



Passport to Smokers' Rights

## ISSUE BRIEF: AIRLINE SMOKING RESTRICTIONS

Airline passengers have had a great deal to complain about recently -- flight delays and cancellations, lost or mishandled baggage, poor service, overbooked flights, and misleading advertising. In fact, in 1987 consumers lodged nearly 45,000 complaints about these and other problems with the U.S. Department of Transportation (DOT).

Complaints about smoking -- from people who don't like smoking and from smokers not allowed to smoke -- were near the bottom of the list, accounting for only two percent of all passenger complaints received by DOT. Nevertheless, beginning April 23, 1988, U.S. airlines must enforce a new law banning smoking on scheduled flights of two hours or less.

The ban, due to "sunset" in April 1990, applies to an estimated 80 percent of all U.S. flights. Violators could face fines of up to \$1,000. In addition, the law makes tampering with aircraft lavatory smoke detectors a punishable offense with fines of \$2,000.

Smoking aboard airliners has long been a controversial and emotional issue. Consequently, many important facts about cabin air quality and the role of tobacco smoke in cabin air quality, longstanding federal regulations governing in-flight smoking, and public opinion have been obscured.

### **Fact: Available Data Do Not Show An Air Quality Problem Aboard Airliners.**

In 1986, a National Academy of Sciences' panel of experts reported that air quality on board commercial airliners "warrants concern." After reviewing available literature, the panel found little empirical evidence. Moreover, the panel noted that "the dearth of pertinent data limits conclusions about the potential for adverse health effects to no more than estimates." NAS called for more research before final conclusions could be reached.

As a result of the NAS call for additional research, DOT in late 1987 sought and received permission from Congress to commission an empirical cabin air quality study to be conducted by independent contractors during typical flight operations.

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In transmitting the NAS report to Congress, DOT also recommended an assessment of "technological solutions such as modifications to aircraft ventilation systems or procedures" to correct cabin air quality problems. Thus, in addition to collecting and analyzing air samples, the study will consider the adequacy of the air conditioning and filtration systems aboard aircraft, and whether the current practice of using recirculated air to ventilate the cabin is appropriate.

**Fact: Environmental Tobacco Smoke Is Not A Demonstrated Health Risk To Nonsmoking Airline Passengers Or Crew.**

Environmental tobacco smoke (ETS) is but one of many components of cabin air quality. Despite claims that ETS is harmful to health, no adverse health effects have been scientifically demonstrated in nonsmokers aboard airliners or in other indoor settings. There have been few in-flight studies of ETS, and the limited data that are available strongly suggest that smoking aboard airliners, under the "separate sections" rules, does not significantly affect cabin air quality.

Only four studies have taken specific measurements for ETS in the aircraft cabin. Three of these have been published in peer-reviewed scientific journals. In each case, ETS was found in low concentrations in the smoking sections and in even lower concentrations in the nonsmoking sections.

The most recent study, published in the American Chemical Society's Environmental Science & Technology in October 1987, concluded that separating smokers and nonsmokers aboard airliners "significantly reduces the exposure of persons seated in no-smoking sections to ETS."

**Fact: Federal Regulatory Authorities, Most Recently In 1984, Have Repeatedly Rejected Proposed Bans.**

The federal two-hour ban is the latest development in the decades-long history of airline smoking restrictions. In June 1984, the now-defunct Civil Aeronautics Board (CAB) completed its final rulemaking proceeding on smoking (its last major rulemaking of any kind). Concluding a comprehensive and exhaustive review, the CAB specifically rejected a smoking ban on short flights, finding that "smoking remains a socially acceptable practice," and that "the current system of separating smokers from nonsmokers ... works reasonably well and should be retained."

At that time, however, the agency banned smoking on aircraft with 30 seats or less, and cigar and pipe smoking altogether. It also required the airlines to ban smoking unless the aircraft's ventilation system was "fully functioning."

The CAB first adopted rules requiring separate sections for smokers and nonsmokers in 1973. In 1981, the Board concluded a five-year review of regulatory proposals related to smoking by deciding not to modify the 1973 rules, except to require airlines to guarantee a seat in the no-smoking section to anyone meeting the airline's check-in deadline. Court challenges forced the Board to revisit the issue in 1984.

The CAB's regulatory authority over airline economic and consumer issues, including smoking, was transferred to the Department of Transportation in 1985. DOT has not changed the CAB smoking rules, which continue to apply to scheduled flights that exceed two hours, except to comply with the new law.

**Fact: Airline Passengers Were Satisfied With The System Of Providing Separate Sections For Smokers And Nonsmokers.**

The CAB's "separate sections" rules enabled airlines to accommodate all passengers, and they seemed to work well. Government consumer complaint records for the last decade show only a single smoking complaint for approximately every one million passengers flown. And during the past two years, only two percent of the complaints lodged with DOT's consumer affairs office were related to smoking.

Public opinion polls further demonstrate that passengers were satisfied with separate smoking and nonsmoking sections. In 1987 the Air Line Pilots Association (ALPA) commissioned a survey of passenger attitudes on a wide variety of airline issues. That poll, conducted by the independent, Washington, D.C.-based polling firm Hamilton, Frederick & Schneiders, found that 87 percent of passengers felt the "practice of separating smoking and nonsmoking passengers is a reasonable policy that respects the rights of each."

The results of the ALPA poll correlated with the findings of earlier surveys conducted in 1983 and 1985. Commissioned by The Tobacco Institute, in 1983 professional pollsters at Tarrance & Associates found that 83 percent of airline passengers were comfortable with the "separate sections" rules and did not see a need to change them. In 1984, the CAB referred to results from that poll as evidence of "widespread public support" for then-current rules. Tarrance posed the same question to airline passengers again in 1985, and 82 percent answered similarly.

These data stand in direct counterpoint to an oft-cited survey released in 1987 by the American Association of Respiratory Care (AARC). That survey suggested that most airline passengers support a smoking ban. However, experts found serious flaws in the release. The National Council on Public Polls (NCPP), an association of organizations involved in public opinion research, reviewed AARC's release and found that it violated standards adopted by the professional polling community because it failed to include methodological information.

**D**espite the fact that smoking is at the bottom of the list of consumer complaints about air travel, that passengers have been satisfied with separate sections, that there is no documented cabin air quality problem, that ETS aboard airliners is not a demonstrated health risk, and that federal regulators repeatedly found no need to ban smoking, Congress succumbed to strong anti-smoker pressure and passed the two-hour ban in late 1987.

Unless Congress acts to extend the two-hour ban, or to revise it in some fashion, it will "sunset" in 1990. The facts support sunset and a return to the "separate sections" rules for all flights. However, anti-smokers continue to press for a permanent, total smoking ban on all flights, regardless of duration. Legislation is pending in both the Senate and the House of Representatives to accomplish that goal.

On this issue, like any other, Members of Congress will heed the opinions of their constituents when deciding how to cast their votes. The outcome could well be determined by the amount of thoughtful correspondence each Member receives. Anti-smoking zealots can be counted on to generate mail on this issue. Similarly, those who believe in freedom of choice and smokers' rights must also get involved.