



H.R. ____
“Healthy Flights Act of 2021”

**Introduced by T&I Committee Chair Peter DeFazio (D-OR),
Aviation Subcommittee Chair Rick Larsen (D-WA),
and 15 Members of Congress**

Original Co-Sponsors: Representatives Julia Brownley (D-CA), Salud Carbajal (D-CA), Steve Cohen (D-TN), Mark DeSaulnier (D-CA), John Garamendi (D-CA), Eddie Bernice Johnson (D-TX), Kaiiali’I (Kai) Kahele (D-HI), Alan Lowenthal (D-CA), Marie Newman (D-IL), Eleanor Holmes Norton (D-DC), Donald Payne Jr. (D-NJ), Albio Sires (D-NJ), Marilyn Strickland (D-WA), Dina Titus (D-NV) and Frederica Wilson (D-FL)

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BACKGROUND

According to the Centers for Disease Control and Prevention (CDC), as of April 20, 2021, more than 31 million people in the United States have been infected with COVID-19 and more than 565,000 people have died as a result of the virus.¹ Concerns over public and personal health have required sensible limitations on public gatherings and the postponement of travel plans to reduce the pandemic’s staggering death toll. **Accordingly, reducing the spread of COVID-19 through air travel and revitalizing the aviation industry will require us to mitigate disease transmission when and where it occurs—including through mask mandates and sanitation efforts—and harmonize travel requirements to reduce exposure risk and inspire confidence in the aviation system.** Moreover, as we emerge from this pandemic, we must learn from the lessons learned this past year and ensure that the proper measures are taken during future pandemics by the appropriate authorities.

Throughout this pandemic, aviation workers have faced significant risk of being exposed to COVID-19. Flight attendants, pilots, gate agents, and service workers have encountered travelers who refuse to follow airline mask requirements, have not been screened for the virus, or are unable to follow social distancing precautions both in the air and on the ground.² Seeing the need for stronger enforcement in view of belligerent passengers, airlines began independently banning passengers for non-compliance. On January 13, 2021, the FAA finally issued a zero-tolerance policy

¹ COVID Data Tracker, Ctr. for Disease Control (Updated: Apr. 20, 2021) available at <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>.

² Harmeet Kaur and Natalia V. Osipova, *For flight attendants, getting people to wear masks is now one of the hardest parts of the job*, CNN, Jan. 21, 2021, available at <https://www.cnn.com/travel/article/flight-attendants-unruly-passengers-masks-trnd/index.html>.

by which the agency committed to taking enforcement action against unruly passengers, including fines up to \$35,000 and possible jail time, as opposed to first using counseling and warnings.³ Shortly thereafter, President Biden issued an executive order mandating masks to be worn on all forms of public transportation, including in airports and on commercial airplanes.⁴ This executive order was an appropriately strong response to numerous cases of passengers attempting to board commercial flights without masks, but a subsequent administration can revoke it, which makes the case for a set of ironclad statutory requirements for mask usage and other precautions during future pandemics.

While such federal efforts to require masks and other mitigation techniques were almost universally well received, they should not have taken almost a year and a new administration to implement. **The Healthy Flights Act of 2021 eliminates any confusion surrounding the responsibility and subsequent authority of the FAA during pandemics and further requires the wearing of a mask or protective face covering by passengers and aviation personnel during national emergencies relating to a respiratory disease.**

Furthermore, we must implement long-standing recommendations to limit the spread of pandemics through the aviation system. Specifically, in 2015 the GAO issued a recommendation to develop a national aviation-preparedness plan for communicable disease outbreaks. Such a plan could establish a mechanism for coordination between the aviation and public health sectors and provides clear and transparent planning assumptions for a variety of types and levels of communicable disease threats.⁵ Yet, according to the GAO, the DOT has yet to implement this recommendation. Moreover, the GAO found that had the DOT implemented such a plan, it “could have improved coordination between public-health and aviation sectors during COVID-19 to address issues like passenger screening,”⁶ and that since 2015, the FAA had sponsored limited research on disease transmission within airplanes and airports.⁷ **As such, this bill requires for a National Aviation Preparedness Plan to be established, and creates an FAA Center of Excellence for Infectious Disease Response and Prevention in Aviation.**

LEGISLATION

The Healthy Flights Act will impose a set of uniform requirements to keep passengers and airline and airport workers healthy and minimize transmission of infectious diseases through our air transportation system. It will also produce cutting-edge research to further prevent the aviation industry from transmitting deadly viruses like COVID-19. Specifically, the bill:

- **Authority of FAA Administrator.** Authorizes the FAA Administrator to impose any requirements on passenger and cargo air transportation, during a pandemic or epidemic, to protect the health and safety of airline workers and passengers and reduce the spread of an infectious disease through the U.S. aviation system.

