

Language from H.R. 6493	ARSA Position
<u>Section 2- Aviation Safety Whistleblower Investigation Office</u>	
<p>Page 2 Lines 1-7</p> <p>Sec. 2 (s) AVIATION SAFETY WHISTLEBLOWER OFFICE.—(1) ESTABLISHMENT- There is established in the Federal Aviation Administration (in this section referred to as the `Agency`) an Aviation Safety Whistleblower Investigation Office (in this subsection referred to as the `Office').</p>	<p>The creation of an additional office reporting to the Administrator is extraneous given the pre-existing avenues for reporting and investigating any alleged discrepancy in safety oversight. This new office will burden FAA resources.</p>
<p>Page 4 Lines 16-24, Page 5 Lines 1-2</p> <p>Sec. 2(b)(3)(D) ACCESS TO INFORMATION.—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material necessary to determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Agency or any other provision of Federal law relating to aviation safety has occurred.</p>	<p>ARSA notes that the Federal Aviation Administration already has access to a regulated entity’s records, reports, audits, reviews, and other documentation listed in the bill. The requirement to have these documents available to the Director is therefore duplicative. Further, it appears that there is a significant potential for more than one “office” of the FAA investigating the same allegations. This will be an extreme burden to the industry and the FAA. Duplicative efforts can often be conflicting.</p>
<p>Page 5 Lines 17-22</p> <p>Sec. 2(b)(6) REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.</p>	<p>ARSA believes that if a reasonable belief exists that a violation of federal criminal law has occurred, the Federal Bureau of Investigation or other pertinent law enforcement body should be expeditiously notified rather than the Inspector General.</p> <p>ARSA believes that the Director should be able to directly report alleged violations to proper law enforcement to ensure quick investigation and resolution.</p>
<p>Page 5 Lines 23-25, Page 6 Lines 1-10</p> <p>Sec. 2(b)(7)—ANNUAL REPORTS TO CONGRESS—Not later than October 1 of each year, the Director shall submit to Congress a report containing—</p> <ul style="list-style-type: none"> (A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period; (B) summaries of those submissions; (C) summaries of further investigations and corrective actions recommended in response to the submissions; and (D) summaries of the responses of the Administrator to such recommendations. 	<p>ARSA believes that the creation of this reporting requirement may place stress on limited FAA resources.</p> <p>ARSA is also concerned that Congress is attempting to manage the agency, rather than letting the agency manage itself within the bounds of the statute.</p>

Section 3- Modification of Customer Service Initiative

<p>Page 6, Lines 24-25, Page 7 Lines 1-7</p> <p>Sec. 3(a) FINDINGS.—(3) Despite these directives from Congress regarding the priority of safety, the Agency issued a vision statement in which it stated that it has a “vision” of “being responsive to our customers and accountable to the public” and, in 2003, issued a customer service initiative that required aviation inspectors to treat air carriers and other aviation certificate holders as “customers” rather than regulated entities.</p>	<p>ARSA believes that the Customer Service Initiative (CSI) was established to help achieve the greatest level of safety for the traveling public. The fact that the CSI refers to regulated entities as “customers” should not detract from the program’s primary aim of benefitting the traveling public by facilitating greater communication between the FAA and regulated entities. Indeed, all certificate holders are also part of the flying public and are therefore “customers” under this directive.</p>
<p>Page 7 Lines 8-14</p> <p>Sec. 3(a) FINDINGS.—(4) The initiatives described in paragraph (3) appear to have given regulated entities and Agency inspectors the impression that the management of the Agency gives an unduly high priority to the satisfaction of regulated entities regarding its inspection and certification decisions and other lawful actions of its safety inspectors.</p>	<p>ARSA believes that creating law based on the “appearance” of the existence of an “impression” is poor practice. ARSA questions how the lawmakers determined that regulated entities and FAA inspectors were impressed in a certain manner.</p> <p>In addition, ARSA believes that while some well publicized discrepancies in oversight have occurred, the CSI program at large remains instrumental in ensuring the safety of the traveling public.</p>
<p>Page 7 Lines 15-19</p> <p>Sec. 3(a) FINDINGS.—(5) As a result of the emphasis on customer satisfaction, some managers of the Agency have discouraged vigorous enforcement and replaced inspectors whose lawful actions adversely affected an air carrier.</p>	<p>Again, ARSA believes that the CSI program is a benefit to the traveling public. The “emphasis on customer satisfaction” should be substantiated by greater evidence than isolated instances before altering the CSI program.</p>
<p>Page 7 Lines 20-25, Page 8 Lines 1-10</p> <p>Sec. 3(b) MODIFICATIONS OF INITIATIVE.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall modify the customer service initiative, mission and vision statements, and other statements of policy of the Agency—</p> <ul style="list-style-type: none"> (1) to remove any reference to air carriers or other entities regulated by the Agency as “customers”; (2) to clarify that in regulating safety the only customers of the Agency are individuals traveling on aircraft; and (3) to clarify that air carriers and other entities regulated by the Agency do not have the right to select the employees of the Agency who will inspect their operations. 	<p>ARSA believes that existing laws sufficiently establish the traveling public as the ultimate beneficiary, or “customer,” of the FAA.</p> <p>Additionally, placing the term “traveling public” into the CSI is not reflective of the purpose of the program. The program is designed to facilitate the FAA’s highest priority of ensuring public safety by encouraging open discourse between the Agency and regulated entities. Put simply, the “traveling public” does not possess the technical knowledge to use the CSI program.</p> <p>ARSA is also concerned that the efforts to change numerous documents to reflect new terminology will burden limited FAA resources.</p> <p>Inserting the “traveling public” moniker raises an additional note. Employees of regulated entities are also members of the “traveling public” and would still be covered by the CSI program.</p> <p>ARSA also notes that regulated entities do not select employees of the Agency. Regulated agencies must be availed the opportunity to protest actions of the</p>

