

HR 5112: The Low-Frequency Emphatic Acoustics and Vibrations Exasperate (LEAVE) Act of 2019

Sponsored by Rep. Jackie Speier

This legislation addresses the problem of federal pre-emption of a state cause of action alleging that ground-based noise is creating, in effect, a nuisance, and establishes a way for states to both set standards and provide a forum for resolution of these disputes.

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- The LEAVE Act of 2019 will restore the right of residents within 5 miles of an airport to maintain a cause of action in state courts for excessive ground-based noise, after specified state action to establish a standard using a state-established methodology.
 - State courts have interpreted federal law to prohibit lawsuits against an airport for excessive ground-based noise, also known as low-frequency noise. However, this noise causes communities around airports significant problems including the loss of sleep by residents, adverse health impacts arising from irritation and loss of sleep, and reduced property values. All residents realize that there will be some noise from airport operations. However, airports generally have no meaningful limits placed upon the amount of ground-based noise that may be propagated into nearby communities.
 - The bill follows the examples in current law regarding speed limits. Under speed limit laws, states establish a methodology of how to set a speed limit, but limits vary from street to street. Similarly, the LEAVE Act would allow one or more states to study an airport and to establish how much ground-based noise is permissible to be propagated into the community and during what times. The standard would be set. The bill would require a state or states to establish a uniform methodology for making this determination. Both the standard and methodology may not be barred by a federal court unless they are arbitrary or capricious. To be upheld in court, a standard must be the product of a study performed by one or more states and the study must be published.
 - The bill follows the example in current law of a nuisance definition by defining ground-based noise in terms similar to a nuisance.