

## New Law Includes Protections for Flyers with Disabilities

On October 5, 2018, President Trump signed the Federal Aviation Administration Reauthorization Act of 2018. This bill ([H.R. 302](#)), which reauthorized the Federal Aviation Administration (FAA) and other programs through 2023, also contains several important provisions to improve travel for people with disabilities.

According to the Census Bureau, about one in five Americans has some kind of disability, and one in ten has a severe disability. The U.S. Department of Transportation reports that there were 764 million flyers in the 12-month period ending in July 2018. One can safely assume that millions of these passengers are disabled.

In this issue of *The ElderCounselor*, we will look at who was behind this law, problems those with a disability face when flying, and what new measures are in the law.

### Who Was Behind This Law?

H.R. 302 includes several provisions similar to those in the Air Carrier Access Amendments Act that was introduced by Representative Jim Langevin (D-RI) earlier this year and by Senator Tammy Baldwin (D-Wisconsin) in 2017. Representative Langevin, who co-chairs the Bipartisan Disabilities Caucus, is a quadriplegic and has encountered problems in his own flying experiences.

The Paralyzed Veterans of America (PVA) and The National Multiple Sclerosis Society worked with Representative Langevin and Senator Baldwin, and have been advocates for changes that will benefit the broader disability community. According to PVA, the top complaint they receive from members is related to problems with air travel. Members of PVA supported increased civil penalties for wheelchair damage or bodily harm and a study on the feasibility of in-cabin wheelchair restraint systems.

Paralyzed Veterans of America is the only Congressionally-chartered Veterans service organization dedicated solely for the benefit and representation of Veterans with spinal cord injury or disease. For more than 70 years, the organization has helped disabled Veterans with the benefits, medical services, jobs, research and rehabilitation they need to get on the road to recovery and regain their freedom and independence. The PVA ensures they receive the benefits they have earned through service to our nation; monitors their care in VA spinal cord injury units, and funds research and education in the search for a cure and improved care for individuals with paralysis.

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Multiple Sclerosis (MS) affects more than 2.3 million people worldwide. It is an unpredictable, often disabling disease of the central nervous system that disrupts the flow of information within the brain, and between the brain and body. Symptoms range from numbness and tingling to blindness and paralysis. Most people with MS are diagnosed between the ages of 20 and 50, with at least two to three times more women than men being diagnosed with the disease.

Senator Baldwin has stated, “In order to keep America’s promise of full equality for all, we must break down barriers that individuals with disabilities and our Veterans face when they travel. Equal access to air travel ensures our Veterans are able to participate in our economy and enjoy their travel opportunities.”

### **Obstacles Disabled Flyers Encounter**

Air travelers with disabilities are more likely to encounter delays, missed flights and even suffer personal injury. Most restrooms on planes were not designed to accommodate the disabled, especially if they require assistance. As a result, many resort to avoiding liquids or wear adult diapers when flying.

Specialized equipment is often damaged. Shaun Castle, the Deputy Executive Director of PVA and a service-disabled U.S. Army Veteran, has had his wheelchair bent, cracked and even lost in separate incidents. “These are more than minor inconveniences,” he said. “If my wheelchair is damaged, it may mean I am stranded until I can get it repaired.”

Bari Talente, Executive Vice President of Advocacy for the National Multiple Sclerosis Society, has had similar experiences. “Almost every year when nearly 300 MS activists travel to Washington, DC to meet with Congress, members of our group share how they’ve watched in fear as their mobility equipment was loaded on a plane and how they’ve had to assess damage to it on arrival. In many cases, this equipment is personalized to meet an individual’s needs and when it’s damaged, that also damages one’s ability to get around and someone’s overall health.”

Of the new law, MS activist Scott Bartholomew of Ohio said: “This opens up a whole world of travel to me. I live with multiple sclerosis and depend on mobility devices, but the fear of damaging my mobility device has been the biggest deterrent to me when choosing whether to travel by air.”

### **What’s in the Law?**

*Advisory Committee:* The law establishes an Advisory Committee to determine the air travel needs of passengers with disabilities. The Committee, which will assess and address barriers in the air travel experience, will be comprised of people with disabilities, national disability organizations, aviation industry employees, wheelchair manufacturers and national Veterans’ organizations representing disabled Veterans.

The Advisory Committee is also charged with reviewing current Department of Transportation (DOT) regulations related to airport accessibility best practices and a review of practices for ticketing, pre-flight assignments and stowing of assistive devices for disabled passengers.

*Airline Passengers with Disabilities Bill of Rights:* The DOT will create a document that will describe, in plain language, the basic protections and responsibilities of covered air carriers, their employees and contractors, and people with disabilities. At a minimum, the Airline Passengers with Disabilities Bill of Rights must address the rights of passengers with disabilities to be treated with dignity and respect, receive timely assistance when requested, travel with assistive devices, receive seating accommodations, receive announcements in an accessible format and file complaints. The document will be displayed on airlines’ websites and be provided to any passengers who request disability-related assistance.

*Increased penalties for harm to disabled passengers:* The DOT may increase the maximum penalty an airline may be required to pay for bodily harm or damage to a passenger's wheelchair or other mobility aid by 300 percent of what is currently provided for under the law. (Each act of harm or injury constitutes a separate offense.) This means airlines will face up to three times the maximum penalty of \$32,140 for each incident of bodily injury or damage to a passenger's wheelchair or other mobility aid, in addition to the current requirement that airlines reimburse the passenger for the full purchase price for each damaged mobility aid.

*Improved TSA screenings:* Within six months, revisions must be made to the Transportation Security Agency (TSA) officer training requirements to improve TSA screenings in collaboration with disability and Veterans' organizations. TSA will also be responsible for recording and identifying frequent complaints and accommodations requested, which will be used to determine best practices and recommend training.

*Transparency for disabled passengers:* Within 60 days, the DOT must enforce a 2016 rule that requires airlines to report data for mishandled baggage and wheelchairs. Airlines are required to report the number of enplaned bags and the number of mishandled bags. If enforced, the rule will require separate statistics for mishandled wheelchairs and scooters that are transported in aircraft cargo compartments.

*Airline lavatories:* The law requires a report on the availability of lavatories on commercial aircraft, which must include the ability of disabled passengers to access them.

*In-cabin wheelchair restraint systems:* The law also requires a study on the feasibility of in-cabin wheelchair restraint systems and subsequent accommodations, something the PVA has specifically lobbied for.

## **What to Watch**

While proud of the new law, Representative Langevin admits there is still considerable progress to be made before full equality is achieved for flyers with disabilities. Interestingly, the law does not contain a deadline for the finalization or implementation of the Bill of Rights. However, with both the PVA and MS communities involved, we can be assured that many eyes will be monitoring the progress and implementation of the requirements mandated under this law.

## **Conclusion**

At ElderCounsel, we care deeply about issues that affect the elderly, those with disabilities and our Veterans. We, too, will keep a close watch on future developments and will keep you informed accordingly.

## **Sources**

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