	agency representatives that are contrary to laws and regulations.
<p>Page 8 Lines 11-15</p> <p>Sec. 3(c) SAFETY PRIORITY.—In carrying out the Administrator’s responsibilities, the Administrator shall ensure that safety is given a higher priority than preventing the dissatisfaction of an air carrier or other entity regulated by the Agency with an employee of the Agency.</p>	<p>First, ARSA notes that this language is already law. Title 49, U.S.C Sec. 40101(d) states:</p> <p><i>The Administrator shall consider the following matters, among others, as being in the public interest:</i></p> <p><i>1. assigning, maintaining, and enhancing safety and security as the highest priorities in air commerce</i></p> <p>Therefore, the language in this subsection is duplicative of pre-existing law.</p> <p>In addition, ARSA is concerned that the language insinuates that the dissatisfaction of a regulated entity under the CSI program is indicative of an entity being adverse to following rulemakings, regulations, guidance, etc. Under the CSI, a regulated entity could express dissatisfaction over unclear rulemakings, variances in rulemaking interpretations and other situations that should be resolved to ensure the safety of the traveling public. This subsection misrepresents the relationship between regulated entities and the FAA and undercuts the communication options available under the CSI program.</p>
<p><u>Section 4- Post-employment Restrictions for FAA Flight Standards Inspectors</u></p>	
<p>Page 8 Lines 23-25, Page 9 Lines 1-12</p> <p>Sec. 4(d)(1) PROHIBITION.—A person holding an operating certificate under title 14, Code of Federal Regulations, may not knowingly employ, or make contractual arrangement with, an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 2-year period—</p> <ul style="list-style-type: none"> (A) served as, or was responsible for oversight of, a flight standards inspector of the Agency; and (B) had responsibility to inspect, or oversee inspection of, the operations of the certificate holder. 	<p>ARSA is concerned that the breadth of the subsection is not adequately addressed. Including those individuals responsible for oversight of inspectors and inspections implicates numerous high ranking individuals in the FAA’s organizational hierarchy. ARSA believes the reach of the language should be established in less ambiguous terms.</p> <p>Further the prohibition should not be against the regulated agency but reside with the individual who previously worked for the agency.</p>
<p><u>Section 5- Assignment of FAA Principal Maintenance Inspectors</u></p>	
<p>Page 10 Lines 7-12</p> <p>Sec. 5(a) IN GENERAL.—An individual serving as a principal maintenance inspector of the Federal Aviation Administration may not be responsible for overseeing the operations of a single air carrier for a continuous period of more than five years.</p>	<p>ARSA is concerned that this subsection will significantly overextend FAA resources. The FAA has stated that the yearly costs related to a rotation of the work force every three years (moving 1/3 per year) would yield the following results: Principal Inspectors--\$12 million; Principal Inspectors and Managers--\$27 million, and for all Flight Inspectors--\$129.3 million.¹</p>

¹ Review of FAA’s Safety Oversight of Airlines and Use of Regulatory Partnership Programs, Federal Aviation Administration, Report Number AV-2008-057, p.16.

Section 6- Headquarters Review of Air Transportation Oversight System Database

Page 11 Lines 17-24

Sec. 6(b) MONTHLY TEAM REPORTS.—
(1) IN GENERAL.—The team of employees conducting a monthly review of the air transportation oversight system database under subsection (a) shall submit to the Administrator, the Association Administrator for Aviation Safety, and the Director of Flight Standards, a report on the results of the review.

ARSA is concerned that requiring a monthly report may strain FAA resources. Currently the FAA reviews the AVS Dashboard monthly with “alert notifications” distributed quarterly.² Whether a monthly report would be more beneficial than a quarterly report is not addressed.

² *Ibid.*