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(Original Signature of Member)

115TH CONGRESS  
2D SESSION

# H. R.

To amend title 49, United States Code, to allow certain persons to own and control an air carrier providing air transportation or intrastate air transportation, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. BRAT introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To amend title 49, United States Code, to allow certain persons to own and control an air carrier providing air transportation or intrastate air transportation, 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 “Free to Fly Act”.

5 **SEC. 2. DEFINITIONS.**

6 Section 40102(a) of title 49, United States Code, is  
7 amended—

1           (1) in paragraph (2) by striking “citizen of the  
2           United States” and inserting “citizen of the United  
3           States or a person organized under the laws of the  
4           United States or a State, the District of Columbia,  
5           or a territory or possession of the United States”;

6           (2) in paragraph (15)(C)—

7           (A) by striking “of which the president  
8           and at least two-thirds of the board of direc-  
9           tors” and inserting “of which the president and  
10          at least 51 percent of the board of directors”;  
11          and

12          (B) by striking “at least 75 percent of the  
13          voting interest” and inserting “at least 51 per-  
14          cent of the voting interest”;

15          (3) in paragraph (21) by striking “not a citizen  
16          of the United States” and inserting “who is not or-  
17          ganized under the laws of the United States or a  
18          State, the District of Columbia, or a territory or  
19          possession of the United States”; and

20          (4) in paragraph (26) by striking “citizen of the  
21          United States” and inserting “citizen of the United  
22          States or a person organized under the laws of the  
23          United States or a State, the District of Columbia,  
24          or a territory or possession of the United States”.

1 **SEC. 3. REQUIREMENT FOR CERTIFICATE.**

2 Section 41101(b) of title 49, United States Code, is  
3 amended—

4 (1) by striking “citizen of the United States”  
5 and inserting “citizen of the United States or a per-  
6 son organized under the laws of the United States  
7 or a State, the District of Columbia, or a territory  
8 or possession of the United States”;

9 (2) in paragraph (1) by striking “citizen” and  
10 inserting “citizen or other person”;

11 (3) by redesignating subsection (c) as sub-  
12 section (d); and

13 (4) by inserting after subsection (b) the fol-  
14 lowing:

15 “(c) **ADDITIONAL REQUIREMENTS FOR NONCITIZENS**  
16 **OPERATING CERTAIN ROUTES.**—In order for a person  
17 who is not a citizen of the United States and who is not  
18 a foreign air carrier to be issued and maintain a certificate  
19 for air transportation or intrastate air transportation, all  
20 employees and managing officers, other than the board of  
21 directors, must be citizens, nationals, or lawful permanent  
22 residents of the United States, and the person’s head-  
23 quarters and base of operations must be located in the  
24 United States.”.

1 **SEC. 4. ISSUANCE OF CERTIFICATES OF PUBLIC CONVEN-**  
2 **IENCE.**

3 Section 41102 of title 49, United States Code, is  
4 amended—

5 (1) by striking the subsection heading in sub-  
6 section (a) and inserting “ISSUANCE TO A CITIZEN”;

7 (2) by redesignating subsections (b), (c), and  
8 (d) as subsections (c), (d), and (e), respectively;

9 (3) by inserting after subsection (a) the fol-  
10 lowing:

11 “(b) ISSUANCE TO OTHER PERSONS.—The Secretary  
12 of Transportation may issue a certificate of public conven-  
13 ience and necessity to a person organized under the laws  
14 of the United States or a State, the District of Columbia,  
15 or a territory or possession of the United States, of which  
16 more than 49 percent of the board of directors are not  
17 citizens of the United States, which is not under the actual  
18 control of citizens of the United States, or in which more  
19 than 49 percent of the voting interest is owned or con-  
20 trolled by persons that are not citizens of the United  
21 States, to provide any part of the following air transpor-  
22 tation the person has applied for—

23 “(1) air transportation as an air carrier;

24 “(2) temporary air transportation as an air car-  
25 rier for a limited period; and

1           “(3) charter air transportation as a charter air  
2 carrier.”;

3           (4) in subsection (c), as redesignated—

4                 (A) by striking “under subsection (a)”  
5 each place it appears and inserting “under sub-  
6 section (a) or subsection (b)” in each such  
7 place; and

8                 (B) by striking “citizen” and inserting  
9 “citizen or other person”; and

10           (5) in subsection (e), as redesignated, by insert-  
11 ing “or air transportation provided by a person who  
12 is not a citizen of the United States” after “foreign  
13 air transportation”.

