

Sunday, September 23, 2018

Congressional FAA Reauthorization Legislation Update and Analysis

On September 22nd, at 3:00am, House and Senate transportation leaders released the text of a 1,200 page compromise bill ([HR 302, FAA Reauthorization Act of 2018](#), Division B) to reauthorize the FAA for five years and provide \$96.7 billion in funding. As you may recall, the House passed an FAA bill back in April, however various issues stalled progress of the Senate bill (for over a year) – from more pressing legislative issues like appropriations bills and Supreme Court debates to an unprecedented amount of amendments for Senate transportation leaders to consider – and it appeared that a sixth short-term extension was likely, as funding for the agency is set to run out on September 30th. This compromise bill (which combines the House and Senate FAA bills) drastically shortens the process towards enactment into law and sets Congress, and the Administration, up for a legislative win before Congress adjourns for the midterm elections.

Analysis

So, what's in the bill? Since this is one of the last pieces of non-appropriations legislation to pass Congress before everyone departs to campaign in their districts and states, there are eleven other unrelated bills from over six committees in each chamber, including issues related to sports medicine, NTSB reauthorization, Syria, maritime security, and TSA. Also included is a section dedicated to disaster relief for states affected by Hurricane Florence.

As for FAA, issues included that relate to (and are positive for) NATA's members include:

- Updates to the way the FAA calculates cost-benefit ratios related to the contract tower program (NATA in ongoing discussions with GAO as they conduct an audit of the program on need for, and continued funding of, the program)
- Regulatory consistency:
 - Sec. 202 – Safety Oversight and Certification Advisory Committee
 - Sec. 221 – Continue the expansion of FAA delegation
 - Sec. 222 – FAA Task Force on Flight Standards Reform
 - Sec. 223 – Centralized database operational by a date certain (establish a process to review and eliminate outdated or conflicting material on a current and ongoing basis)
 - Sec. 513 – Part 91 Review, Reform, and Streamlining (task force comprised of ga representatives “who regularly perform part 91 operations,” labor unions, manufacturers and the government to review FAA oversight/authorization

processes and requirements, make recommendations to streamline authorization/approval processes, improve safety, reduce regulatory cost burdens)

- Sec. 546 – FAA Civil Aviation Registry Upgrade (update database to strictly digital, allowing more efficient access to registry, and better ways to submit info)
- Safety:
 - Sec. 311 – Improve the quality of Part 135 incident reporting data
 - Sec. 515 – Pilots Sharing Flight Expenses with Passengers (requiring the FAA to issue clearer guidance on permissible flight sharing and a related GAO study)
- Sec. 315 – ARC for Part 135 Pilot R&D Rules (Initial language proposed last year would have mandated a rulemaking committee to recommend new Part 135 rest/duty rules on a very short timetable and require FAA to implement them. Current language, featuring NATA’s input, convenes a rulemaking committee and provides more time for the committee to conduct its work, guarantees charter operator representation and requires consideration of small business issues and need to accommodate diversity of Part 135 operations)
- Sec. 540 – Report on Illegal Charter Flights (calls for a report of the Illegal Charter Hotline to include follow-up action, how DOT will allocate resources to alleviate problem, challenges in identifying illegal operations, recommendation for improving DOT efforts to combat)
- Sec. 556 – Aircraft Registration (establishment of a rulemaking to increase the duration of aircraft registrations for noncommercial ga aircraft to 7 years)
- Sec. 563 – Access of Air Carriers to Information About Applicants to be Pilots from National Driver Register
- Sec. 565 – Aviation Fuel (PAFI)
- Title 6 – Aviation Workforce (discusses student outreach programs, bringing more women into the industry, a review of the future workforce, UAS workforce)
 - Sec. 624 – Aviation Maintenance Industry Technical Workforce
 - Sec. 625 – Aviation Workforce Development Programs
- No fundamental reform of FAA management structure (Sec. 545)

Issues of concern include:

- Sec. 418 – Advisory Committee on Air Ambulance and Patient Billing
 - Calls for the establishment of an advisory committee (at request of DOT/HHS Secretaries) to review options to improve the disclosure of charges and fees for air medical services, better inform consumers of insurance options for such services, and protect consumers from balance billing
 - Issue constantly pressed by Rep. Rob Woodall (R-GA), Sen. Claire McCaskill (D-MO) and majority T&I professional staff; NATA (and GA Jet) have repeatedly met with these offices to explain the dangers of lumping together emergent and nonemergent transportation services. NATA has signed onto numerous industry letters opposing the idea of deregulating the ADA.

- Sec. 419 (Air Ambulance Complaints to the DOT)
- Sec. 420 (Report to Congress on Air Ambulance Oversight)

Other issues to note:

- Sec. 144, proffered by Rep. Sam Graves (R-MO), related to a GAO study on the effect of granting an exclusive right of aeronautical services to an airport sponsor
- Sec. 518 – Aircraft Registry Office (keeps OKC registry office open during a shutdown)
- Sec. 519 – FAA Data Transparency (calls for a review of the costs of each segment of aviation on the ATC system and report to Congress on its findings)
- Sec. 529 – TFR Report (report reviewing the economic effects of a Presidential TFR on Solberg, Somerset, Lantana Airports)
- Sec. 530 – Air Traffic Services at Aviation Events (requires FAA to provide air traffic services and aviation support for “large, multiday events...” like Oshkosh...at no charge to event)
- The bill contains a hefty section on drones, including attempts to address the impending need to safely integrate them into the national airspace, and to try to figure out how to account for their costs to the system. It also seeks to give the FAA more flexibility to approve drone applications, and updates the rule related to model aircraft and directs the FAA to update its rules to allow drones to carry property for hire, which could pave the way for a range of uses from package deliveries to air taxis. Language is included that would grant DHS and DOJ the authority to identify, seize or destroy errant drones, and the agencies would be permitted to collaborate with FAA on decision about the kinds of counterdrone technology that can be used.
- No increase in the \$4.50 per head PFC charge that airports can levy to fund their own infrastructure, though Sec. 122 does direct DOT to contract with an outside entity for a massive study of future airport infrastructure needs and possible financing options
- In the TSA Reauthorization section, language was included to reauthorize the agency for the first time in its history (3-year reauthorization) and establish a 5-year term for the TSA administrator.
- Consumer protections for commercial flights are included and address seat size, bumping of passengers from flights, and limits on cell phone use. However, the bill fails to include Senate language that forbids airlines from charging “unreasonable” change fees.