

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend chapter 423 of title 49, United States Code, to provide protections with respect to frequent flyer programs and co-branded credit cards, and for other purposes.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. 1383

To establish the Veterans Advisory Committee on Equal Access, 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. DURBIN

Viz:

1 At the appropriate place, insert the following:

2 **SEC. _____. PROTECTIONS RELATING TO FREQUENT**
 3 **FLYER PROGRAMS AND CO-BRANDED CREDIT**
 4 **CARDS.**

5 (a) IN GENERAL.—Chapter 423 of title 49, United
 6 States Code, is amended by adding at the end the fol-
 7 lowing new section:

1 **“SEC. 42309. PROTECTIONS RELATING TO FREQUENT**
2 **FLYER PROGRAMS AND CO-BRANDED CREDIT**
3 **CARDS.**

4 “(a) PROTECTIONS RELATED TO POINTS, MILES,
5 AND OTHER ACCRUED VALUE.—

6 “(1) VALUE DISCLOSURE.—Not later than 90
7 days after the date of enactment of this section,
8 each covered air carrier shall—

9 “(A) prominently display on each page of
10 the website and mobile application of the air
11 carrier information regarding the financial
12 value of one point, mile, or other accrued value
13 promised or offered in connection with a fre-
14 quent flyer program;

15 “(B) in the case that any such financial
16 value differs between various co-branded credit
17 cards, or tiers or iterations of loyalty programs,
18 display information regarding each differing fi-
19 nancial value in a central location on the
20 website and mobile application of the air car-
21 rier; and

22 “(C) update, in real time, any change to
23 the information displayed pursuant to subpara-
24 graph (A) or (B).

25 “(2) EXPIRATION OF POINTS.—A covered air
26 carrier shall not place an expiration date on any

1 points, miles, or other accrued value promised or of-
2 fered in connection with a frequent flyer program.

3 “(3) TRANSFER OF POINTS.—

4 “(A) IN GENERAL.—A covered air carrier
5 shall—

6 “(i) allow a consumer participating in
7 a frequent flyer program to transfer any
8 amount of points, miles, or other accrued
9 value of the consumer to another partici-
10 pant (chosen by the consumer) of the same
11 frequent flyer program; and

12 “(ii) guarantee that, with respect to
13 any such transfer, the points, miles, or
14 other accrued value remain equal in value
15 once transferred.

16 “(B) LIMITATIONS.—A covered air carrier
17 shall not—

18 “(i) limit the number of points, miles,
19 or other accrued value that a consumer
20 may transfer to another participant of the
21 frequent flyer program, except to protect a
22 consumer from fraud or scams as pre-
23 scribed by regulation; or

1 “(ii) impose a fee or other penalty on
2 the consumer in connection with such
3 transfer.

4 “(4) FEES FOR POINTS.—A covered air carrier
5 shall not impose a fee or other penalty on the con-
6 sumer to access, use, redeem, or redeposit points,
7 miles, or other accrued value.

8 “(5) DISPLAY OF AIRFARE VALUE.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this section, each
11 covered air carrier shall display on any travel
12 booking page of the website and mobile applica-
13 tion of the air carrier—

14 “(i) the cost of airfare or other ancil-
15 lary fees both in dollar value and in the
16 value of points, miles, or other accrued
17 value promised or offered in connection
18 with a frequent flyer program; and

19 “(ii) in the case that any cost de-
20 scribed in clause (i) differs between various
21 co-branded credit cards, or tiers or
22 iterations of loyalty programs, information
23 regarding each such differing cost.

1 “(B) MANNER.—An air carrier shall dis-
2 play the information required under subpara-
3 graph (A) in a manner that—

4 “(i) displays all costs described in
5 such subparagraph concurrently; and

6 “(ii) does not require a consumer to
7 alternate between methods to display such
8 costs.

9 “(C) UPDATES.—An air carrier shall up-
10 date, in real time, any change to the informa-
11 tion required to be displayed under subpara-
12 graph (A).

