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PILOTS' BILL OF RIGHTS

Mr. INHOFE. Madam President, tomorrow, Wednesday, I am going to introduce legislation that is going to be very important to people who are the single issue people who fly airplanes. I know a lot of us don't even care. I have heard people say they are all fat cats. I defy anyone to go up to Osh Kosh once a year, the last weekend of every July, and see the hundreds of thousands of people there who are not wealthy people, they are single issue people. Many of them have made experimental airplanes in their garages. This is something we have enjoyed for many years, and it is something I have enjoyed. I think because of my involvement, I have probably received more complaints and more requests from people out there in the real world--pilots--over things

that have happened when the Federal Aviation Administration has cause to try to either revoke their license or give them the fear of revocation.

Over the years, there have been several instances where I have passed legislation to fix the system by which the FAA proceeds in these enforcement actions. I can remember back in the year 2000. Probably yet today the greatest single pilot, most gifted pilot in America is a guy named Bob Hoover. Bob Hoover is up in years now. He is actually older than I am. As am I, he is still flying airplanes. They did what is called an emergency revocation on Bob Hoover. I never did find out what allegedly he did wrong. But it was actually in the field where this great pilot would take a twin engine Shrike up to 10,000 feet, come down

and roll right up where the crowd is. He does all of that with a glass of water up there on his dash. He is one of these unbelievable human beings.

Anyway, he came to me and said, What am I going to do? They have taken away my livelihood. All of these airline pilots who make a living flying airplanes could have a revocation. I passed a law. It took 2 years to do it--and it shouldn't have--so if something happens with a pilot and he gets his license revoked, there is a process he can go through that offers appeals and makes it a fair process. So I have been dealing with this for a long period of time. I have to say this: With any bureaucracy that has the power to take action against an individual, it is our job in Congress to ensure there are appropriate safeguards in place to

prevent agency overreach. This bill provides that. The bill does simply four things. Those out there who are pilots will understand exactly what I am talking about. First, it requires in an FAA enforcement action against a pilot, in a case where there is enforcement action, the FAA has to grant to the pilot all the relevant evidence, such as the air traffic communications tapes, flight data, investigative reports, flight service station communications, and other relevant air traffic data 30 days before any action can proceed, an enforcement action against the pilot. That is a matter of fairness. If a person is going to be accused of something, he has to know what he is being accused of. This is currently not done. It often leads to a pilot being grossly uninformed of his alleged violation and recourse.

The same section of the bill requires the FAA to advise a pilot who is the subject of an investigation relating to approval, denial, suspension, modification, or revocation of an airman certificate of the nature of the investigation, that an oral or written response to a letter of investigation is not required, that no action can

be taken by the FAA against a pilot for declining to respond, that any response can be used as evidence against the pilot, and that the FAA's investigative report is available.

That sounds like a lot of talk. All we are saying is the pilot is entitled to have all the information other people have. I will give a good example. One of the things we know--and I have heard this all of my 55 years of flying--is that when you talk to a controller--he can be a controller at a control tower or anything else--that they have to keep that recording and the pilot can have access to the recording. I have always thought this was true until something happened to me and I found out that isn't true. So this means that until we change it, that is not going to happen.

Secondly, it clarifies ``statutory deference"--that is a legal term--as it relates to the National Transportation Safety Board on actions by the FAA. This is what happens. The FAA would do something, and this could theoretically be appealed to the NTSB. The problem with that is, the NTSB--the National Transportation Safety Board--has routinely rubberstamped anything that

comes from the FAA. It is called statutory deference. So that decision has been able to take place in the appeals process.

To give an example, in fiscal year 2010, there were 362 aviation certificate appeals filed with the NTSB's Office of Administrative Law Judges. The Board's judges held 61 hearings on these appeals and reversed the FAA order only 5 times. Also during this time period there were 40 petitions seeking review of FAA emergency determinations. Of these, 6 were procedurally defective and were dismissed and on that basis, and 10 were voluntarily withdrawn. The remaining 24 petitions were considered on their merits with only 1--1--being granted out of 23 being denied. So we know this is a serious problem.

What this does is not only clean up statutory deference, but it does a second thing. It allows an airman at his own discretion to be able to appeal to the Federal District Court.

