

117TH CONGRESS  
1ST SESSION

# H. R. 3095

To ensure that authorizations issued by the Secretary of Transportation to foreign air carriers do not undermine labor rights or standards, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2021

Mr. DEFAZIO (for himself, Mr. LARSEN of Washington, Ms. DAVIDS of Kansas, Mr. LAMB, Mr. KAHELE, Mr. RODNEY DAVIS of Illinois, Mr. FERGUSON, Mr. BACON, Mr. BERGMAN, and Mr. JOHNSON of Ohio) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To ensure that authorizations issued by the Secretary of Transportation to foreign air carriers do not undermine labor rights or standards, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair and Open Skies  
5 Act”.

1 **SEC. 2. FOREIGN AIR TRANSPORTATION UNDER UNITED**  
2 **STATES-EUROPEAN UNION AIR TRANSPORT**  
3 **AGREEMENT.**

4 The Secretary of Transportation may not issue a per-  
5 mit under section 41302 of title 49, United States Code,  
6 or an exemption under section 40109 of such title, author-  
7 izing a person to provide foreign air transportation as a  
8 foreign air carrier under the United States-European  
9 Union Air Transport Agreement of April 2007 (as amend-  
10 ed), unless the Secretary—

11 (1) finds that issuing the permit or exemption  
12 would be consistent with Article 17 bis of the Agree-  
13 ment; and

14 (2) imposes on the permit or exemption such  
15 conditions as may be necessary to ensure that the  
16 person complies with Article 17 bis.

17 **SEC. 3. PUBLIC INTEREST TEST.**

18 Section 41302(2) of title 49, United States Code, is  
19 amended—

20 (1) in subparagraph (A) by striking “under an  
21 agreement with the United States Government; or”  
22 and inserting “; and”; and

23 (2) in subparagraph (B) by striking “the for-  
24 eign air transportation” and inserting “after consid-  
25 ering the totality of the circumstances, including the

1 factors set forth in section 40101(a), the foreign air  
2 transportation”.

3 **SEC. 4. PUBLIC INTEREST REQUIREMENTS.**

4 (a) **POLICY.**—Section 40101(a) of title 49, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 “(17) preventing entry into United States mar-  
8 kets by flag of convenience carriers.

9 “(18) preventing the undermining of labor  
10 standards.”.

11 (b) **INTERNATIONAL AIR TRANSPORTATION.**—Sec-  
12 tion 40101(e)(9) of title 49, United States Code, is  
13 amended—

14 (1) in subparagraph (D) by striking “and” at  
15 the end;

16 (2) in subparagraph (E) by striking the period  
17 at the end and inserting “; and”; and

18 (3) by adding at the end the following:

19 “(F) undermining labor standards.”.

20 (c) **FLAG OF CONVENIENCE CARRIER DEFINED.**—  
21 Section 40102(a) of title 49, United States Code, is  
22 amended—

23 (1) by redesignating paragraphs (21) through  
24 (47) as paragraphs (22) through (48), respectively;  
25 and

1           (2) by inserting after paragraph (20) the fol-  
2       lowing:

3           “(21) ‘flag of convenience carrier’ means a for-  
4       eign air carrier that is established in a country other  
5       than the home country of its majority owner or own-  
6       ers in order to avoid regulations of the home coun-  
7       try.”.

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