



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 9<sup>th</sup> day of January, 2018

**Southwest Airlines, Co.**

**Violations of 49 U.S.C. § 41712 and  
14 CFR Part 254**

**Docket DOT-OST-2018-0001**

**Served January 9, 2018**

**CONSENT ORDER**

This order concerns violations of the notification provisions of the Department’s domestic baggage liability rule, 14 CFR Part 254, by Southwest Airlines, Co. (“Southwest”). Violations of Part 254 constitute unfair and deceptive practices in violation of 49 U.S.C. § 41712. The order directs Southwest to cease and desist from further similar violations of 49 U.S.C. § 41712 and 14 CFR Part 254, and assesses Southwest \$50,000 in civil penalties.

**Applicable Law**

The Department’s Domestic Baggage Liability Rule, 14 CFR Part 254, mandates that carriers are liable for damages resulting from mishandled baggage on domestic flights. Pursuant to 14 CFR 254.4, an air carrier shall not limit its liability for provable direct or consequential damages resulting from the disappearance of, damage to, or delay in delivery of a passenger’s baggage to an amount less than \$3,500 per passenger for travel on or after August 25, 2015.<sup>1</sup> In addition, section 254.6 requires the Department to review every two years the minimum limit of liability and to revise the limit to reflect changes in the CPI-U.<sup>2</sup> Carriers must provide passengers with

<sup>1</sup> The minimum liability for travel before August 25, 2015, was \$3,400. (78 Fed. Reg. 14913)

<sup>2</sup> Effective January 18, 2000, the Department raised the minimum limit from \$1,250 to \$2,500 (64 Fed. Reg. 70573). On September 22, 2004, the minimum limit was raised to \$2,800, effective October 24, 2004 (69 Fed. Reg. 56692); thereafter on January 29, 2007, the minimum limit was raised to \$3,000 effective February 28, 2007 (72 Fed. Reg. 3942); on November 21, 2008, the minimum limit was raised to \$3,300, effective December 22, 2008 (73 Fed. Reg. 70591); on March 8, 2013, the limit was increased to \$3,400, effective June 6, 2013 (78 Fed. Reg. 14913); and most recently, on May 27, 2015, the limit was increased to \$3,500, effective August 25, 2015 (80 Fed. Reg. 30144).

proper notice of the baggage liability limit on or with their tickets, as required by section 254.5. It is a violation of Part 254 and 41712 for an air carrier to display information at airports which purports to limit the carrier's liability to an amount less than the minimum amount listed in 254.4.<sup>3</sup>

### **Facts and Conclusions**

During compliance inspections conducted in August and September 2016 by the Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) at various airports across the country, Southwest agents produced ticket notices or the carrier displayed signage at three airport ticket counters and/or boarding gates which purported to limit the carrier's domestic baggage liability limit to amounts less than \$3,500. In some cases, the displayed liability amounts were more than seven years outdated and posted on multiple signs at certain airports.

Specifically, signage posted and/or written information provide to passengers at Indianapolis International Airport (IND), Austin International Airport (AUS), and San Diego International Airport (SAN) stated that the carrier's domestic baggage liability limit was \$3,000 (IND), \$3,300 (IND and AUS), and \$3,400 (AUS and SAN), which is below the current amount of \$3,500 in violation of 14 CFR 254.5.

We conclude that by providing ticket notices and displaying signage at airports which purport to limit the carrier's domestic baggage liability to an amount below \$3,500, Southwest Airlines violated 14 CFR 254.5. Finally, by failing to adhere to the requirements of Parts 254, Southwest Airlines violated 49 U.S.C. § 41712.<sup>4</sup>

### **Response**

In response, Southwest states that it is committed to full compliance with all U.S. Department of Transportation regulations. Southwest states that it takes seriously the obligation to keep its customers informed of all relevant consumer protections, whether at the airport, on its website, or through other means. Southwest states that it continually updates its employee manuals, training materials, Contract of Carriage, Customer Service Commitment, and customer-facing documentation to reflect all DOT requirements.

Southwest acknowledges and regrets that certain signage and notices at three airports did not reflect the updated amounts for baggage liability limits. However, Southwest believes that those incidents were isolated and resulted in no harm to consumers because Southwest's automated systems for determining the amount of passenger compensation were updated by the Department's

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<sup>3</sup> See, e.g., Southwest Airlines Co, *Violations of 49 U.S.C. § 41712 and 14 CFR Parts 250, 254, and 259*, Order 2016-08-33 (Aug. 26, 2016).

<sup>4</sup> On August 26, 2016, the Department issued Order 2016-08-33, finding that Southwest violated Part 254 and 49 U.S.C. § 41712 by displaying signage at airports which purported to limit the carrier's domestic baggage liability to an amount less than \$3,500. Southwest was ordered to cease and desist from future similar violations and pay a civil fine of \$40,000, half of which would be suspended if Southwest did not commit similar violations within one year of the order's issuance date. Based on the findings described in this order, Southwest paid the suspended portion of the fine in Order 2016-08-33 on June 13, 2017.

deadline of August 25, 2015, and therefore Southwest provided passengers with correct compensation amounts.

Going forward, Southwest states that it is confident that the audits performed by its Customer Relations department will prevent any similar findings. Southwest states that, from January to July 2017, Customer Relations has completed nine (9) station audits and found that all of Southwest's airport signage was compliant.

### **Decision**

The Enforcement Office views seriously Southwest's violations of 49 U.S.C. § 41712 and 14 CFR Part 254. Accordingly, after carefully considering all the facts in this case, including those set forth above, the Enforcement Office believes that enforcement action is warranted and is in the public interest. In order to avoid litigation, and without admitting or denying the violations described above, Southwest Airlines consents to the issuance of this order to cease and desist from future similar violations of 49 U.S.C. § 41712 and 14 CFR Part 254, and to the assessment of \$50,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301. This compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent against future similar unlawful practices by Southwest, and other carriers.

This order is issued under the authority contained in 49 CFR Part 1.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Southwest Airlines, Co. violated 14 CFR 254.5 by providing ticket notices and displaying signage at airports which purport to limit the carrier's domestic baggage liability to an amount less than \$3,500;
3. We find that, by engaging in the conduct described in ordering paragraph 2, above, Southwest Airlines, Co. engaged in unfair and deceptive practices in violation of 49 U.S.C. § 41712;
4. We order Southwest Airlines, Co. and its successors and assigns to cease and desist from further similar violations of 49 U.S.C. § 41712 and 14 CFR 254.5 as described in ordering paragraphs 2 and 3, above;
5. Southwest Airlines, Co. is assessed \$50,000 in compromise of civil penalties that might otherwise be assessed for the violations found in ordering paragraphs 2 and 3, above, and
6. We order Southwest Airlines, Co. to pay within 30 days of the issuance of this order the penalty assessed in Ordering Paragraph 5, above, through Pay.gov to the account of the U.S. Treasury. Payment shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Southwest Airlines, Co. to the

assessment of interest, penalty, and collection charges under the Debt Collection Act, and to possible enforcement action for failure to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

**BY:**

**BLANE WORKIE**  
**Assistant General Counsel for**  
**Aviation Enforcement and Proceedings**

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