

**COMMENTS BY AIRLINES AND AIRLINE TRADE ASSOCIATIONS
ABOUT “BREED RESTRICTIONS” IN AIRCRAFT CABIN**

Traveling by Air with Service Animals ([Docket DOT-OST-2018-0068](#))

April 2020

This compilation **excludes all other portions** of airline comments.
Please click the related link to read the airline’s full comments about the NPRM.
Footnotes have also been removed.

COMMENTS OF AIR CANADA

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-19328>

Breed or Type Restrictions

Respectfully and in alignment with A4A and IATA, Air Canada disagrees with the DOT’s proposal that airlines should continue to be prohibited from restricting service animals based solely on the breed or generalized type of dog.

It is important to understand that the goal is not to limit a specific breed but to limit any type of situation where safety would be jeopardized by the impossibility of containing a potentially dangerous situation, and to allow airlines to make their own assessments.

The DOT also seeks comment on whether its proposal to allow airlines to conduct an individualized assessment of a service animal’s behavior to determine whether the service animal poses a direct threat to the health or safety of others is an adequate measure to ensure that aggressive animals are not transported on aircraft, rather than banning an entire breed or type of service animal.

Air Canada submits that this individual assessment is not an adequate measure to ensure that aggressive animals are not transported on aircraft, on the basis that it is ineffective and risky. Indeed, this evaluation is based on day-to-day situations that occur on land. **The behavioral reaction of an animal in an aircraft environment, in a confined space, in a pressurized environment and in turbulence cannot be evaluated beforehand and therefore the analysis would not be adequate.**

In addition, airline personnel are not trained and have insufficient time in the fast-paced airport environment to observe service animals and determine whether the service animal would be a direct threat to the health and safety of others.

For these reasons, Air Canada submits that the only safe approach is to allow carriers to refuse certain breeds of service animals and ESAs.

COMMENTS OF ALLEGIANT AIR, LLC

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-19164>

Breed Restrictions

As the Department is aware, two U.S. airlines – Allegiant and Delta – prohibit pit bull type breeds in their cabins as service animals or otherwise. In Allegiant’s case, this policy has been in effect since December 2018 and has been implemented very successfully. It has also provided informal evidence of the ongoing level of support-animal fraud: roughly one-third of the prospective passengers affected by Allegiant’s breed restriction have decided to fly Allegiant anyway, without the animal.

Allegiant’s decision not to carry pit bull type dogs was and is based entirely on concern for the safety of passengers, crewmembers, other animals in the cabin, and airport personnel. Through research, analysis and experience, **Allegiant has determined the presence of pit bull type dogs in the cabin is inimical to safety.**

Information compiled by DogsBite.org, a nonprofit public education organization dedicated to reducing serious dog attacks, establishes that in 2016, 2017 and 2018, pit bulls were responsible for 74%, 74% and 72%, respectively, of fatal dog attacks in the United States – yet the breed accounts for only about 7% of the total U.S. dog population. For many years the rate of fatal pit bull attacks has been six to seven times higher than the next closest breed (rottweiler). In view of these statistics, there can be no question that pit bulls’ inbred propensity for violent attacks dwarfs that of all other breeds.

Allegiant’s breed restriction is grounded in the fact that as a DOT- and FAA-certificated air carrier, Allegiant is responsible for maintaining safety as its highest priority. 49 U.S.C. § 40101 et seq. **That, of course, includes the safety of individual passengers and crewmembers, and it is an obligation that supersedes all others.** Thus, Allegiant reached the conclusion in late 2018

that in an exercise of reasonable diligence and prudence, and consistent with Allegiant's research, experience, and obligation to assure safety at all times, it had no choice but to exclude pit bull type dogs from its cabins.

In the NPRM the Department at least tentatively takes the view, as it has for some time, that pit bulls presented for carriage in the cabin should be assessed individually. **But neither airport nor cabin personnel are in a position to make reliable case-by-case assessments of animals with a documented propensity for unpredictable, violent attacks. Airline employees are not veterinarians, veterinary staff, animal shelter employees or other individuals who might possess the expertise to make judgment calls in this area. Nor can they accurately forecast an animal's reaction to the environment and stimuli it encounters in the close quarters of an aircraft cabin.** The meticulous language of proposed section 382.79(c) does nothing to alter this reality. And given that reality, an across-the-board ban on pit bulls in the cabin is the only sensible course.

