Department of Transportation (D.O.T.)

Federal Aviation Administration

***1** Legal Interpretation

Interpretation 1978-19

April 7, 1978

John Yodice

This is in response to your letter last week to Mr. Donald Byrne of our office, enclosing a draft of your column, "Notes From the Washington Counsel," for May 1978. We think it important to clarify the FAA's position on certain points that you intend to discuss in your column.

We do not agree that a pilot who wants to build up time toward his commercial pilot certificate may carry expense sharing passengers or cargo to a destination at which he has no particular business. This kind of operation is not permitted by Section **61**. **118**(b).

We should also point out that advertising in any form, including the use of a college bulletin board, raises a question of whether, in light of all the circumstances involved, the pilot is holding himself or herself out as available to provide transportation to the public. If the evidence indicated that common carriage is in fact involved, the pilot would be in violation of Part 135.

With respect to the method by which expenses are shared, it is not necessary that there be a mathematically exact division of each operating expense, such as aircraft rental. However, it would give rise to a presumption that the pilot was not actually sharing expenses if he or she paid less than a pro rata share of the total operating costs of the flight.

Finally, you have correctly stated our position with respect to what expenses may be shared. It remains our opinion that only direct costs such as gas, oil, landing and parking fees, and the like are operating expenses of a flight within the meaning of Section **61**. **118**(b). Indirect costs such as insurance and maintenance may not be shared.

We hope that our comments will be of some assistance to you in advising AOPA members on the matter of sharing expenses.

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