

MARKEY - 29

Edward J. Markey

AMENDMENT NO. _____

Calendar No. _____

Purpose: To improve the bill.

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 At the appropriate place, insert the following:

2 **SEC. ____ . GOOD JOBS FOR GOOD AIRPORTS.**

3 (a) COVERED SERVICE WORKER DEFINITION.—Sec-
4 tion 40102(a) of title 49, United States Code, is amended
5 by adding at the end the following:

6 “(48) ‘covered service worker’—

7 “(A) means an individual who furnishes
8 services for, or on the property or premises of,
9 a medium hub airport, or large hub airport,
10 performing—

1 • (i) functions that are related to the
2 • air transportation of persons, property, or
3 • mail, including—

4 • “(I) the loading or unloading of
5 • property on aircraft or a building or
6 • facility on the airport property;

7 • “(II) assistance to passengers,
8 • including assistance under part 382 of
9 • title 14, Code of Federal Regulations;

10 • “(III) security;

11 • “(IV) airport ticketing or check-
12 • in functions;

13 • “(V) ground-handling of aircraft
14 • or related equipment (but not includ-
15 • ing mechanical services, machinery
16 • maintenance, car service maintenance,
17 • services at maintenance-related stores,
18 • fueling, de-icing, or other mechanic-
19 • related functions);

20 • “(VI) aircraft cleaning and sani-
21 • tization functions or waste removal;

22 • “(VII) cleaning within an airport
23 • terminal or other building or facility
24 • on the airport property;

1 “(VIII) transportation of employ-
2 ees or individuals within the airport
3 property; or
4 “(IX) ramp agent functions;
5 “(ii) concessions services on the prop-
6 erty of an airport, including—
7 “(I) food service, including food
8 and beverage service, wait service,
9 busing, cooks, or cashiers;
10 “(II) retail service, including re-
11 tail related to news or gifts or duty-
12 free retail services;
13 “(III) cleaning for concession
14 services;
15 “(IV) security for concession
16 services; or
17 “(V) airport lounge services, in-
18 cluding food, retail, cleaning, or secu-
19 rity services for or at an airport
20 lounge;
21 “(iii) airline catering services (such as
22 the preparation or assembly of food, bev-
23 erages, provisions, or related supplies on
24 the airport property or premises or offsite
25 for delivery, and the delivery of such items,

1 directly to aircraft or to a location on or
2 near airport property for subsequent deliv-
3 ery to aircraft at the airport); or

4 “(iv) food or beverage service, house-
5 keeping, or hotel service at a hotel located
6 on airport property;

7 “(B) includes an individual without regard
8 to any contractual relationship alleged to exist
9 between the individual and a contractor or sub-
10 contractor;

11 “(C) shall not include an individual to
12 whom the exemption under section 13(a)(1) of
13 the Fair Labor Standards Act of 1938 (29
14 U.S.C. 213(a)(1)) applies; and

15 “(D) shall not include an employee of—

16 “(i) a State, municipality, or other po-
17 litical subdivision of a State or an author-
18 ity created by an agreement between 2 or
19 more States; or

20 “(ii) the Transportation Security Ad-
21 ministration or a qualified private screen-
22 ing company performing security screening
23 of passengers pursuant to a contract en-
24 tered into with the Transportation Security
25 Administration.

1 “(49) ‘covered employer’ means any person en-
2 gaged in commerce, or in any industry or activity af-
3 fecting commerce, who employs 1 or more covered
4 service workers.”.

5 (b) AIR COMMERCE AND SAFETY.—

6 (1) IN GENERAL.—Chapter 401 of title 49,
7 United States Code, is amended by adding at the
8 end the following new section:

9 “§ 40131. **Labor standards for certain airport service**
10 **jobs.**

11 “(a) REQUIREMENT.—Any covered employer pro-
12 viding services at or for a medium, or large hub airport
13 shall ensure that all covered service workers, including
14 those subject to a collective bargaining agreement, em-
15 ployed by the covered employer are paid a wage and fringe
16 benefits that are—

17 “(1) with respect to such wage, not less than
18 the higher of—

19 “(A) the minimum hourly wage for the ap-
20 propriate locality and classification as deter-
21 mined in accordance with chapter 67 of title 41,
22 United States Code (commonly known as the
23 ‘Service Contract Act’), by the Secretary of
24 Labor under subsection (c)(1)(A), adjusted an-

1 nually to reflect any changes made by such Sec-
2 retary in such determinations; or

