

## § 251.4

### § 251.4 Large musical instruments as carry-on baggage.

Each covered carrier shall permit a passenger to carry a musical instrument that is too large to meet the requirements of § 251.3 in the aircraft cabin, without charging the passenger a fee in addition to the cost of an additional ticket described in paragraph (e) of this section, if:

(a) The instrument is contained in a case or covered so as to avoid injury to other passengers;

(b) The weight of the instrument, including the case or covering, does not exceed 165 pounds or the applicable weight restrictions for the aircraft;

(c) The instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo established by the FAA;

(d) Neither the instrument nor the case contains any object not otherwise permitted to be carried in an aircraft cabin because of a law or regulation of the United States; and

(e) The passenger wishing to carry the instrument in the aircraft cabin has purchased an additional seat to accommodate the instrument.

### § 251.5 Large musical instruments as checked baggage.

Each covered carrier shall transport as baggage a musical instrument that is the property of a passenger traveling in air transportation that may not be carried in the aircraft cabin if

(a) The sum of the length, width, and height measured in inches of the outside linear dimensions of the instrument (including the case) does not exceed 150 inches or the applicable size restrictions for the aircraft;

(b) The weight of the instrument does not exceed 165 pounds or the applicable weight restrictions for the aircraft; and

(c) The instrument can be stowed in accordance with the requirements for carriage of carry-on baggage or cargo established by the FAA.

## PART 252—SMOKING ABOARD AIRCRAFT

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AUTHORITY: Pub. L. 101–164; 49 U.S.C. 40102, 40109, 40113, 41701, 41702, 41706 as amended by section 708 of Pub. L. 106–181 and section 401 of Pub. L. 112–95, 41711, and 46301.

CROSS REFERENCE: For smoking rules of the Federal Aviation Administration, see 14 CFR 121.317(c), 121.571(a)(1)(i), 129.29, 135.117(a)(1), and 135.127(a).

SOURCE: Docket No. DOT–OST–2000–7473, 65 FR 36775, June 9, 2000, unless otherwise noted.

### § 252.1 Purpose.

This part implements a ban on smoking as defined in § 252.3, including the use of electronic cigarettes and certain other devices, on flights by air carriers and foreign air carriers.

[Docket DOT–OST–2011–0044, 81 FR 11427, Mar. 4, 2016]

### § 252.2 Applicability.

This part applies to operations of air carriers engaged in interstate, intrastate and foreign air transportation and to foreign air carriers engaged in foreign air transportation.

[Docket DOT–OST–2011–0044, 81 FR 11427, Mar. 4, 2016]

### § 252.3 Definitions.

As used in this part:

*Air carrier* means a carrier that is a citizen of the United States undertaking to provide air transportation as defined in 49 U.S.C. 40102.

*Foreign air carrier* means a carrier that is not a citizen of the United States undertaking to provide foreign air transportation as defined in 49 U.S.C. 40102.

*Smoking* means the use of a tobacco product, electronic cigarettes whether or not they are a tobacco product, or similar products that produce a smoke, mist, vapor, or aerosol, with the exception of products (other than electronic cigarettes) which meet the definition of a medical device in section 201(h) of the Federal Food, Drug and Cosmetic Act, such as nebulizers.

[Docket DOT–OST–2011–0044, 81 FR 11427, Mar. 4, 2016]

**§ 252.4 Smoking ban: air carriers.**

Air carriers shall prohibit smoking on the following flights:

- (a) Scheduled passenger flights.
- (b) Nonscheduled passenger flights, except for the following flights where a flight attendant is not a required crewmember on the aircraft as determined by the Administrator of the Federal Aviation Administration:

- (1) Single entity charters.

- (2) On-demand services of air taxi operators.

- (c) Nothing in this section shall be deemed to require air carriers to permit smoking aboard aircraft.

[Docket DOT-OST-2011-0044, 81 FR 11427, Mar. 4, 2016]

**§ 252.5 Smoking ban: foreign air carriers.**

(a)(1) Foreign air carriers shall prohibit smoking on flight segments that occur between points in the United States, and between the United States and any foreign point, in the following types of operations:

- (i) Scheduled passenger foreign air transportation.

- (ii) Nonscheduled passenger foreign air transportation, if a flight attendant is a required crewmember on the aircraft as determined by the Administrator of the Federal Aviation Administration or a foreign carrier's government.

(2) Nothing in this section shall be deemed to require foreign air carriers to permit smoking aboard aircraft.

(b) A foreign government objecting to the application of paragraph (a) of this section on the basis that paragraph (a) provides for extraterritorial application of the laws of the United States may request and obtain a waiver of paragraph (a) from the Assistant Secretary for Aviation and International Affairs, provided that an alternative smoking prohibition resulting from bilateral negotiations is in effect.

[Docket DOT-OST-2011-0044, 81 FR 11427, Mar. 4, 2016]

**§ 252.8 Extent of smoking restrictions.**

The restrictions on smoking described in §§ 252.4 and 252.5 shall apply to all locations within the aircraft.

[Docket DOT-OST-2011-0044, 81 FR 11428, Mar. 4, 2016]

**§ 252.9 Ventilation systems.**

Air carriers shall prohibit smoking whenever the ventilation system is not fully functioning. Fully functioning for this purpose means operating so as to provide the level and quality of ventilation specified and designed by the manufacturer for the number of persons currently in the passenger compartment.

**§ 252.11 Aircraft on the ground.**

(a) Air carriers shall prohibit smoking whenever the aircraft is on the ground.

(b) With respect to the restrictions on smoking described in § 252.5, foreign air carriers shall prohibit smoking from the time an aircraft begins enplaning passengers until the time passengers complete deplaning.

**§ 252.17 Enforcement.**

Air carriers and foreign air carriers shall take such action as is necessary to ensure that smoking by passengers or crew is not permitted where smoking is prohibited by this part, including but not limited to aircraft lavatories.

[Docket DOT-OST-2011-0044, 81 FR 11428, Mar. 4, 2016]

**PART 253—NOTICE OF TERMS OF CONTRACT OF CARRIAGE**

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AUTHORITY: 49 U.S.C. 40113, 40114, 41501, 41504, 41506, 41509, 41510, 41511, 41702, and 41711.