³ David Shepardson, *Exclusive: U.S. FAA chief orders ‘zero tolerance’ for disruptive airline passengers, possibly jail*, Reuters, January 13, 2021, available at <https://www.reuters.com/article/us-usa-election-aviation-exclusive/exclusive-u-s-faa-chief-orders-zero-tolerance-for-disruptive-airline-passengers-possibly-jail-idUSKBN29I302>; See also FAA, *Press Release – Federal Aviation Administration Adopts Stricter Unruly Passenger Policy*, January 13, 2021, available at https://www.faa.gov/news/press_releases/news_story.cfm?newsId=25621.

⁴ Exec. Order No. 13998, 86 FR 7205, Jan. 21, 2021.

⁵ Gov’t Accountability Office, *Air Travel and Communicable Diseases: Comprehensive Federal Plan Needed for U.S. Aviation System’s Preparedness* 43, Rpt. No. GAO-16-127 (December 2015), available at <https://www.gao.gov/assets/680/674224.pdf>.

⁶ Gov’t Accountability Office, *Air Travel and Communicable Diseases: Status of Research Efforts and Action Still Needed to Develop Federal Preparedness Plan*, Rpt. No. GAO-20-655T (June 2020), available at <https://www.gao.gov/assets/710/707757.pdf>.

⁷ *Id.*

- **Mask requirement in airports and on airplanes.** Requires masks for passengers and airline and airport employees during any public health emergency that is caused by a respiratory disease, such as COVID-19, and is transmitted via aerosols or respiratory droplets. The bill also strengthens an existing prohibition on interference with the duties of airline crewmembers by clarifying that refusal to wear a mask or protective face covering is tantamount to such unlawful interference.
- **Protective equipment for airline and certain FAA employees.** Mandates the provision of masks or protective face coverings, gloves, hand sanitizer, and sanitation products to pilots, flight attendants, customer-facing employees of an airline, and certain FAA employees (air traffic controllers, aviation safety inspectors, and airway transportation systems specialists). Ensures aircraft, airline facilities, and air traffic control facilities are cleaned and sanitized in accordance with CDC guidance.
- **National aviation preparedness plan.** Mandates the development of a national preparedness plan for government and industry aviation stakeholders to respond to epidemics or pandemics of infectious diseases.
- **Regulations for air carriers to reduce spread of infectious diseases.** Requires the Secretary of Transportation, in coordination with the CDC, to issue appropriate regulations to reduce the spread of an infectious disease on flights during a national public health emergency.
- **Study on transmission of infectious diseases in airplane cabins.** Mandates an objective scientific study on the transmission of infectious diseases in airplane cabins and requires the FAA to identify and evaluate prospective new airline practices and aircraft designs that would reduce the transmission of pathogens within the airplane cabin.
- **Center of Excellence for Infectious Disease Response and Prevention in Aviation.** Creates an FAA Center of Excellence for Infectious Disease Response and Prevention in Aviation to advise the FAA Administrator on infectious diseases in air travel.
- **Passenger Announcements.** When applicable, requires airline passenger briefings to include: (1) an announcement of any new passenger requirements; (2) a demonstration of proper compliance; and (3) an announcement of any potential fines for non-compliance, such as fines for disobeying a crew member's instruction.

Supporters of the bill include the following stakeholder groups:

- American Association of Airport Executives;
- Airports Council International;
- Air Line Pilots Association;
- Allied Pilots Association;
- Association of Flight Attendants;
- Association of Professional Flight Attendants;
- Coalition of Airline Pilots Associations;
- International Association of Machinists and Aerospace Workers;
- International Brotherhood of Teamsters;
- Professional Aviation Safety Specialists;

- Transportation Trades Department, AFL-CIO; and
- Transport Workers Union of America.