

# LEGAL UPDATE: Traveling with your instrument on an airplane

## LEGAL CORNER

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Musicians have been recently covered under a 2012 FAA rule that allows carrying on instruments. But new "basic economy" fares that airlines are introducing with no carry-on privileges may threaten this right..

**A** PROBLEM THAT HAS perennially plagued professional musicians is the logistics of traveling with their musical instruments. Traveling by air can be especially burdensome. In the past, some musicians resorted to buying a separate seat just for their instrument. Checking a valuable or irreplaceable instrument with other baggage in the cargo hold felt too risky. Rules and requirements for carrying instruments on board have varied from airline to airline – and sometimes from flight to flight. I recall one instance where a musician was permitted to carry on his instrument when he was flying to a venue but was barred from doing so on the return journey. All of this added up in stress and extra cost, especially for freelance musicians who are responsible for getting to and from the gig themselves. There's also the cost of insurance to cover damages, and repair costs if damage occurs. Given all of this, some musicians turned down gigs involving air travel because of the inordinate expenses and risks involved.

The AFM and other musicians' rights organizations lobbied Congress over many years for legislation requiring airline carriers to permit musicians to carry on musical instruments. Almost five years ago, we won the FAA Modernization and Reform Act of 2012. Section 404 of this act gives standardized guidelines for airline carriers about how to handle musical instruments. AFM President Ray Hair and AFM lobbyist Hal Ponder were instrumental in achieving this groundbreaking legislation. Musicians with instruments of a certain size (i.e. approximately the size of a guitar case, violin case, or smaller) are now permitted to stow their instrument in an aircraft's overhead bin at no extra charge. Larger instruments that do not fit under the seat or in the overhead bin can still be brought on board, but the passenger bringing it has to purchase an extra "baggage seat" (which is

a special discounted rate). It appeared that the problem was solved once and for all. However, in life things are never quite that easy.

On Nov. 15, United Airlines announced that starting in early 2017 it would introduce a new "basic economy" fare, which is expected to be comparable to its current lowest fare. However, the catch is that the passenger purchasing such a seat will not be allowed to carry on anything for free except a shoulder bag, laptop bag or other small item that can be stowed under the seat. For such seat holders, nothing is permitted in the overhead bin, even a musical instrument, without paying an extra charge. Thus it appears that the restrictions placed upon this new seat category contravene Section 404, which allows musicians to carry on instruments.

What the interplay will be between the federal law permitting passengers

to carry on small musical instruments and United's restrictive economy fare is anyone's guess. Litigation may occur – or the FAA may issue an amendment to Section 404. United's restriction may or may not effect musicians' rights, depending on how this plays out.

This matter should be addressed as soon as possible by the AFM because it's inevitable that other carriers will adopt this new fare structure to remain competitive. Apparently, United's decision was prompted by its desire to surpass its rival Delta Airlines in revenue. What may very well be the likely outcome of this new wrinkle on airline travel is that musicians may wind up paying more for tickets so they can retain the use of the overhead bin for their instruments.

However, there is a bright spot to this story. United still intends to supply a snack to purchasers of the economy fare. Thank heaven for small favors.