

CHAPTER 159

TRANSPORTATION

HOUSE BILL 97-1061

BY REPRESENTATIVES Smith, Dyer, Epps, Gotlieb, Miller, Reeser, and Sullivan;
also SENATORS Bishop, B. Alexander, Chlouber, Dennis, Matsunaka, and Wattenberg.

AN ACT

CONCERNING PERFORMANCE REPORTS REQUIRED TO BE FILED WITH THE AERONAUTICS DIVISION BY
INTRASTATE AIR CARRIERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-46.5-103 (1) (b) (I), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-46.5-103. Intergovernmental agreements. (1) (b) (I) ANY ENTITY ESTABLISHING A NEW BUSINESS FACILITY OR OPERATION AND PARTICIPATING IN THE PROVISIONS OF THIS ARTICLE SHALL GIVE DUE CONSIDERATION TO THE PROVISION OF INTRASTATE AIR SERVICE TO ALL AREAS OF COLORADO. ANY SUCH ENTITY SHALL FILE REPORTS AS REQUIRED UNDER SECTION 24-46.6-103. The state shall consider each of the following guidelines in determining whether to enter into an intergovernmental agreement:

(A) The significance of the support and financial incentives to be provided by the local jurisdiction in which the new business facility OR OPERATION is to be located;

(B) The significance of the number of jobs in the state which are likely to be generated directly or indirectly as a result of the new business facility OR OPERATION and ancillary facilities thereto;

(C) The extent to which the entity establishing the new business facility OR OPERATION intends to employ Colorado residents at the new business facility OR OPERATION and ancillary facilities thereto;

(D) The extent to which the entity establishing the new business facility OR OPERATION intends to contract with Colorado residents and Colorado-based

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

companies for services and goods at the new business facility OR OPERATION and ancillary facilities thereto; and

(E) The extent of the public benefits to be derived from the agreement.

SECTION 2. 24-46.6-103 (1), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-46.6-103. Intrastate air carriers - on-time performance - oversales - reports to aeronautics division. (1) (a) Any air carrier that provides intrastate air service within Colorado shall file a semiannual report with the aeronautics division regarding the on-time performance and the number of passengers denied boarding on intrastate flights by the air carrier during the six-month period covered by the report. The report shall be submitted within thirty days after the end of the six-month period covered by the report with the six-month period ending June 30 and December 31.

(b) ANY AIR CARRIER THAT FAILS TO FILE A REPORT WHEN DUE, AS REQUIRED BY THIS SUBSECTION (1), AND THAT FAILS TO CURE SUCH FAILURE WITHIN THIRTY DAYS AFTER NOTIFICATION BY THE DIVISION OF SUCH FAILURE MAY, AFTER NOTICE AND HEARING CONDUCTED BY THE AERONAUTICAL BOARD PURSUANT TO SECTION 24-4-105, BE SUBJECT TO THE IMPOSITION OF A MONETARY PENALTY OF NOT LESS THAN TWO THOUSAND FIVE HUNDRED DOLLARS NOR MORE THAN FIVE THOUSAND DOLLARS FOR EACH VIOLATION. MONEYS COLLECTED PURSUANT TO THIS PARAGRAPH (b) SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE AVIATION FUND, CREATED IN SECTION 43-10-109, C.R.S.

(c) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "AIR CARRIER" MEANS ANY PERSON UNDERTAKING BY ANY MEANS, DIRECTLY OR INDIRECTLY, TO PROVIDE INTRASTATE AIR TRANSPORTATION IN AIRCRAFT WITH SEATING CAPACITY FOR ONE HUNDRED OR FEWER PASSENGERS.

SECTION 3. 24-46.6-103 (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

24-46.6-103. Intrastate air carriers - on-time performance - oversales - reports to aeronautics division. (2) The report filed pursuant to subsection (1) of this section shall include the following information for each flight by the air carrier during the six-month period covered by the report that originated and terminated at points within Colorado:

(j) THE MECHANICAL DEFECTS DISCOVERED AND REPAIRS MADE FOR EACH OPERATION OF THE FLIGHT;

(k) FOR DELAYED OR CANCELED FLIGHTS, ANY WEATHER CONDITIONS CONTRIBUTING TO THE DELAY OR CANCELLATION.

