



February 24, 2023

The Honorable Maria Cantwell  
United States Senate  
511 Hart Senate Office Building  
Washington, D.C. 20510

The Honorable Ted Cruz  
United States Senate  
127A Russell Senate Office Building  
Washington, D.C. 20510

Dear Chairwoman Cantwell and Ranking Member Cruz:

In service of the neuromuscular disease (NMD) patient community, the Muscular Dystrophy Association (MDA) thanks the Senate Commerce Committee for the opportunity to provide information and suggested requirements to improve air travel for people with disabilities as the Committee begins to draft legislation to reauthorize the Federal Aviation Act (FAA) in 2023. We are grateful for the Committee's efforts to improve air travel for individuals with disabilities.

The Muscular Dystrophy Association (MDA) is the #1 voluntary health organization in the United States for people living with muscular dystrophy, ALS, and related neuromuscular diseases. For over 70 years, MDA has led the way in accelerating research, advancing care, and advocating for the support of our families. MDA's mission is to empower the people we serve to live longer, more independent lives. Since inception, MDA has invested more than \$1 billion in research grants to accelerate treatments and cures for neuromuscular disorders, making MDA the largest source of neuromuscular disease research funding in the U.S. outside of the federal government.

Neuromuscular diseases are diseases that affect individuals' muscles, limbs, and mobility, and often leads to reliance on a wheelchair. For people with neuromuscular diseases, their wheelchairs often provide vital trunk and spine support, curvature support, and can accommodate assistive technology that helps the individual speak or breathe. As such, for people with neuromuscular diseases and other disabilities, their wheelchairs do not simply provide a means of transportation, but also allow for the mobility of assistive devices and equipment that is essential to their well-being.

Reliance on a wheelchairs for mobility and the support of assistive devices often presents obstacles to comfortable and safe air travel by individuals with disabilities. The inability to fly can lead many individuals with neuromuscular diseases to delay seeking healthcare or decline to participate in clinical trials that could lead to life-changing drugs and therapies for neuromuscular diseases. It can also lead individuals with neuromuscular diseases and other disabilities to avoid traveling and miss family gatherings and milestones like graduations and weddings.

According to a recent survey conducted by Paralyzed Veterans of America<sup>1</sup>, an overwhelming majority of survey respondents cited a fear of their wheelchair being damaged during the flight as a reason for avoiding air travel all together. Lack of standardized, industry-wide training for

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<sup>1</sup> <https://pva.org/wp-content/uploads/2022/09/2022-ACAA-Survey-Results-FINAL.pdf>

airline baggage handlers on how to properly disassemble, load, and stow wheelchairs for flight in the cargo hold has led to some 23,000 reports of damaged or broken wheelchairs by airlines since the Department of Transportation started requiring airlines to report damaged or broken wheelchairs in 2018<sup>2</sup>. In 2021, longtime disability rights advocate Engracia Figueroa died from sores she developed using a loaner wheelchair while waiting for repairs to be completed on her custom-fitted power wheelchair after it was damaged by the airline. This was a devastating tragedy, and efforts should be made to ensure such tragic events do not occur in the future.

### **MDA's Priorities for the FAA Reauthorization:**

As the Committee begins to design legislation to reauthorize the Federal Aviation Act, we support the following provisions being included to improve the accessibility of air travel for people with disabilities:

- **Establish an FAA Center of Excellence for accessible air travel:** MDA supports the legislative text offered by All Wheels Up, Inc. to include language in the FAA reauthorization to establish an FAA Center of Excellence (COE) for Accessible Air Travel. This Center of Excellence will allow the FAA to bring together expertise and knowledge from government, academia, industry, and non-federal affiliates to gain a better understanding of accessible air travel and what is required to achieve it; this requires research, development, and training. Establishment of the COE should require the FAA Administrator and U.S. Secretary of Transportation to select core/affiliate university members as well as industry partners to serve FAA as subject matter experts (SMEs) in design, engineering, testing, manufacturing, training, and operating aircraft cabin space, seating, wheelchair, and wheelchair restraints, considering human factors and aerospace medicine, operations, and RESNA 4 WC 19 and FAA safety and crash performance standards.
- **Require Training of All Airline and Airport Personnel that Provide Assistance to Passengers with Disabilities:** MDA also supports legislative text offered by All Wheels Up, Inc. to require training and certification to all airline and airport personnel who provide assistance to passengers with disabilities, including those who assist with seat transfers from onboard wheelchairs to the passenger's assigned seat on the aircraft.
- **Require Training of Baggage Handlers that Load and Stow Mobility Devices:** MDA supports requiring training of all baggage handlers and ramp agents who disassemble, load, and stow wheelchairs or other mobility devices in the cargo hold for flight. Many power wheelchairs are damaged or broken because the drive belt was not disengaged by the baggage handler prior to loading and stowage.