In principle, Allegiant's breed restriction is not unlike the Department's existing section 382.117(f) rule excusing carriers from accommodating certain unusual service animals such as snakes, other reptiles, ferrets and rodents: airline staff cannot reasonably be expected to judge whether such an animal would pose a threat to the safety or health of others. For example, **is a particular snake poisonous, or isn't it? Similarly, is a particular pit bull dangerous, or isn't it? For a layperson, either case is a guessing game.**

The NPRM observes that the Department of Justice (DOJ), in administering the Americans with Disabilities Act (ADA), "has advised municipalities that prohibit specific breeds of dogs that they must make an exception for a service animal of a prohibited breed, unless the dog poses a direct threat to the health or safety of others, a determination that must be made on a case-by-case basis." **But this is irrelevant to the current context. As noted above, the environment and stimuli an animal encounters in the close quarters of an aircraft cabin present a unique situation not replicated elsewhere.**

Allegiant and the airline industry as a whole have cultivated a longstanding culture that **places safety and security of passengers and crew above all else.** A safety or security risk to passengers or crewmembers equivalent to that posed by pit bulls in the cabin – say, a malfunctioning part or component that could result in sudden cabin depressurization, or presence of an improperly screened passenger – is not tolerated; the aircraft is grounded until a repair is

accomplished or the passenger is properly screened. **Accepting the risk created by the presence of pit bull type dogs in the confined environment of an aircraft cabin is frankly at odds with the culture that has led to the sterling safety record of the U.S. airline industry.**

Allegiant has carried thousands of animals per month in its cabins and it is quite willing to continue doing so. But it is not willing to knowingly compromise the safety of passengers, crewmembers, other animals in the cabin, and airport personnel by allowing pit bull type dogs in its cabins.

For the above reasons, the Department should revise its proposed regulations to allow carriers the option of barring pit bull type breeds from their cabins, including pit bull mixed breeds. This restriction is clearly the most sensible course and the only one consistent with Allegiant's and other carriers' statutory obligation to provide the highest degree of safety.

COMMENTS OF AIRLINES FOR AMERICA, THE REGIONAL AIRLINE ASSOCIATION, AND THE NATIONAL AIR CARRIER ASSOCIATION

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-19240>

DOT Should Allow Airlines to Refuse to Transport a Service Animal Based on Valid Breed-Based or Other Risks in Order to Protect the Safety of Passengers, Crew, and Other Animals.

DOT proposes to continue to prohibit airlines from restricting transport of service animals based on breed or generalized type of dog. We are concerned that this limitation would increase the risk of animal misbehavior, which could result in serious injury to other passengers, crew, and service animals. **Certain breeds of dog, which account for a small minority of the total dog population, are not suited to function as trained service animals.** Some airlines have experienced incidents of aggressive behavior by such breeds, which have resulted in extremely serious injuries to passengers, crew, and other animals. We urge DOT to reconsider this proposed limitation, **recognizing that airlines need the regulatory latitude** to act to protect the traveling public from the risks associated with allowing certain dog breeds onboard aircraft in close proximity to other passengers, crew, and animals.

If DOT is not willing to allow airlines to prohibit specific dog breeds from traveling in-cabin as service animals, it becomes even more important that DOT allow airlines to require that

passengers, no later than 48 hours prior to travel, provide the airline with a training and behavior attestation form that **includes a certification by an accredited organization as to an animal's behavior and training**. This would be a minimally necessary measure to protect the safety of the traveling public, crew, and other animals.

Certain breeds raise legitimate fears from other passengers and animals, including other service dogs and handlers. We respectfully request that DOT recognize such fears and consider them in this rulemaking. **We also understand that some accredited service dog training organizations counsel against using certain breeds that are not suited for public interaction**, which is required to navigate air transportation.

In addition, as a means of backstopping other proposed safeguards, we support DOT's proposal to continue to allow airlines to conduct an individualized assessment of a service animal's behavior to determine whether the animal poses a direct threat to the health or safety of others. The opportunity for airline staff to conduct such individualized assessments, however, is not an adequate alternative to robust documentation that includes accredited third-party validation of the animal's training and behavior. Airline staff do not make decisions regarding misbehavior lightly, taking into consideration the totality of circumstances and full scope of exhibited behavior. If a service animal misbehaves or poses a risk to safety at any time during transport, airlines must be permitted to refuse transport of the animal (including future travel), even if the qualified individual with a disability has submitted a behavior attestation. DOT should extend **airline staff, who are the frontline of safety, broad deference for their good-faith determinations regarding direct threats**.

COMMENTS OF AMERICAN AIRLINES, INC.

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-19138>

Breed or Type Restrictions

DOT is proposing that airlines should not be permitted to restrict service animals based solely on the breed of the dog, and instead, will be required to conduct individualized assessments based on the animal's behavior. American Airlines submits that airlines should be permitted to determine that a breed of animal is too dangerous to fly in the cabin as a service animal because of the undue and direct threat it poses. American asserts that airplanes are a

unique environment—they are crowded spaces with **no opportunity for egress**—which could be triggering, and triggering an animal with large and powerful jaws and neck muscles that can be ferocious if “provoked,” is a direct threat to the health and safety of our crews, our passengers, and other service animals.