14 **SEC. 5. CIVIL RESERVE AIR FLEET ELIGIBILITY.**

15           Section 41106 of title 49, United States Code, is  
16 amended by striking subsection (d) and inserting the fol-  
17 lowing:

18           “(d) EXCEPTION.—The Secretary of Defense may  
19 contract with an air carrier that does not meet all require-  
20 ments if—

21                 “(1) the Secretary decides that no air carrier  
22 holding a certificate under section 41102 is capable  
23 of providing, and willing to provide, the airlift serv-  
24 ices; or

1           “(2) the Secretary decides to grant a waiver  
2           under section 9518 of title 10, United States Code,  
3           for a person who is not a citizen of the United  
4           States and who is organized under the laws of the  
5           United States that has a certificate of public conven-  
6           ience and necessity, from the Civil Reserve Air Fleet  
7           citizenship requirements for the purposes of eligi-  
8           bility and participation.”.

9   **SEC. 6. APPLICATION FOR CERTIFICATE OF PUBLIC CON-**  
10                           **VENIENCE.**

11           Section 41108 of title 49, United States Code, is  
12   amended—

13           (1) in subsection (a) by striking “citizen of the  
14           United States” and inserting “citizen of the United  
15           States or a person organized under the laws of the  
16           United States or a State, the District of Columbia,  
17           or a territory or possession of the United States”;

18           (2) in subsections (b) and (c) by striking “cit-  
19           izen” each place it appears and inserting “citizen or  
20           other person”; and

21           (3) in subsection (b)(3)(B) by inserting “and  
22           air transportation provided by a person who is not  
23           a citizen of the United States” after “foreign air  
24           transportation”.

1 **SEC. 7. POTENTIAL REVOCATION OF CERTIFICATE.**

2 Section 41110(a)(2)(B) of title 49, United States  
3 Code, is amended by striking “sections 41308–41310(a)”  
4 and inserting “sections 41101(c), 41308–41310(a)”.

5 **SEC. 8. LIABILITY INSURANCE AND FINANCIAL RESPONSIB-**  
6 **BILITY.**

7 Section 41112(a) of title 49, United States Code, is  
8 amended—

9 (1) by striking “citizen of the United States”  
10 and inserting “citizen of the United States, or a per-  
11 son organized under the laws of the United States  
12 or a State, the District of Columbia, or a territory  
13 or possession of the United States”; and

14 (2) by striking “citizen” the second place it ap-  
15 pears and inserting “citizen or other person”.

16 **SEC. 9. PRESIDENTIAL REVIEW OF FOREIGN AIR CARRIERS**  
17 **AND OTHER NONCITIZENS.**

18 Section 41307 of title 49, United States Code, is  
19 amended—

20 (1) by striking the section heading and insert-  
21 ing “**Presidential review of actions about**  
22 **foreign air transportation and air trans-**  
23 **portation provided by noncitizens**”; and

24 (2) by striking “to provide foreign air transpor-  
25 tation” and inserting “to provide foreign air trans-  
26 portation, or for a person who is not a citizen of the

1 United States to provide air transportation and  
2 intrastate air transportation”.

3 **SEC. 10. JOINT PRICING.**

4 Section 41503 of title 49, United States Code, is  
5 amended by striking “citizen of the United States” and  
6 inserting “a citizen of the United States or a person orga-  
7 nized under the laws of the United States or a State, the  
8 District of Columbia, or a territory of possession of the  
9 United States”.

10 **SEC. 11. NAVIGATION OF FOREIGN CIVIL AIRCRAFT.**

11 Section 41703(a) of title 49, United States Code, is  
12 amended—

13 (1) in paragraph (4) by striking the period and  
14 inserting “; or”; and

15 (2) by adding at the end the following:

16 “(5) if specifically authorized under sections  
17 41102 and 41108 and if the airman holds a certifi-  
18 cate issued or made valid by the Government.”.

19 **SEC. 12. WAIVERS FOR NON-CITIZEN AIR CARRIER PARTICI-  
20 PATION IN THE CIVIL RESERVE AIR FLEET.**

21 (a) IN GENERAL.—Chapter 931 of title 10, United  
22 States Code, is amended by adding at the end the fol-  
23 lowing:



1 **“§ 9518. Non-citizen air carriers: waiver authority**

2 “(a) WAIVER AUTHORITY.—In the case of any air  
3 carrier described in subsection (b) or any aircraft owned  
4 by an air carrier described in subsection (b), the Secretary  
5 of Defense may waive any citizenship requirement under  
6 this chapter. Any such waiver—

7 “(1) shall be for a period not to exceed two  
8 years;

9 “(2) may be revoked at any time by the Sec-  
10 retary; and

11 “(3) may be renewed for an additional two-year  
12 period for an unlimited number of times.

13 “(b) AIR CARRIER DESCRIBED.—An air carrier de-  
14 scribed in this section is an air carrier—

15 “(1) owned by a person who is not a citizen of  
16 the United States and who is organized under the  
17 laws of the United States or a State, territory, or  
18 the District of Columbia; and

19 “(2) that holds a certificate of public conven-  
20 ience and necessity under section 41102 of title  
21 49.”.

22 (b) CLERICAL AMENDMENT.—The table of sections  
23 at the beginning of such chapter is amended by adding  
24 at the end the following new item:

“9518. Non-citizen air carriers: waiver authority.”.