

Public Law 101-281
101st Congress

An Act

May 4, 1990
[S. 2533]

To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 905(d)(4) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1475(d)(4)) is amended by striking "28 month" and inserting in lieu thereof "31-month".

(b) The amendment made by subsection (a) shall be effective as of April 30, 1990.

SEC. 2. Section 511 of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2210) is amended by adding at the end the following new subsection:

"(g) USE OF AIRPORT GENERATED REVENUES IN HAWAII.—

"(1) GENERAL RULE.—Notwithstanding the limitation on the use of revenues generated by airports contained in subsection (a)(12) of this section, the State of Hawaii may use for eligible transportation projects revenues generated on the sale at off-airport locations in the State of duty-free merchandise under a contract between the State and a duty-free sales enterprise.

"(2) LIMITATIONS.—

"(A) APPLICABILITY PERIOD.—This subsection only applies to revenues generated after the date of enactment of this subsection and before December 31, 1994, on sales referred to in paragraph (1) and to amounts in the Airport Revenue Fund of the State of Hawaii which are attributable to revenues generated before the date of enactment of this subsection on such sales.

"(B) COVERAGE OF AIRPORT CAPITAL AND OPERATING COSTS.—The State of Hawaii may use under paragraph (1) revenues generated on sales referred to in paragraph (1) in a fiscal year of the State only if the amount of such revenues, when added to the amount of funds received in such year by the State for airport capital and operating costs from all other sources (including revenues generated by such airports from other sources, unrestricted cash on hand, and Federal funds made available under this Act for expenditure at such airports), exceeds 150 percent of the projected airport capital and operating costs for such year.

"(C) ANNUAL CAP.—The amount of revenues generated on sales referred to in paragraph (1) in a fiscal year of the State of Hawaii which the State may use under paragraph (1) may not exceed the amount of the excess determined under subparagraph (B) for such year.

"(D) AGGREGATE CAP.—The maximum amount of revenues which the State of Hawaii may use under paragraph (1) may not exceed \$250,000,000 in the aggregate.

Effective date.
49 USC app.
1475 note.

“(E) REDUCTION DUE TO LANDING FEE INCREASE.—If any fee levied or collected by an airport operated by the State of Hawaii for a rental charge, landing fee, or other service charge from an aircraft operator for the use of airport facilities is increased in the period beginning on the date of enactment of this subsection and ending December 31, 1994, by a percentage which is greater than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, published by the Bureau of Labor Statistics of the Department of Labor in such period and if, as a result of such fee increase, there is an increase in the revenues derived from such fee, the \$250,000,000 limit established by subparagraph (D) shall be reduced by the amount of the projected increase in such revenues in such period less any portion of such increase which is attributable to changes in such Index in such period.

“(F) DETERMINATION OF COSTS AND PROJECTED INCREASES IN REVENUES.—The State of Hawaii shall determine capital and operating costs and revenues under subparagraph (B) and the amount of projected increases in revenues from fee increases referred to in subparagraph (E). Determinations shall be submitted by the State to the Secretary for approval. A determination shall be treated as approved by the Secretary unless the Secretary disapproves such determination on or before the 30th day after the State submits such determination to the Secretary.

“(G) ELIGIBILITY FOR DISCRETIONARY GRANTS.—The State of Hawaii shall not be eligible for a grant under section 507(c) in any fiscal year in which the State uses under paragraph (1) revenues generated on sales referred to in paragraph (1). If the State receives a grant in a fiscal year in which the State as a result of this subparagraph is not eligible to receive a grant, the State shall repay all amounts received by the State under such grant to the Secretary for deposit in the discretionary fund established under section 507(c).

“(3) PERIOD OF USE.—Revenues generated on sales referred to in paragraph (1) in the period of applicability set forth in paragraph (2)(A) may be used under paragraph (1) in any fiscal year of the State, including a fiscal year of the State beginning after December 31, 1994.

“(4) DEFINITIONS.—In this subsection, the following apply:

“(A) AIRPORT CAPITAL AND OPERATING COSTS.—The term ‘airport capital and operating costs’ means costs incurred by the State of Hawaii for operation of all airports operated by such State and costs for debt service incurred by such State in connection with capital projects for such airports, including interest and amortization of principal costs.

“(B) DUTY-FREE SALES ENTERPRISE; DUTY-FREE MERCHANDISE.—The terms ‘duty-free sales enterprise’ and ‘duty-free merchandise’ have the meaning such terms have under section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)).

“(C) ELIGIBLE TRANSPORTATION PROJECT.—The term ‘eligible transportation project’ means a project for construc-

tion or reconstruction of a highway on a Federal-aid system which will facilitate access to an airport and which is located within 10 miles by road of such airport.

“(D) FEDERAL-AID SYSTEM; HIGHWAY.—The terms ‘Federal aid system’ and ‘highway’ have the meaning such terms have under section 101 of title 23, United States Code.”.

Approved May 4, 1990.

LEGISLATIVE HISTORY—S. 2533:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 26, considered and passed Senate.
May 1, considered and passed House.