

Markey-26

Edward J. Markey

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide State Attorneys General with enforcement authority

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

S. _____

To amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2024 through 2028, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MARKEY

Viz:

1 On page 322, between lines 16 and 17, insert the following:
2

3 **SEC. 717. STATE ENFORCEMENT AUTHORITY OVER UNFAIR**
4 **OR DECEPTIVE PRACTICES OF AIRLINES.**

5 Chapter 461 of title 49, United States Code, is
6 amended by adding the following new section:

7 **“SEC. 46112. ENFORCEMENT AUTHORITY OF STATES.**

8 “(a) IN GENERAL.—Notwithstanding section
9 41713(b), and except as provided in subsection (e), in any
10 case in which the attorney general of a State has reason
11 to believe that an interest of the residents of the State

1 has been or is threatened or adversely affected by an air
2 carrier, foreign air carrier, or ticket agent engaging in
3 practices that violate section 41712 (including a regula-
4 tion prescribed or order issued thereunder), the State, as
5 parens patriae, may bring a civil action on behalf of its
6 residents in an appropriate district court of the United
7 States—

8 “(1) to enjoin that practice;

9 “(2) to enforce compliance with the law, regula-
10 tion, or other provision; and

11 “(3) to obtain penalties in accordance with sec-
12 tion 46301.

13 “(b) NOTICE.—The State shall serve written notice
14 to the Secretary of Transportation of any civil action
15 under subsection (a) not less than 14 days prior to initi-
16 ating such civil action. The notice shall include a copy of
17 the complaint to be filed to initiate such civil action.

18 “(c) RIGHTS OF THE DEPARTMENT OF TRANSPOR-
19 TATION.—Upon receiving the notice required by sub-
20 section (b), the Secretary of Transportation may intervene
21 in such civil action and, upon intervening—

22 “(1) be heard on all matters arising in such
23 civil action; and

24 “(2) file petitions for appeal of a decision in
25 such civil action.

1 “(d) VENUE; SERVICE OF PROCESS.—In a civil ac-
2 tion brought under subsection (a)—

3 “(1) the venue shall be—

4 “(A) a Federal judicial district in which
5 the defendant is found, is an inhabitant, or
6 transacts business; or

7 “(B) wherever venue is proper under sec-
8 tion 1391 of title 28; and

9 “(2) process may be served without regard to
10 the territorial limits of the district or of the State
11 in which the civil action is instituted.

12 “(e) NO DUPLICATIVE ACTIONS.—Whenever the Sec-
13 retary of Transportation has initiated a civil action or an
14 enforcement proceeding before an administrative law
15 judge alleging a violation of any provision of law or rule
16 described in subsection (a), or obtained a pending consent
17 order concerning a violation of any provision of law or rule
18 described in subsection (a), no State may bring a claim
19 on behalf of its residents for the same violations.

20 “(f) COSTS AND ATTORNEYS FEES.—If the attorney
21 general of a State prevails in any civil action under sub-
22 section (a), the State can recover reasonable costs and at-
23 torney fees from the defendant.

1 “(g) STATE DEFINED.—For purposes of this section,
2 the term ‘State’ has the meaning given that term in sec-
3 tion 41713(a).”.