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Airlines To Control The Limits of Carry-On Baggage

Since its initial propagation, the federal regulation governing the baggage which airline passengers carry with them on the airplane has been amended six times.¹ Some of these amendments have been more substantive than others, with the last amending regulation propogated in 1987. On June 25, 1998, the Federal Aviation Administration ("FAA") issued an advisory circular on carry-on baggage. In this recent circular, the FAA left the airlines with the task of creating their own carry-on baggage policies. This is a noncommittal response to the concern of the Association of Flight Attendants, ("AFA"), a major airline flight attendants union, who felt that the current regulations governing carry-on baggage created hazardous situations.

Prior to the recent FAA circular, the AFA hoped the FAA would act to limit the volume of the carry-on baggage that airline passengers are permitted to bring into the main cabin of an airplane. The AFA hoped that the circular might even suggest using a "sizer box." The sizer box, located at the airport gate, would limit the volume of the carry-on baggage of each passenger by barring baggage which could not fit in the box. As stated in

Air Safety Week, the AFA presently feels that the FAA's regulations provide no clear guidelines for an airline company to follow on what is considered an appropriate carry-on baggage policy.²

The AFA, and passenger-consumers, have good reason to worry about the volume of carry-on baggage that airlines allow passengers to bring with them. Though most passengers want to carry-on as large a bag as possible, both flight attendants and passengers have been hurt by bags stored in overhead bins. This often occurs while struggling to get carry-on bags into overhead bins. Injuries have also occurred when bags have fallen out of overhead bins both during flight and after arriving at the gate.

Not surprisingly, falling items which hit passengers, frequently result in litigation brought against the airlines.³ Most such cases are filed as negligence actions. In negligence actions against an airline for personal injuries resulting from falling bags, a plaintiff needs to establish that the airline owed a duty of care to its passengers, that there was breach in this duty, and that this breach caused the plaintiff's injuries. Commercial passenger airlines, as common carriers, are held to the

highest standard of care regarding the safety of their passengers. Airlines can potentially protect themselves from liability by showing that they had no control over the cause of the accident, or that there is no causal link between the airlines's actions and the event that caused the accident.⁴

The FAA's last regulation governing carry-on baggage, in 1987, did not specify a unified standard covering the whole commercial passenger airline industry. The FAA expressed fears that too specific a regulation, governing the entire industry, would restrict carry-ons more than necessary. While recognizing the problems posed by carry-on baggage, namely injuries from falling bags and the blocking of the aisles during the boarding process, the FAA stated that each individual airline needed to establish their own carry-on baggage guidelines. However, each airline's carry-on guidelines were potentially meaningless if not documented for the passengers. Suggesting a need for federal action, since the last substantive regulation in 1987, statistical evidence has been compiled demonstrating that the frequency and severity of cabin injuries decrease with smaller, and fewer, carry-on bags.

As tempting an idea as complete federal regulation of carry-on baggage may seem, it falls short of an optimal solution. The most significant barrier to such uniform federal regulation would be its practical enforcement. Simply

put, the airlines are in the best position to oversee what bags commercial air passengers bring with them onto airplanes.

Some airlines have already begun to regulate how large carry-on bags can be.⁵ United Airlines will be utilizing "templates" over the security X-ray machines that all passengers place their carry-on bags on prior to boarding the airplane. These templates will be fashioned to permit only bags that will fit under the passenger's seat, or in the overhead bin. If the template indicates that the bag will not fit in such a space, the bag will need to be checked. Such a system has already been successfully tested at New York's LaGuardia Airport.

Endnotes

¹ See 14 C.F.R. § 121.589 (1998).

² See *Luggage Manufacturers Give New FAA Guidelines Mixed Reviews*, AIR SAFETY WEEK, Jan. 5, 1998, available at 1998 WL 7199941.

³ See Terry Turner, *Carry-On Baggage: Are the Regulations Doing Their Job?*, 63 J. AIR. L. & COM. 565, 583 (1998).

⁴ See e.g., *Robinson v. Northwest Airlines*, 79 F.3d 1148 (1996) (finding no airline liability for carry-on luggage falling on a passenger.)

⁵ See *Crackdown on carry-ons*, CHICAGO SUN-TIMES, Oct. 14, 1998, at 64.

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