



## **AIRLINE FLIGHT CREW MUST BE COVERED UNDER THE FAMILY MEDICAL LEAVE ACT**

Due to an anomaly in the Family Medical Leave Act (FMLA) many workers in the airline industry have been unintentionally excluded from receiving protections provided for by this landmark legislation. Since 1993, millions of American workers needing to address serious family or medical issues have found job protection and security through the FMLA. Under this law, eligible workers may take up to 12 weeks of unpaid leave during any 12-month period if they or an immediate family member becomes ill, or awaits the birth or adoption of a child. The employee is assured a job with comparable pay and benefits when they return. The FMLA has given hardworking Americans, across many different industries, the opportunity to support their families.

But in order to qualify for FMLA coverage, an employee must work 60 percent of a full time schedule based on a 40-hour work week, or 1,250 hours per year. Courts calculate the requisite number of hours using the Fair Labor Standards Act (FLSA) which covers most workers. However, the hours worked by airline flight crews are calculated much differently. Unlike most workers, flight crewmembers are not credited for each hour actually spent on the job. They are only credited for actual time "in flight," although they can spend several days a week away from home due to the nature of their work. Time between flights, such as overnights and layovers, is based on company scheduling requirements and needs, but does not count towards FMLA qualification.

Additionally, many airline crews are on "reserve" status, which means they must stand-by to be called for duty if others are unable to work an assigned flight. They must be ready to report at any time. While the company recognizes they are "on-duty" and guarantees a set number of hours for which they will be paid each month, whether they fly or not, only their actual time "in flight" counts towards coverage under the FMLA. But due to the unusual time-keeping methods in the airline industry, a flight crew member can find it difficult to satisfy the 1,250 hour threshold required for eligibility. As a result, airline flight crewmembers find themselves excluded from FMLA benefits. In fact, due to hours of service regulations, pilots' duty time is capped at 1,000 hours per year making it impossible for them to qualify for FMLA coverage. This situation amounts to an unintended exclusion which obviously does not reflect congressional intent.

Congress articulated its position on this issue during consideration and debate of the FMLA. Sponsors of the bill expressed concern that flight crew should not be excluded from the Act's protections. Representative William Clay stated on the House floor that, "We certainly do not intend that dedicated workers in unique circumstances should be excluded from the bill's protection simply because of their industry's unusual time-keeping methods. Flight attendants and pilots who work the number of hours constituting half-time employment (later increased to 60 percent) during the previous 12 months as defined either by collective-bargaining agreement or by industry standard are fully entitled to family and medical leave under this bill." In addition, it was stated that the "minimum hours of service requirement is meant to be construed broadly ..." in the Senate Report Language.

To address this problem and to clarify the Act's coverage, Representative Timothy Bishop (D-NY), a member of the House Committee on Education and Labor, introduced the Airline Flight Crew Technical Correction Act (H.R. 2744). This common-sense measure would bring airline flight crews under the provisions of the FMLA by considering the unique situations faced by airline employees. Specifically, the bill states that flight crews will be eligible for FMLA benefits if they have been paid for or have worked 60 percent of a full-time schedule at their airline. This bill has attracted the bipartisan support of 171 cosponsors, including 25 Republicans. In the Senate, Hillary Clinton (D-NY), a member of the Senate Committee on Health Education, Labor and Pensions, introduced identical legislation (S. 2059).

Transportation labor urges Congress to pass the Airline Flight Crew Technical Corrections Act. This is a fair and well-deserved benefit that must apply to airline flight crewmembers as it does to work forces across the entire economy. Airline workers should not have to sit at the bargaining table and negotiate for the right to family and medical leave, a benefit guaranteed by law to virtually all Americans.

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