13 “(6) DISPLAY OF REDEMPTION RATES.—Not
14 later than 1 year after the date of enactment of this
15 section, each covered air carrier shall—

16 “(A) display on a page of the website and
17 mobile application of the air carrier the percent-
18 age rate of points, miles, or other accrued value
19 that consumers successfully used or redeemed
20 in the preceding 12 months; and

21 “(B) update such percentage rate on an
22 annual basis.

23 “(7) AIRFARE AND ANCILLARY FEE TRANS-
24 ACTIONS.—Not later than 1 year after the date of
25 enactment of this section, each covered air carrier

1 shall offer to consumers the ability to purchase air-
2 fare or other ancillary fees in any combination of
3 dollars and points, miles, or other accrued value
4 promised or offered in connection with a frequent
5 flyer program.

6 “(8) ACCOUNT SECURITY.—Not later than 90
7 days after the date of enactment of this section,
8 each covered air carrier shall—

9 “(A) require multi-factor authentication
10 for access to a frequent flyer program account;
11 and

12 “(B) implement other reasonable data se-
13 curity protections as the Secretary may require.

14 “(b) CONSUMER NOTICE OF CHANGES TO TERMS OF
15 SERVICE.—

16 “(1) CHANGES TO TERMS OF SERVICES.—With
17 respect to the terms of service, contract of carriage,
18 or other customer agreement of any frequent flyer
19 program or airline co-branded credit card of a cov-
20 ered air carrier, the covered air carrier shall not in-
21 clude any provision that reserves the right of the
22 covered air carrier to make changes to the terms of
23 service, contract of carriage, or other customer
24 agreement without providing to the consumer at
25 least 1 year of notice of any such change.

1 “(2) NOTICE TO CONSUMERS.—A covered air
2 carrier shall not take any action that would allow
3 the covered air carrier to devalue a consumer’s ac-
4 crued points, miles, or other accrued value promised
5 or offered in connection with a frequent flyer pro-
6 gram, including any action to decrease the dollar
7 value, eliminate, reduce, suspend, forfeit, invalidate,
8 impose new limits on the access, use, redemption, or
9 validity, or impose new requirements or expense for
10 the redemption or use of any such points, miles, or
11 other accrued value unless the covered air carrier
12 has provided to consumers not fewer than 1 year of
13 notice of any such action.

14 “(3) COORDINATION WITH CFPB AND FTC.—In
15 carrying out paragraphs (1) and (2), the Secretary
16 shall coordinate with the Director of the Consumer
17 Financial Protection Bureau and the Commissioners
18 of the Federal Trade Commission, as necessary.

19 “(c) DEFINITIONS.—In this section:

20 “(1) ANCILLARY FEE.—The term ‘ancillary fee’
21 means any fee paid for service that a consumer may
22 add to a flight booking for an additional cost, or
23 may purchase as an in-flight service, including seat-
24 ing options, baggage, beverages, food, early board-
25 ing, lounge access, internet or wifi access, or any

1 other service determined appropriate by the Sec-
2 retary.

3 “(2) CO-BRANDED CREDIT CARD.—The term
4 ‘co-branded credit card’ means a credit card jointly
5 offered by a covered air carrier in partnership with
6 a credit card issuer, with an emphasis on rewarding
7 brand loyalty.

8 “(3) COVERED AIR CARRIER.—The term ‘cov-
9 ered air carrier’ means an air carrier (including any
10 program partner of such air carrier or a foreign air-
11 line partnership that includes such air carrier) con-
12 ducting passenger operations under part 121 of title
13 14, Code of Federal Regulations, that offers a fre-
14 quent flyer program.

15 “(4) FREQUENT FLYER PROGRAM.—The term
16 ‘frequent flyer program’ means a program in which
17 a covered air carrier promises or offers points, miles,
18 or other accrued value for tickets purchased from
19 the covered air carrier.

20 “(5) SECRETARY.—The term ‘Secretary’ means
21 the Secretary of Transportation.

22 “(d) REGULATIONS.—The Secretary may issue such
23 regulations as may be necessary to implement this sec-
24 tion.”.

1 (b) CLERICAL AMENDMENT.—The analysis for chap-
2 ter 423 of title 49, United States Code, is amended by
3 inserting after the item relating to section 42308 the fol-
4 lowing:

“42309. Protections relating to frequent flyer programs and co-branded credit
cards.”.