



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 020427

Introduced June 13, 2002

**Councilmembers Kenney, DiCicco, Council President Verna and
Councilmember Nutter**

**Referred to the
Committee on Public Property and Public Works**

AN ORDINANCE

Amending Chapter 18-200 of The Philadelphia Code, entitled "Airports," by adding provisions regulating how access to gates at the Philadelphia International Airport ("Airport") may be allocated to air carriers; regulating rates and other charges for air carriers using the Airport; and providing for mediation and arbitration of disputes and other enforcement measures; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 18-200 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 18-200. AIRPORTS

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§18-205. Gate Allocation; Non-discriminatory Terms.

(1) *Definition. As used in this Section, "Airport" shall refer to the Philadelphia International Airport and related facilities owned or operated by the City or an agent thereof.*

(2) *Legislative Purpose. The Council of the City of Philadelphia hereby takes notice that the Airport is an asset of the City, operated under the direction of the Philadelphia Department of Commerce. Council also takes notice that there is a direct and immediate*

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relationship between diverse and accessible air service and the quality of life of city residents and the development of business and tourism opportunities within the region. Furthermore, Council recognizes that the City has the legal authority to exercise its proprietary right to operate the Airport in such a manner as to enhance the economic development opportunities within the region. As such, it is the intention of the Council of the City of Philadelphia to ensure that the Airport's facilities are operated in such a manner that enhances new market entry by competitive air carriers and maximizes business and consumer use of the Airport and the opportunities for economic growth and development in the greater Philadelphia region.

(3) *Gate Allocation.*

(a) No person providing or intending to provide aeronautical services to the public shall be granted the exclusive right to the use of the Airport.

(b) Airport gates shall be made available without unjust discrimination against any air carrier. Gate access shall be allocated in a manner that will enhance competition among competing air carriers, provide airline travelers with choices on those routes most heavily traveled to and from the Airport, and provide air carriers greater opportunity to serve routes currently unserved or under-served to and from the Airport.

(c) No single air carrier, including its affiliates or subsidiaries, shall be granted an exclusive lease or agreement to the use of any of the available gates at the Airport.

(d) No single air carrier, including its affiliates or subsidiaries, shall be granted leases or agreements to more than 40% of the available gates at the Airport.

(4) *Nondiscriminatory Charges and Rules.*

(a) The provisions of this subsection shall supplement the provisions as to rates and charges set forth in §18-201.

(b) Each air carrier using the Airport shall be subject to such nondiscriminatory and substantially comparable rates, fees, rentals or other charges with respect to the facilities directly and substantially related to providing air transportation and such nondiscriminatory and substantially comparable rules, regulations and conditions as are applicable to all air carriers which make similar use of the Airport, and which utilize similar facilities, subject to reasonable classifications as tenants or non-

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tenants. Status as a tenant shall not be unreasonably withheld from an air carrier that assumes obligations substantially similar to those already imposed on other air carriers in the same classification or status.

(5) *Mediation of Disputes.*

(a) If after a reasonable period of negotiation, a dispute or impasse exists over access to Airport gates between the representatives of an air carrier and the Airport, either party may voluntarily submit to mediation, but if no agreement is reached between the parties within twenty (20) days after negotiations have commenced and mediation has not been utilized by the parties, both parties shall immediately, in writing, call upon the City Controller to find that an impasse in the negotiations has been reached. Within twenty (20) days thereafter, the City Controller shall make a determination whether or not an impasse has been reached. Upon a finding that an impasse has been reached, the City Controller shall appoint, within seven (7) days, a mediator acceptable to both parties for the purpose of assisting the parties in reconciling their differences and resolving the controversy on terms that are mutually acceptable. The costs of mediation shall be shared equally by each party.

(b) If the mediator fails to resolve the dispute within thirty (30) days after his appointment, the dispute shall be submitted to the Court of Common Pleas in Philadelphia County for the appointment of an arbitrator acceptable to both parties. The arbitration award shall be final and binding on the parties. The costs of arbitration shall be shared equally by the parties.

(6) *Recovery of Damages.*

(a) Recovery of Damages. In addition to any other remedy at law, every air carrier injured by a violation of this Section may recover damages therefor, in addition to reasonable attorney fees and costs, in the Court of Common Pleas in Philadelphia County.

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SECTION 2. Severability. It is Council's intent that the provisions of Chapter 18-205 of The Philadelphia Code, as added by Section 1 of this Ordinance, are severable, and if any provision thereof shall be held illegal, invalid, unconstitutional or inapplicable to any circumstances, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions of that Chapter or their application to

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such circumstances. It is hereby declared to be the legislative intent of Council that Chapter 18-205 would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, subsection or part had not been included therein, and if the circumstances to which the Chapter or any part thereof is inapplicable had specifically been exempted therefrom.

SECTION 3. This Ordinance shall take effect immediately.

Explanation:

Italics indicate new matter added.