UNITED STATES OF AMERICA
FEDERAL AVIATION AGENCY
WASHINGTON, D. C.

Civil Air Regulations Amendment 42-26
Effective: March 10, 1960
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PART 42—IRREGULAR AIR CARRIER AND OFF-ROUTE RULES

Drinking and Serving of Alcoholic Beverages

A notice of proposed rule making was published in the FEDERAL REGISTER of July 3, 1959 (24 F.R. 5424) and circulated to the industry as Draft Release 59-7, dated July 3, 1959, which proposed to amend Part 42 by adding a new § 42.65 to prohibit (1) the drinking of any alcoholic beverage aboard an air carrier aircraft unless the beverage has been served by the air carrier operating the aircraft, and (2) the serving by the air carrier of such beverage to any person who is or who appears to be intoxicated.

A large number of comments were received from individuals, air carriers, and other industry representatives. These comments ranged from opposition to hearty endorsement of the proposal, including suggestions that it did not go far enough and that all drinking and serving of alcoholic beverages aboard air carrier aircraft should be prohibited. Many of the comments were motivated by moral, religious, or social considerations, as well as safety.

The Federal Aviation Agency, when it proposed the rule, did so only after careful investigation and study. The Agency's responsibility is only for the air safety considerations and not for the social or moral aspects. The study and investigations which preceded the notice of proposed rule making were largely conducted by the Civil Aeronautics Administration, one of the predecessor agencies of the Federal Aviation Agency. The result indicated that there was no factual information, nor any specific occurrences sufficient to establish a safety hazard arising from the serving of alcoholic beverages by the air carrier to passengers aboard air carrier aircraft. The instances which were revealed tended to show that the occasional difficulties experienced had been caused either by passengers who had consumed a considerable quantity of alcoholic beverages prior to boarding the plane, or by those who drank from their own bottles during the course of the flight. This conclusion has been emphasized and verified by many of the comments received from the air carriers affected.

In addition to being confined to the safety aspects of this problem, the proposal was designed to regulate only so far as was necessary to meet safety requirements. It proposed to interfere as little as possible with the personal freedom of passengers and at the same time to prevent abuses that could possibly create a hazardous situation. It was for this reason that the proposed rule did not prohibit the consumption of alcoholic beverages, but sought to subject it to reasonable control. It is a generally accepted fact that flat prohibition has not proven successful in preventing consumption of alcoholic beverages. In this type of situation, it might even work adversely, since passengers who wish to drink might either do so to excess in advance of the flight, knowing that they could not obtain a drink aboard an aircraft, or would be encouraged to engage in surreptitious drinking from their own supply after boarding.

Some of the carriers and individuals who commented apparently misconstrued the intent of the proposed regulation insofar as they interpreted it as prohibiting passengers from bringing their own liquor aboard an aircraft. This was not our intention. The restriction proposed is against the consumption of alcoholic beverages unless they are served to the passengers by the air carriers. So construed, this would permit persons to bring liquor aboard and have it served to them by the air carrier, if the air carrier wishes to provide such service. Some of the comments received from individuals made the point that they were accustomed to having a drink before a meal, or that they required or desired some liquor for medicinal reasons or to contribute to their peace of mind while flying. The rule as proposed and adopted herein would permit a carrier to develop its own poli-

cies in this regard so that it might accommodate the varying needs of its passengers, and at the same time prevent any safety hazard.

There was also some misapprehension as to the extent of the carrier's and its personnel's responsibility for enforcing this regulation. Some apparently thought that the crew members would be required to restrain physically a passenger who wished to consume drinks that were not served to him by the carrier, and they foresaw difficulties with discharging such a responsibility. This regulation would impose no such responsibility on the flight crew members. This regulation, like all other regulations adopted by the Agency, would be enforced through the various enforcement processes of the Agency. It is expected of the carriers that they would advise their passengers of the restriction in such a regulation and make suitable reports to the Agency of any known violations. The only time it would be expected that a crew member would be required to take direct action would be when such action is required for the safety of the flight. This is no greater burden than that now on the crew members to do whatever is necessary for the safety of the aircraft and the persons aboard it.

Several comments were made pointing out that the proposed rule prohibited an air carrier from serving an alcoholic beverage to any person if such person "is or appears" to be intoxicated. It was pointed out that a person might not appear to be intoxicated when, in fact, he or she was, and those commenting did not feel that it was proper to impose responsibility for this type of judgment. With this the Agency agrees and the words "is or" will be stricken from the proposed regulation, so that the carrier and its personnel may rely on the appearance of the passenger in determining whether or not to serve him or her alcoholic beverages. Two of the carriers proposed that action on the proposed regulation be delayed to permit the air carrier industry to develop a code which would control the amount and time of serving alcoholic beverages aboard aircraft. The Agency is strongly in favor of any such voluntary agreements that can be reached among the carriers. To the extent that they are in effect and complied with, they would clearly contribute to decreasing any safety hazard arising from the consumption of alcoholic beverages aboard air carrier aircraft. On the other hand, a code of this kind could not reach the principal problem involved—that of uncontrolled consumption by a passenger of his own liquor supply. Therefore, the adoption of a code, while extremely helpful, would not meet the entire problem. The adoption of this regulation will not in any way inhibit the industry from adopting their own code, and in fact such a move would be viewed with favor by this Agency.

Interested persons have been afforded an opportunity to participate in the making of this regulation and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, Part 42 of the Civil Air Regulations (14 CFR Part 42) is hereby amended by adding a new § 42.65 to read as follows:

§ 42.65 Drinking and serving of alcoholic beverages.

(a) No person shall drink any alcoholic beverage aboard an air carrier aircraft unless such beverage has been served to him by the air carrier operating the aircraft.

(b) No air carrier shall serve any alcoholic beverage to any person aboard an air carrier aircraft if such person appears to be intoxicated.

This amendment shall become effective on March 10, 1960.

(Secs. 313(a), 601; 72 Stat. 752, 775; 49 U.S.C. 1354, 1421)

Issued in Washington, D.C., on January 6, 1960.

E. R. QUESADA,
Administrator.

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