3 “(B) the minimum hourly wage required
4 under an applicable State or local minimum
5 wage law (including a regulation) or policy, in-
6 cluding the policy of a political subdivision of a
7 State or an authority created by a compact be-
8 tween 2 or more States or 1 or more States and
9 the District of Columbia, that applies to cov-
10 ered service workers; and

11 “(2) with respect to such fringe benefits, not
12 less than the greater of—

13 “(A) the minimum fringe benefits for the
14 appropriate locality and classification as deter-
15 mined in accordance with chapter 67 of title 41,
16 United States Code (commonly known as the
17 ‘Service Contract Act’), by the Secretary of
18 Labor under subsection (c)(1)(A), adjusted an-
19 nually to reflect any changes made by such Sec-
20 retary in such determinations; or

21 “(B) the minimum fringe benefits required
22 under an applicable State or local law (includ-
23 ing a regulation) or policy, including the policy
24 of a political subdivision of a State or an au-
25 thority created by a compact between 2 or more

1 States or 1 or more States and the District of
2 Columbia, that applies to covered service work-
3 ers.

4 “(b) CERTIFICATION REQUIREMENT FOR COVERED
5 EMPLOYERS.—

6 “(1) IN GENERAL.—A covered employer shall
7 certify, under penalty of perjury, in a manner deter-
8 mined by the Secretary of Transportation, on a
9 monthly basis that all covered service workers, in-
10 cluding those subject to a collective bargaining
11 agreement, employed by the covered employer are
12 provided wage and fringe benefits that comply with
13 the requirements described in paragraphs (1) and
14 (2) of subsection (a).

15 “(2) FAILURE TO SUBMIT CERTIFICATION.—
16 The failure to submit a certification under para-
17 graph (1) shall constitute a violation of this section.

18 “(3) FALSE CERTIFICATION.—The submission
19 of a false certification under paragraph (1) shall
20 constitute a violation of this section.

21 “(c) CLASSIFICATIONS AND WAGE DETERMINA-
22 TIONS.—

23 “(1) IN GENERAL.—The Secretary of Labor
24 shall—

1 “(A) not later than 120 days after the date
2 of enactment of this section and in accordance
3 with paragraph (2), issue a wage determination
4 with minimum hourly wage and fringe benefits
5 in accordance with the methodology used by the
6 Secretary of Labor under chapter 67 of title 41,
7 United States Code (commonly known as the
8 ‘Service Contract Act’), appropriate for each
9 class of covered service worker for purposes of
10 paragraphs (1)(A) and (2)(A) of subsection (a);
11 and

12 “(B) not later than 120 days after the
13 date of enactment of this section and annually
14 thereafter, provide to the Secretary of Trans-
15 portation the applicable minimum hourly wage
16 and fringe benefits required for purposes of
17 subsection (a) with respect to each such class of
18 covered service worker.

19 “(2) NEW OCCUPATIONAL CATEGORIES.—In
20 issuing the wage determinations under paragraph
21 (1)(A), the Secretary of Labor—

22 “(A) shall ensure that each class of cov-
23 ered service worker is classified appropriately in
24 a category of occupation of a type covered

1 under chapter 67 of title 41, United States
2 Code; and

3 “(B) to the extent needed to carry out sub-
4 paragraph (A), may establish 1 or more new
5 categories of occupation of a type covered under
6 chapter 67 of title 41, United States Code, to
7 ensure that all classes of covered service work-
8 ers have an appropriate determination of min-
9 imum hourly wage and fringe benefits.

10 “(d) RULEMAKING AUTHORITY.—The Secretary of
11 Labor and the Secretary of Transportation may prescribe
12 regulations to implement this section, provided that such
13 regulations prescribed by the Secretary of Transportation
14 shall be consistent with such regulations prescribed by the
15 Secretary of Labor.

16 “(e) ENFORCEMENT.—

17 “(1) WAGE AND BENEFIT ENFORCEMENT.—
18 The Secretary of Labor shall have the authority to
19 enforce the wage and fringe benefit requirements for
20 covered service workers described in paragraphs (1)
21 and (2) of subsection (a), including the authority to
22 issue orders, conduct investigations, examine the
23 records of covered employers, hold hearings, make
24 decisions based on findings of fact, and take other
25 appropriate action pursuant to the authority of the

1 Secretary of Labor under the Fair Labor Standards
2 Act of 1938 (29 U.S.C. 201 et seq.).

3 “(2) CERTIFICATION ENFORCEMENT.—

4 “(A) IN GENERAL.—The Secretary of
5 Transportation shall have the authority to en-
6 force the certification requirement described in
7 subsection (b), including the authority to issue
8 orders, conduct investigations, examine the
9 records of covered employers, hold hearings,
10 make decisions based on findings of fact, and
11 take other appropriate action pursuant to the
12 Secretary of Transportation’s authority.