We offer the following language for inclusion in any FAA Reauthorization legislation:

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<sup>2</sup> Sampson, H. (2022, August 24). More wheelchairs are being damaged on planes. Travelers want action. *The Washington Post*. Retrieved February 7, 2023, from <https://washingtonpost.com/travel/2022/08/24/wheelchair-flying-airlines-disability/>

- **(a) Notice of Public Rulemaking-** No later than 12 months after enactment, the Secretary of Transportation shall issue a notice of public rulemaking requiring all air carriers and foreign air carriers to provide hands-on training of all baggage handlers on how to properly prepare power wheelchairs that meet RESNA 4 WC 19 standards for loading and stowage prior to flight, including how to disengage drive belts and properly secure power wheelchairs and other mobility devices for flight.
- **Amend the Air Carrier Access Act (ACAA) by including the Air Carrier Access Amendments Act:** MDA supports the inclusion of the Air Carrier Access Amendments Act (ACAAA) offered by Senator Baldwin (D-WI) in the 2023 FAA reauthorization bill, which would make the following improvements to the ACAA:
  - Strengthen ACAA enforcement by requiring referral of certain passenger-filed complaints to the Department of Justice and establishing a private right of action;
  - Require the Secretary to assess civil penalties against airlines for violations of the Act, including damage to wheelchairs;
  - Ensure new airplanes are designed to accommodate the needs of people with disabilities by requiring airlines to meet defined accessibility standards. These standards will address safe and effective boarding and deplaning, visually accessible announcements, seating accommodations, and better stowage options for assistive devices;
  - Require removal of access barriers on existing airplanes to the extent that it is readily achievable, easily accomplishable, and may be done without much difficulty or expense; and
  - Improve the overall safety of air travel for passengers with disabilities.
- **Reauthorize the ACAA Advisory Committee:** Section 439 of the FAA Reauthorization Act of 2018 required the Secretary of Transportation to establish an advisory committee on the air travel needs of passengers with disabilities. The Committee was appointed in 2019 and submitted a final report to the Secretary in 2022. The Committee is set to terminate on September 20, 2023. Considering the ongoing problems passengers with disabilities encounter in air travel, we strongly believe that this committee should be reauthorized in the 2023 FAA Reauthorization Act through the duration of that authorization.
- **Include the Emergency Vacating of Aircraft Cabins (EVAC) Act:** MDA supports the inclusion of the EVAC Act, offered by Senators Duckworth (D-IL) and Baldwin (D-WI), to require the FAA to do more to ensure passenger safety, by considering seat size, carry-on baggage, and passengers with disabilities in devising standards for emergency evacuation of aircraft. Recent simulations have failed to account for whether flights were full or empty, or whether passengers had mobility challenges. It is critical that evacuation standards reflect real-life situations to ensure the safety of all passengers.

- **Include the Mobility Aids Improve Lives and Empower All (MOBILE) Act:** MDA supports the inclusion of the MOBILE Act offered by Senator Duckworth (D-IL), which would require the Secretary of Transportation to issue a notice of proposed rulemaking requiring air carriers and foreign air carriers to publish dimensions of cargo holds and policies on traveling with a wheelchair, and evaluate the frequency and extent of damage to wheelchairs and scooters.

The MOBILE Act would also require the Secretary of Transportation to develop and submit to Congress a strategic roadmap on researching the technical feasibility of accommodating passengers in wheelchairs in the main cabin. Section 432 of the 2018 FAA Reauthorization Act required the U.S. Access Board, in consultation with DOT, to conduct a study to determine the feasibility of in-cabin wheelchair restraint systems and if feasible, the ways in which individuals with significant disabilities, including those who use power chairs, could be accommodated in the cabin.