SECTION 4. 43-10-105 (1), Colorado Revised Statutes, 1993 Repl. Vol., is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

43-10-105. Duties of the board. (1) The board has the following duties:

(g) TO ENFORCE THE PROVISIONS OF SECTION 24-46.6-103 (1), C.R.S., WITH RESPECT TO REQUIRED REPORTING BY INTRASTATE AIR CARRIERS. THE BOARD MAY DESIGNATE AN EMPLOYEE OF THE DIVISION THAT HAS ADMINISTRATIVE RESPONSIBILITIES TO ACT AS A HEARING OFFICER OR MAY USE THE SERVICES OF AN ADMINISTRATIVE LAW JUDGE APPOINTED PURSUANT TO PART 10 OF ARTICLE 30 OF TITLE 24, C.R.S., TO CONDUCT ANY HEARING REQUIRED TO ENFORCE THE PROVISIONS OF SECTION 24-46.6-103 (1), C.R.S.

SECTION 5. 43-10-101, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

43-10-101. Legislative declaration. The general assembly hereby declares that there exists a need to promote the safe operation and accessibility of general aviation AND INTRASTATE COMMERCIAL AVIATION in this state; that improvement of general aviation AND INTRASTATE COMMERCIAL AVIATION transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency.

SECTION 6. 43-10-109 (1) and (3), Colorado Revised Statutes, 1993 Repl. Vol., are amended to read:

43-10-109. Aviation fund created. (1) There is hereby created in the state treasury a fund to be known as the aviation fund, referred to in this article as the "fund", which shall consist of all revenues credited thereto pursuant to ~~section~~ SECTIONS 24-46.6-103 (1) (b) AND 39-27-112 (2) (b), C.R.S., and all revenues credited thereto in accordance with subsection (2) of this section within the total revenues prescribed by the general assembly pursuant to section 43-1-112.5. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund, except as directed by the general assembly acting by bill and subject to the provisions of section 18 of article X of the Colorado constitution.

(3) The moneys in the fund shall be subject to annual appropriation by the general assembly, and except that, in each fiscal year, the general assembly shall appropriate an amount not to exceed five percent of the total amount of revenues credited to the fund pursuant to section 39-27-112 (2) (b), C.R.S., and subsection (2) of this section during the preceding fiscal year to be used to defray any administrative costs incurred by the division and the board in implementing and administering the provisions of this article. ANY MONETARY PENALTIES COLLECTED PURSUANT TO SECTION 24-46.6-103 (1) (b), C.R.S., ARE CONTINUOUSLY APPROPRIATED TO THE DIVISION TO DEFRAY ANY ADMINISTRATIVE EXPENSES INCURRED BY THE DIVISION AND THE BOARD IN ENFORCING THE PROVISIONS OF SECTION 24-46.6-103 (1), C.R.S. The general assembly shall also appropriate from the fund an amount to the department of revenue for the reasonable expenses incurred in administering sections 39-26-114 (1) (a) (VII) and 39-26-203 (1) (c) and as provided in section 39-27-112 (2) (b), C.R.S.

SECTION 7. 43-10-110 (2) (a) (II), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

43-10-110. Revenues in aviation fund - disbursements. (2) (a) (II) Except as otherwise provided in subparagraph (I) of this paragraph (a), if an intergovernmental agreement is entered into pursuant to the provisions of ~~section 24-46.5-103 (1)~~ ARTICLE 46.5 OF TITLE 24, C.R.S., the portion of the sales and use tax revenues that would otherwise be transferred to the governmental entity operating ~~the largest~~ AN airport in the state AT WHICH COMMERCIAL PASSENGER SERVICE IS PROVIDED AND THAT HAS ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT UNDER ARTICLE 46.5 OF TITLE 24, C.R.S., shall be transferred to the Colorado business incentive fund created in section 24-46.5-102, C.R.S. If such an intergovernmental agreement is entered into, moneys shall be transferred by the state treasurer ~~beginning July 1, 1991,~~ for the length of the intergovernmental agreement, and, following the conclusion of the agreement, or if no agreement is entered into, the moneys shall be transferred to such governmental entity in accordance with the provisions of this section.

SECTION 8. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the Colorado business incentive fund, to the department of local affairs for allocation to the economic development commission, for the fiscal year beginning July 1, 1997, the sum of five million five hundred thousand dollars (\$5,500,000), or so much thereof as may be necessary, for the implementation of article 46.5 of title 24, Colorado Revised Statutes.

SECTION 9. Effective date - applicability. This act shall take effect upon passage, and shall apply to reports not filed when due under section 24-46.6-103, Colorado Revised Statutes, on or after said date.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 8, 1997