

The basic recommendations of the air transport industry are as follows:

1. Any Federal age discrimination legislation enacted should preempt the jurisdiction of the States and be applicable to the air transport industry on a uniform nationwide basis, unencumbered by multiple and divergent State or local restrictions—at least as far as operating employees are concerned.

2. The age group to which any Federal age discrimination legislation would apply should be established by Congress. The Secretary of Labor should not be given discretion to adjust the age limits.

3. Enforcement of any Federal age discrimination legislation enacted should be under the same procedures now provided under the Fair Labor Standards Act.

The reasons for the above recommendations are as follows:

*The practical necessity for Federal preemption and uniformity of regulation*

If a Federal age discrimination statute is enacted, it should preempt the jurisdiction of the States. Any age legislation applicable to the air transport industry should provide for uniform national regulation as to operating employees such as flight crews of air carriers engaged in interstate and/or foreign air transportation. Preemption is necessary because of the very nature of the air transportation business whose operating employees, in the performance of their duties, regularly and frequently cross State boundaries. It has long been recognized, ever since the celebrated case of *Gibbons v. Ogden* at the outset of our national history, that uniformity of treatment is peculiarly appropriate to the transportation industry. Conversely, subjection to a multiplicity of State or local restrictions relating to a subject susceptible to uniform rule is an inappropriate and undesirable burden upon interstate commerce not compatible with the public interest.

Whatever may be the merits of concurrent Federal and State age discrimination jurisdiction over employer and employees generally, multiple overlapping and divergent laws concerning conditions of employment create nothing but jurisdictional chaos and operating confusion when applied to interstate air transportation. It is therefore respectfully submitted that section 14 of H.R. 3651, and identical measures under consideration, which otherwise specifically preserves multiple State jurisdiction over all employees in interstate air transportation, be amended by adding at the end thereof a proviso as follows:

*Provided*, That operating employees who in the normal performance of their duties are required regularly to cross state or national boundaries in the employ of a carrier subject to the Railway Labor Act, the Civil Aeronautics Board, the Interstate Commerce Commission, or other agency of the Government of the United States, with respect to the transportation of persons or products in interstate and/or foreign commerce shall not be subject to any state or local legal prohibition or restriction with respect to discriminatory employment practices on account of age if the said carrier is subject to this Act.

The scheduled airline industry is a totally interstate or international industry. The various air carriers maintain bases in different States, provide service to cities in many States, and fly over a variety of States. The flight personnel of the carriers are domiciled throughout the