There is precedent for adopting a more stringent approach in the airline environment because air travel differs from places of public accommodation. The unique nature of air travel justifies a more stringent approach to a breed restriction, rather than the approach taken in the ADA (which DOT refers to for guidance here). In particular, air travel places other passengers in close quarters with a dog, which makes incidents more likely and potentially more serious—there is no opportunity for egress, higher than normal stressors for animals and humans, and limited space in which to mitigate. **Carriers have ultimate responsibility for the safety of passengers and employees**, and incidents with aggressive dogs are not as easily mitigated in the air, as in a place of public accommodation. **There are examples of specific breed bans from the United States government that are instructive here; for example, the military has implemented several bans on pit bull breeds from military family housing and privatized housing, citing the aggressive nature of the breed as a safety hazard.** There are also numerous examples of DOT, FAA, and TSA regulations that are prescriptive because of the unique nature of air travel. DOT should similarly permit carriers to implement such policies, because certain breeds pose a direct threat.

The proposed rule suggests that carriers are permitted to make individualized assessments of an animal’s potential threat to the safety of others. While AA appreciates the deference to the airline’s determination, we submit that such a construct is increasingly difficult for airline personnel to implement. **An animal’s behavior in an aircraft cabin may very well be different from its behavior at the boarding gate. And airline personnel are not animal control or animal behavior experts** nor do they have time to perform assessments. Instead of granting the deference to be applied at an individual **level by our frontline team members**, American requests the deference to implement a policy based on the direct threat that a particular breed may pose.

Finally, American requests an even playing field across all airlines. Currently, one carrier has a breed ban in place that is counter the department’s current guidance, if the department continues the position that breed bans are not permitted, American requests that this be applied to all carriers equally.

THE ASSOCIATION OF ASIA PACIFIC AIRLINES

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-19323>

Breed or Type Restrictions

We are concerned with the Department's proposal to prohibit airlines from restricting service animals based solely on the breed or generalised type of dog. Foreign air carriers are subject to the regulations of their home markets as well as those markets in which they operate to. **A number of jurisdictions have in place strict laws against the importation of certain breed of dogs, including Singapore, Hong Kong and Australia.** Prohibiting airlines from restricting service animals based on breed or type could place airlines in conflict with other national laws in their home jurisdictions.

We strongly recommend that against applying such a prohibition to international air carriage so that foreign air carriers are able to comply with the laws of the jurisdictions they operate to.

COMMENTS OF DEUTSCHE LUFTHANSA AG

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-19351>

Lufthansa supports DOT's proposal to align U.S. and foreign carriers' service animal obligations so that U.S. carriers are no longer required to transport a wide variety of animal species. However, Lufthansa would like to draw DOT's attention to the fact that for international travel from the US, there are other, additional foreign regulations to comply with concerning the transport of animals. **For example, France and Germany have implemented strict entry bans for specific breed of dogs, such as: Staffordshire Bull Terriers, American Pitbull Terriers, Mastiff type dogs, Tosa Inu (France) and Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, Bull Terrier (Germany).** Lufthansa therefore urges DOT to consider allowing airlines to restrict service animals of specific breeds, if they are not allowed to enter foreign soil at their final destination. Otherwise, there will be a conflict of law deemed to cause severe disruption, not only to the airline but also to passengers.

COMMENTS OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-19041>

Service Animal Breed or Type

The Department has proposed that airlines should continue to be prohibited from being able to restrict service animals based solely on their breed or generalized type. We believe it is critically important that DOT require that passengers provide a training and behavior attestation form **as certain breeds of dog are not suited to function as trained service animals**. Further, we support DOT's proposal to continue to allow airlines to conduct an individualized assessment of a service animal's behavior to determine whether the animal poses a direct threat to the health or safety of others. In addition, **many jurisdictions outside the United States impose entry restrictions on specific breeds of dogs, and do not allow for their free circulation within their sovereign territory**, either as a service animal in the cabin or hold, or as cargo. The Department should clarify in the final rule that passengers traveling with a service dog to a destination outside the U.S. are solely responsible for complying with all regulations and restrictions imposed by the country of destination, or any country through which the passenger will transit, and that airlines will not be deemed to be in violation of the rule if a passenger is not in compliance with these foreign restrictions.

COMMENTS OF SPIRIT AIRLINES, INC.

<https://www.regulations.gov/document?D=DOT-OST-2018-0068-19221>

Breed Restrictions and Limits on Number of Service Animals

Spirit believes the Department's prohibition on airlines establishing their own policies regarding breed restrictions should be lifted. **Airlines should have discretion** whether to allow certain breeds of dogs on board as service animals. **Some animals are more prone to aggression and may not exhibit such behavior until they are on board an aircraft. Thus, even with the ability to refuse transportation to dogs that exhibit aggressive behavior, it may, in some instances, be too late by the time an animal that eventually exhibits aggressive behavior has boarded an aircraft.**

Even if requirements for behavioral attestation forms are established, there will always be passengers that do not comply with Department and airline policies. There will still be animals with "credentials" that are not behaviorally trained to fly. The ultimate **responsibility to keep**

passengers safe lies with the airline, and it should be in the airline's discretion whether to allow certain breeds that are capable of more harm in the event an animal shows aggressive behavior. As the Department notes, the unique environment of a crowded airplane cabin in flight requires more protections for other passengers than, say, a library under the Americans with Disabilities Act. While Spirit does not advocate for restricting certain breeds for no reason, it believes the decision should be left to the airlines.