The U.S. Access Board worked with the Transportation Research Board (TRB) on this study. In September 2021, TRB released a report titled, “[Technical Feasibility of a Wheelchair Securement Concept for Airline Travel](#).” The TRB study was unable to “identify any issues ... that seem likely to present design and engineering challenges so formidable that they call into question the technical feasibility of an in-cabin wheelchair securement system and the value of exploring the concept further.” The study acknowledged that further assessment was needed, however, “particularly to understand how secured personal wheelchairs are likely to perform relative to FAA’s security criteria in restraining and protecting occupants during a survivable airplane crash or emergency landing,” and called on DOT and FAA to undertake research on these issues. The TRB also called on the U.S. Access Board to assess demand from people with disabilities to fly while seated in their wheelchairs to inform the number of aircraft that would need to be modified to provide meaningful access, assuming remaining feasibility questions are satisfied.

We believe that the 2023 FAA Reauthorization Act should require DOT and FAA to follow through on the next steps as identified in the TRB report. If the remaining issues are addressed in a way that does not call into question the technical feasibility of the concept, the 2023 FAA Reauthorization Act should also require DOT to promulgate regulations implementing requirements for in-cabin wheelchair securement.

If it is determined to be feasible, the MOBILE Act would then require the Secretary to assess the economic and financial impact of accommodating passengers with their wheelchairs in the main cabin during flight.

- **Require the Secretary of Transportation to Report to Congress on Enforcement Actions Against Airlines for Damaged Mobility Devices:** In addition to the MOBILE Act’s requirement that the Secretary of Transportation evaluate the frequency and extent of damage to wheelchairs and scooters, MDA believes the 2023 FAA Reauthorization should require the Secretary to report to Congress on the

number of complaints received by the Department of Transportation regarding wheelchairs or scooters that are broken, damaged, or lost by airlines. Furthermore, the report should also include what, if any, enforcement actions were taken by the Department against the airlines—including any fines or civil penalties assessed—for breaking, damaging, or losing wheelchairs. To that end, we offer the following language to be included by the Commerce Committee in any FAA Reauthorization legislation:

**(a) Investigation of complaints:**

- (1) In General-** The Secretary shall investigate each complaint of wheelchairs or other mobility devices being broken, damaged, or lost by airlines.
- (2) Review and Report-** The Secretary shall regularly review all complaints received by air carriers alleging wheelchairs or other mobility devices being broken, damaged, or lost by airlines and shall report to Congress 12 months from the date of enactment on the number of complaints of wheelchairs or other mobility devices being broken, damaged, or lost by airlines.

**(A) Report of Enforcement Action to Congress-** The Secretary shall report on whether enforcement actions, including fines, were taken against airlines as a result of the complaints reported in subsection (2), and for instances where no enforcement action was taken, an explanation for why the Department declined to take enforcement action.

**(B) Report of Enforcement Action to the Public-** No later than six months after the report under subsection (A) is made to Congress, the Secretary shall take all necessary steps to ensure the reported information is made available to the public.

- **Include the Prioritizing Accessibility and Accountability for Aviation Consumers Act 2023:** MDA also supports the Prioritizing Accessibility and Accountability for Aviation Consumers Act 2023 offered by Senators Duckworth (D-IL) and Fischer (R-NE), which Secretary of Transportation to publish an annual report on several issues, including:
  - The number of aviation consumer complaints related to passengers with a disability filed within the last five years;
  - The nature of the complaints, including issues with an air carrier, mishandling a passenger's assistive technology, such as a power wheelchair, accessibility of in-flight services, difficulty in being moved or mishandled by staff or having difficulties communicating with an air carrier or its staff; and
  - An overview of the review process for such complaints, and description of how quickly each complaint was initiated for review and resolved or addressed.

While we are well-aware that these improvements will take time to implement, 36 years after the enactment of the Air Carrier Access Act and 32 years after the enactment of the Americans with Disabilities Act, the time has come to make air travel accessible and safe for passengers with disabilities.

MDA is committed to ensuring that individuals with neuromuscular diseases and other disabilities can travel on aircraft safely, comfortably, and free from fear of personal injury or of their expensive wheelchairs being damaged and rendered unusable while repairs are performed. We appreciate this opportunity to provide the Committee information on the accessibility priorities we hope to see in the FAA Reauthorization bill so that people who use wheelchairs can fly safely and with dignity. For questions regarding MDA or the above comments, please contact me at 540-447-9438 or [mlewis@mdausa.org](mailto:mlewis@mdausa.org)

Sincerely,

*Michael Lewis*

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Muscular Dystrophy Association