENGER. ANY SUCH PENALTY SHALL TAKE INTO CONSIDER-
4 ATION ANY COMPENSATION PAID OR OFFERED BY THE CARRIER TO PASSENGERS. THE
5 CIVIL PENALTY IMPOSED PURSUANT TO THIS PARAGRAPH MAY BE SOUGHT IN A
6 CIVIL ACTION BROUGHT BY THE ATTORNEY GENERAL IN ANY COURT OF COMPETENT
7 JURISDICTION. IF THE ATTORNEY GENERAL PREVAILS IN A CIVIL ACTION, THE
8 COURT MAY AWARD THE ATTORNEY GENERAL REASONABLE ATTORNEYS` FEES, AND AN
9 AMOUNT EQUAL TO THE ORDINARY COSTS AND EXPENSES INCURRED BY THE BOARD,
10 AS IT DEEMS APPROPRIATE. IF THE ATTORNEY GENERAL REACHES A SETTLEMENT,
11 THIS SETTLEMENT SHALL INCLUDE AN AMOUNT EQUAL TO THE ORDINARY COSTS AND
12 EXPENSES INCURRED BY THE BOARD. UPON THE RECEIPT OF ANY AWARD OR SETTLE-
13 MENT TO THE ATTORNEY GENERAL OF THE ORDINARY COSTS AND EXPENSES INCURRED
14 BY THE BOARD, THE ATTORNEY GENERAL SHALL DELIVER SUCH AMOUNT IMMEDIATELY
15 TO THE BOARD. "ORDINARY COSTS AND EXPENSES" SHALL MEAN COSTS AND
16 EXPENSES INCURRED BY THE BOARD AS A CONSEQUENCE OF INVESTIGATION OF
17 VIOLATIONS OF THIS ARTICLE.

18 (E) THE ANNUAL REPORT PREPARED BY THE BOARD PURSUANT TO PARAGRAPH C OF

19 SUBDIVISION ONE OF SECTION FIVE HUNDRED FIFTY-THREE OF THE EXECUTIVE LAW
20 SHALL INCLUDE A SUMMARY OF THE ACTIVITIES OF THE OFFICE OF THE AIRLINE
21 CONSUMER ADVOCATE. SUCH REPORT SHALL CONTAIN FULL AND SUBSTANTIVE ANALY-
22 SIS, IN ADDITION TO STATISTICAL INFORMATION, AND SHALL:

23 (I) IDENTIFY THE INITIATIVES THE OFFICE OF AIRLINE CONSUMER ADVOCATE
24 HAS TAKEN TO IMPROVE AIRLINE SERVICES;

25 (II) CONTAIN A SUMMARY OF THE MOST SERIOUS PROBLEMS ENCOUNTERED BY
26 CUSTOMERS, INCLUDING A DESCRIPTION OF THE NATURE OF SUCH PROBLEMS;

27 (III) CONTAIN AN INVENTORY OF THE ITEMS DESCRIBED IN SUBPARAGRAPHS (I)
28 AND (II) OF THIS PARAGRAPH FOR WHICH ACTION HAS BEEN TAKEN AND THE
29 STATUS AND RESULTS OF SUCH ACTIONS, AND AN INVENTORY OF ITEMS FOR WHICH
30 NO ACTION HAS BEEN TAKEN, AND THE REASONS THEREFOR;

31 (IV) CONTAIN RECOMMENDATIONS FOR SUCH LEGISLATIVE OR ADMINISTRATIVE
32 PROPOSALS AS MAY BE APPROPRIATE TO RESOLVE PROBLEMS ENCOUNTERED BY
33 CUSTOMERS; AND

34 (V) INCLUDE SUCH OTHER INFORMATION AS THE OFFICE OF THE AIRLINE
35 CONSUMER ADVOCATE AND THE BOARD MAY DEEM ADVISABLE.

36 S 251-I. LIMITATIONS ON APPLICABILITY OF ARTICLE. NOTHING IN THIS
37 ARTICLE SHALL BE CONSTRUED AS REQUIRING ANY CARRIER, AIRPORT OR OTHER
38 ENTITY TO TAKE ANY ACTION IN CONTRAVENTION OF ANY WRITTEN DIRECTIVE OF
39 THE FEDERAL AVIATION ADMINISTRATION OR OTHER FEDERAL AGENCY HAVING
40 JURISDICTION OVER SUCH ENTITY.

41 S 251-J. SEVERABILITY. IF ANY CLAUSE, SENTENCE, PARAGRAPH, SECTION OR
42 PART OF THIS ARTICLE BE ADJUDGED BY ANY COURT OF COMPETENT JURISDICTION
43 TO BE INVALID, SUCH JUDGEMENT SHALL NOT AFFECT, IMPAIR OR INVALIDATE THE
44 REMAINDER HEREOF BUT SHALL BE APPLIED IN ITS OPERATION TO THE CLAUSE,
45 SENTENCE, PARAGRAPH, SECTION OR PART HEREOF DIRECTLY INVOLVED IN THE
46 CONTROVERSY IN WHICH SUCH JUDGEMENT SHALL HAVE BEEN RENDERED.

47 S 5. This act shall take effect on the first of January next succeed-
48 ing the date on which it shall have become a law provided that the
49 amendments to subdivision 2 of section 553 of the executive law, made by
50 sections one and two of this act, shall not affect the expiration and
51 reversion of such subdivision and shall expire therewith, when upon such
52 date section three of this act shall take effect. Provided, further,
53 that effective immediately, the addition, amendment and/or repeal of any
54 rule or regulation necessary for the implementation of this act on its
55 effective date is authorized and directed to be made and completed on or
56 before such effective date.

[Contact Webmaster](#)

Page display time = 0.232 sec