The third thing the bill does is require that the FAA undertake a notice to airmen. This is kind of complicated. But a notice to airmen is called a NOTAM. A

NOTAM is something they are supposed to involve the people in--the pilots flying--so if they are going to go to a certain airport, they will have all the information as to what is wrong with that airport--a system might be down; a number of things can take place. But, nonetheless, it simplifies that system. Any pilot knows what a NOTAM is, but for those who don't, they are notices provided by the FAA to give information to pilots about air space, runways, flight conditions, and all that. The procedure hasn't worked, because they have actually said there are NOTAMs and they didn't even file the NOTAMs and there is no way for the pilot to be able to tell if there is a NOTAM out there, even though he is required to determine that there is. The current system says it is the pilot's responsibility to be aware of a NOTAM even if the FAA has not posted it.

Fourth and finally, the FAA's medical notification process has long been known for a multitude of problems. Of all the requests for assistance the Aircraft Owners and Pilots Association receives each year--28 percent of all of the legal assistance--28 percent are related to the FAA's

medical certification process. The bill requires a review of the FAA's medical certification process and forms, to provide greater clarity in the questions and reduce the instances of misinterpretation that have, in the past, led to allegations of intentional falsification against pilots. Nonprofit general aviation groups, aviation medical examiners, and other qualified medical experts will make up an advisory panel to advise the Administrator, again giving the right people a voice in the overall determination. So this is just an advisory board. The same way with revamping the NOTAM process. These are advisory boards that are to work with the FAA in coming up with a system.

There are two provisions in the bill that will require an FAA review of current practices and two other provisions that make the system specifically fairer for pilots.

After years of intervening to help fellow pilots, I was never fully appreciative of the feeling of desperation until it happened to me. This happened last October. I was flying a group of nonpilots in my twin engine--one of my planes, a twin engine, it

holds six people--we were flying into Cameron County Airport. A lot of people don't realize how big Texas is. It is way down on the tip of Texas. It is about the same distance south as Key Biscayne, FL, or someplace down there, but it is way down there. I used to be a builder and developer there. I have landed there over 200 times. I was flying a group down there. The Corpus Approach handed me off to Valley Approach who took me all the way down to runway 13. I will actually read what they said.

Approach control said: You are cleared for visual approach to runway 13. Then I responded, and he said: Yes, 115 echo alpha roger, before you go there is traffic that appears to be in the pattern landing there at 900 feet. That is fine.

So this is what they do. That is wonderful.

I started landing, and you get to a point in a twin-engine plane full of people where you have slowed down enough where you cannot make a go-around. I was almost touching down when I saw they were working on the runway. It was too late to go around.

The three problems I had and have heard about

countless times from pilots, which we correct with this legislation: When I tried to get the voice recording, it took me 4 months, and I am a Senator. I thought: What about these people out there and the frustration they are going through? We will correct that. I was required to respond to allegations within 10 days or they would proceed in an enforcement action against me. By the time I received the 10-day notice, there were only 4 days left to respond to the accusations, enforcement actions, and I did not even know the reason for the enforcement actions. And, No. 3, we found out the NOTAMs were never posted by the FAA until 11 days after this took place. In other words, I did nothing wrong. But at any time I could have suffered a revocation of my license.

I think it is important to mention that most of the people who work at the FAA--be it the controllers, inspectors, investigators--are helpful.

This year is my 32nd consecutive year to attend the Osh Kosh fly-in. The first thing I always do is go up there and talk to all the controllers. They are up there as volunteers, and I thank

them for what they are doing.

Less than 2 weeks ago, I was flying from Oklahoma to Wyoming. I called on an instrument flight. I had to get an IFR clearance at 5 o'clock in the morning. The guy was so courteous, I asked him his name. It is Bill Liebeno. He could not have been more helpful to me. Talk about giving me all the NOTAMS, he said: The localizer is out, the DME is out, Runway 14-32 is closed, taxiway B is closed, the approach lights are out. He could not have been more factual.

I have a lot more to talk about. I know there are others who want to speak before this very significant vote that is coming up at 5 o'clock, which I think is a live quorum call. I would only say this: I am going to introduce this bill on Wednesday. If there is anyone here--we already have Senators *Begich* and *Johanns*, who are the cochairs of the Senate Aviation Caucus. Of course, this is bipartisan. They are on as cosponsors. We have several others as cosponsors.

I would say to any staff--I know no Members are listening--who happen to be listening right now, if your Member wants to at least be

sensitive to the needs of general aviation, this may be his or her only chance this year. I suggest those individuals who care about the problems I outlined become cosponsors of this legislation before I introduce it tomorrow afternoon.