13 “(B) CONSIDERATIONS.—In determining
14 whether a covered employer submitted a false
15 certification under subsection (b), the Secretary
16 of Transportation shall consider as evidence any
17 findings of fact made by the Secretary of Labor
18 regarding a covered employer’s failure to com-
19 ply with the wage and fringe benefit require-
20 ments described in paragraphs (1) and (2) of
21 subsection (a).

22 “(f) NON-PREEMPTION OF STATE OR LOCAL
23 LAWS.—Nothing in this section shall preempt any State
24 or local law (including a regulation) or policy that requires
25 a higher minimum wage or otherwise requires greater ben-

1 efits or protections for covered service workers than the
2 requirements of this section.

3 “(g) REPORT TO CONGRESS.—Not later than 1 year
4 after the date of enactment of the Good Jobs for Good
5 Airports Act, and annually thereafter, the Secretary of
6 Transportation shall submit to the Committee on Com-
7 merce, Science, and Transportation of the Senate and the
8 Committee on Transportation and Infrastructure of the
9 House of Representatives a report on their efforts to im-
10 plement such Act, as well as an assessment of the efforts
11 of covered employers to come into compliance with the re-
12 quirements of such Act.

13 “(h) PUBLICATION OF DATA.—The Secretary of
14 Transportation shall publish complaint data relating to
15 covered service workers in a manner comparable to other
16 aviation consumer complaint data.”.

17 (2) CLERICAL AMENDMENT.—The analysis for
18 chapter 401 of title 49, United States Code, is
19 amended by inserting after the item relating to sec-
20 tion 40130 the following:

“40131. Labor standards for certain airport service jobs.”.

21 (c) PENALTIES.—Section 46301 of title 49, United
22 States Code, is amended—

23 (1) in subsection (a), by adding at the end the
24 following new paragraph:

1 “(8) PENALTIES RELATING TO LABOR STAND-
2 ARDS FOR CERTAIN AIRPORT SERVICE JOBS.—Not-
3 withstanding paragraph (1), the maximum civil pen-
4 alty for a violation of section 40131 shall be an
5 amount not to exceed 3 times the amount of a civil
6 penalty as described in paragraph (1).”; and

7 (2) in subsection (c)(1)(A), by striking “or sec-
8 tion 44909 of this title” and inserting “section
9 44909, or section 40131 of this title.”.

10 (d) INVESTIGATIONS AND PROCEEDINGS.—

11 (1) IN GENERAL.—Chapter 461 of title 49,
12 United States Code, is amended by adding at the
13 end the following new section:

14 **“§ 46112. Enforcement of labor standards for certain**
15 **airport service jobs by interested persons**

16 “An interested person may bring a civil action in a
17 district court of the United States against a person to en-
18 force section 40131. The action may be brought in the
19 judicial district in which the defendant does business or
20 the violation occurred.”.

21 (2) CLERICAL AMENDMENT.—The analysis for
22 chapter 461 of title 49, United States Code, is
23 amended by inserting after the item relating to sec-
24 tion 46111 the following:

 “46112. Enforcement of labor standards for certain airport service jobs by inter-
 ested persons.”.

1 **SEC. ____ . AMENDMENTS TO THE FAIR LABOR STAND-**
2 **ARDS ACT OF 1938.**

3 Section 6 of the Fair Labor Standards Act of 1938
4 (29 U.S.C. 206) is amended by adding at the end the fol-
5 lowing:

6 **“(h) COVERED SERVICE WORKERS PERFORMING**
7 **SERVICES FOR MEDIUM, AND LARGE HUB AIRPORTS.—**

8 **“(1) IN GENERAL.—**In lieu of the rate pre-
9 scribed by subsection (a)(1), an employer shall pay
10 each employee employed as a covered service worker
11 (as defined in section 40102(a) of title 49, United
12 States Code), providing services at or for a medium
13 hub airport, or large hub airport (as those terms are
14 defined in such section), who in any workweek is en-
15 gaged in commerce or in the production of goods for
16 commerce, or is employed in an enterprise engaged
17 in commerce or in the production of goods for com-
18 merce, a minimum wage and fringe benefits as pro-
19 vided under section 40131(a) of title 49, United
20 States Code.

21 **“(2) ADMINISTRATION AND ENFORCEMENT OF**
22 **FRINGE BENEFITS.—**For purposes of administration
23 and enforcement of any unpaid fringe benefits re-
24 quired under paragraph (1), the fair market value
25 amount of any such fringe benefits shall be deemed
26 unpaid minimum wages under this Act.”.

