

# SENATE BILL REPORT

## SB 6269

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As Reported By Senate Committee On:  
Consumer Protection & Housing, January 25, 2008

**Title:** An act relating to the rights of airline passengers.

**Brief Description:** Concerning the rights of airline passengers.

**Sponsors:** Senator Jacobsen.

**Brief History:**

**Committee Activity:** Consumer Protection & Housing: 1/22/08, 1/25/08 [DPS-WM].  
Ways & Means: 2/11/08.

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### SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

**Majority Report:** That Substitute Senate Bill No. 6269 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Haugen, Jacobsen, Kilmer, McCaslin and Tom.

**Staff:** Alison Mendiola (786-7483)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Steve Jones (786-7440)

**Background:** The federal Airline Deregulation Act of 1978 (ADA) was created to encourage, develop, and attain an air transportation system which relied upon competitive market forces to determine the quality, variety, and price of air services, among other things. ADA states that states may not enact or enforce a law, regulation or other provision related to a price or route of service of an air carrier. 49 U.S.C. § 41713(b)(1).

New York recently passed an airline passenger bill of rights which was recently upheld in court. The court found that the airline passenger bill of rights was not preempted by ADA, reasoning that the provision of fresh water, air, and lavatory access to passengers trapped on a motionless plane for several hours is a health and safety issue, an issue that states may regulate and is not considered a service, *Air Transport Association of America, Inc. v. Andrew Cuomo*, 2007 U.S. Dist. LEXIS 93448 (December 20, 2007).

Washington does not have an airline passenger's bill of rights.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Summary of Bill (Recommended Substitute):** Airlines must provide specific amenities for airline passengers, including the provision of fresh air, water, waste removal services, refreshments, and medical attention if passengers are on an aircraft that is on a tarmac for longer than three hours.

The Office of the Airline Consumer Advocate (Office) is created in the Attorney General's Office. This Office must assist customers in resolving problems with carriers, propose solutions, and investigate complaints.

The Attorney General may recover a civil penalty not to exceed 1,000 dollars per violation, per passenger.

The Office is to prepare an annual report that includes: a summary of the activities of the Office; initiatives identifying that the Office has taken to improve airline services; a summary of the most serious problems encountered by consumers; and recommendations for legislative or administrative proposals appropriate to resolve problems encountered by customers.

**EFFECT OF CHANGES MADE BY CONSUMER PROTECTION & HOUSING COMMITTEE (Recommended Substitute):** Language that went beyond the New York statute is eliminated. For example, provisions relating to compensated bumped passengers or passengers delayed due to flight cancellations or postponements of over 12 hours with a refund of 150 percent of the ticket price, and requiring carriers to publish and update monthly, on the carrier's public web site, a list of flights delayed 30 minutes or more at least 40 percent of the time during a single month, are deleted.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: There are no federal regulations addressing various health and safety concerns of passengers stranded on the tarmac and a court recently upheld a substantially similar New York statute, ruling that health and safety issues are not preempted by federal law.

CON: If states adopt varying standards this will be confusing to consumers. This issue is best left to the federal government. There have been no incidents in Washington State to justify this legislation. The airlines have addressed this issue with internal policies.

**Persons Testifying:** PRO: Kate Hanni, Coalition for an Airline Passengers Bill of Rights.

CON: Steve Jarvis, Megan Lawrence, Dan Coyne, Alaska Airlines.