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August 7, 2007

Senator John D. Rockefeller
United States Senate
Washington, D.C. 20510

SUBJECT : Section 706 of S.1300

Senator Rockefeller;

This is to suggest four changes to Section 706 of S.1300, your Aviation Investment and Modernization Act of 2007. Section 706 as currently worded does not address the international “crew pairing” requirement as recently adopted by the International Civil Organization (ICAO). Additionally, Section 706 unfairly penalizes U.S. pilots forced into retirement between the effective date of the ICAO rule change and that proposed in S.1300.

First: Section 706 of S.1300 should be replaced in its entirety with the language of Section 301 of H.R.2881, FAA Reauthorization Act of 2007, excluding, however, subsections (e) and (h) of Section 301’s proposed amendment to 49 USC Section 447. Both sections of both Bills would accelerate the harmonization of this nation’s maximum age for pilots of U.S. registered air carriers with the newly adopted ICAO age Standard.

Subsection (c) of H.R.2881’s proposed Section 44729 addresses and corrects the most costly and longest lasting aspect of the new ICAO age Standard – one pilot in a multi-pilot crew must be under age 60 if the other pilot is age 60 or above. But this ICAO requirement exists *for international operations only*. This “pairing” restriction, if incorporated into the Federal Aviation Administration’s (FAA’s) regulatory scheme where not required – *i.e., in wholly domestic operations* – would unduly burden every U.S. registered air carrier with costly crew scheduling and operational complexities for the foreseeable future. H.R.2881’s subsection (c)(1) excludes U.S. domestic operations from this unnecessary pairing restriction. Subsection (c)(2) anticipates that this pairing restriction will some day be removed from the ICAO Standard.

Second: The phrase in subsection (c)(1) “. . . between the United States and another country . . .” should be changed to read “. . . within the airspace of another country . . .”. Many, if not most of the U.S. international air carriers operate not only between the U.S. and other countries, but within and between other countries before returning to the U.S. This change would recognize and regulate these “within and between” foreign country operations.

Third: As the ICAO convention allows bi- and multilateral agreements to supplant its enforceable Standards, an additional sentence should be added to subsection (c)(1) to wit:

“The requirement that there be another pilot in the flight deck crew who has not yet attained 60 years of age is waived where agreement exists between the U.S. registered carrier and/or the FAA and the foreign country’s duly constituted regulatory authority.”

It should be noted that when the United Kingdom unilaterally adopted this 65/60 language in 1994, the UK’s Flight Crew Licensing office in its Civil Aviation Agency (British equivalent of our FAA), solicited waivers from the regulatory bodies of the ICAO member States on behalf of British registered carriers and pilots. This voluntary solicitation was repeated in 2000, receiving roughly an 80% approval rate.

Fourth: Subsections (e) and (h) of H.R.2881’s proposed Section 44729 should be deleted in their entirety. Not only does the language of these subsections prevent the return of pilots forced out of work by the present rule post-November 23, 2006, but they deny these pilots access to the time honored and proven resources of grievance, arbitration, and, if appropriate, courts, for even an *attempt* at return and/or redress.

In her announcement of the FAA’s intent to harmonize its regulations with ICAO’s 65/60 Standard, Ms. Blakey noted that “[w]hen the airlines back in the [1950s] were forcing pilots to retire, the union took legal action. Arbitrators ruled for the pilots each time.” As recognized by Ms. Blakey in that announcement, Administrator Quesada’s age 60 rule, at the behest of American Airlines and for that sole and specific purpose, summarily abrogated those legitimately secured and legally enforceable rights.

After noting in that same announcement that “[i]n what today would be considered warp speed – less than nine months – it became the law of the land,” Ms. Blakey admitted that it would take the FAA two years – or more -- to change its rule, and that no waiver would be granted to any pilot forced into retirement in the interim.

It would be ironic – cruel even – if Congress, in a noble effort to overcome the FAA’s halfhearted effort at reform, would again deny the same equitable rights of grievance, arbitration, and courts to the few hundreds of U.S. pilots forced into retirement solely by a faulty birthdate – as against the tens of thousands of younger pilots who would gain immediate promotions from the older pilots’ forced departures, as well as additional years of employment and increased earnings from harmonization’s benefits.

Incorporating these four suggestions into S.1300 will correct both the weaknesses and inequities of its current Section 706.

Respectfully

Samuel D. Woolsey
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cc: Senators Inouye, Lott, Stevens, Inhofe; Representatives Oberstar, Hayes;
various media.

About myself and Age60Rule.com:

Age60Rule.com is an independent, non-profit, free access archive of early and recent documents and information related to the FAA's so-called Age 60 Rule. My policy statement can be accessed from my website's home-page, www.age60rule.com.

I have researched all aspects of the FAA's so-called Age 60 Rule, past and present, since 1989, and reported on them since 1991. I began work on this website in about 1997, and brought it on-line shortly thereafter. I am my own webmaster, and, unless otherwise noted, the sole author all commentary appearing thereon – grammar and spelling errors included. The historical and/or documentary materials, on the other hand, are, as best as I can determine, copies of authentic originals. The provenance of most are provided on-line, and for the others will be provided on request.

As an aside, much of the historical information presented in Ms. Blakey's speech of January 30 – the Smith-Quesada references, timing of the 1959 enactment, "warp speed," contract arbitrations and their results, etc. – appears to have been taken, in some cases verbatim, from a piece on which I began work in 1992 titled "The FAA's 'Age 60 Fraud:' 34 Years of Affirmative Misconduct" (available on the "Analyses" page of www.age60rule.com). I do not object to Ms. Blakey's references, however, as my stated policy is that anything I write or publish on this subject can be cited or copied with or without credit, and excerpts from this early paper have been reported previously by others.

My materials – those available on-line and those maintained in my files – will be sent on request and without charge. I have never charged for copying, handling, postage, or shipping for any of the paper copies I have provided to others. Although I freely consult with and provide documents, advice, and information to any that request, I am not formally or informally affiliated with any organization or other entity active in the FAA's age 60 rule debate. I neither accept financial support for my services in this regard, nor do I contribute financially to any other organization or effort.

I send the above letter to you with no other motive and to no other end than as some small effort to improve the U.S./ICAO harmonization effort, and to prevent an injustice being forced upon pilots caught up in this maelstrom whose only fault is an imperfect birthdate.

Respectfully,

Samuel D. Woolsey
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