

ORIGINAL

Decision No. 57770

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation to determine whether )  
the provisions of proposed General )  
Order No. 98 should be adopted and )  
supersede the provisions of General )  
Order No. 93-A pertaining to pas- )  
senger stage corporations. )

Case No. 5098

(For list of appearances see Appendix B)

O P I N I O N

Decision No. 55633 altered a number of provisions of General Order No. 98. The California Bus Association petitioned for a limited rehearing on October 11, 1957. Rehearing was granted, limited to the question of smoking on bus lines, on October 22, 1957. Public hearings were held on February 5 at San Francisco and February 19, 1958, at Los Angeles, before Commissioner Matthew J. Dooley and Examiner John Power. Oral argument was held at San Francisco before the Commissioner and Examiner on March 13, 1958, and the matter was submitted.

It may be stated at the outset that no substantial point was made at the hearings why any change in the rule, so far as it affects urban service, should be made. Urban service as defined by rule 2.04 of General Order No. 98 means service performed within metropolitan or more or less thickly populated or built-up areas or between such areas which are in close proximity, the one-way route mileage of which service is not more than 50 miles. This rule will remain unchanged so far as urban service is concerned.

In Decision No. 55633 certain facts were pointed out with reference to smoking on buses. One was that smoking can be irritating to some people when performed in close quarters such as

*revised*

a bus; the other was that air space on buses is less, per passenger, than on other forms of transportation. Both propositions were supported by substantial evidence in these hearings.

Petitioner California Bus Association presented three arguments that deserve serious consideration. The first of these was the difficulty of enforcing an absolute no-smoking prohibition. The second was the competitive disadvantage implicit in enforcement of an absolute no-smoking rule when other means of commercial transportation do not have to do so. The third is that annoyance to fellow passengers can be greatly reduced or eliminated on vehicles equipped with modern air-conditioning systems.

Upon the first point it was urged that bus drivers are not policemen; that they cannot make arrests when passengers refuse to comply with rules. The driver's undivided attention, it was pointed out, must necessarily be on operation of his vehicle when it is in motion.

The second point made by petitioners concerns the competitive disadvantage which is supposed to attend a no-smoking rule. Other types of commercial transportation, notably rail and air, generally do permit smoking; however, the airlines prohibit the smoking of pipes and cigars and allow only cigarette smoking.

The third point dealt with air-conditioning. Witnesses for the operating companies described the systems presently in use. The best ones can eliminate most, if not all, discomfort resulting from odors or impurities in the air within the vehicles.

In view of the development now reached by air-conditioning systems installed on buses engaged in non-urban service and of the competitive situation that exists in the passenger transportation business, the Commission is of the opinion, and finds, that some

relief to petitioners should be granted. The Commission notes that the competitive condition, above mentioned, exists only to a limited extent in urban transportation. This being so, the Commission is of the opinion and finds that the prohibition of smoking should be allowed to stand in that type of service. In intercity transportation competition from railways and airlines does exist. Therefore, smoking should be allowed on intercity schedules, but only where an effective air-conditioning system has been installed. Some of the air-conditioning systems now in service, especially in older buses, are inadequate.

The smoking herein authorized shall apply exclusively to cigarette smoking and not to pipe, or cigar smoking, since the Commission is cognizant of the fact that pipe and cigar smoking are prohibited by airlines, and that pipe and cigar smoking produce, ordinarily, stronger and more noxious odors than cigarette smoking.

Sections 14.01 and 14.02 of General Order No. 98 will be revised in accordance with the foregoing.

O R D E R

Public hearings having been held and the Commission basing its conclusions on the findings set forth in the foregoing opinion,

IT IS ORDERED:

(1) That Rules Nos. 14.01 and 14.02 of General Order No. 98, amended to read as shown in Appendix A hereto attached shall take effect forty days after the effective date of this order.

(2) That Case No. 5098 be, and it is, discontinued.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 30th day of November, 1958.

E. L. Fox  
President  
John E. Mitchell  
Paul W. Stevens  
William J. ...  
Richard ...  
Commissioners

APPENDIX A

- 14.01 SMOKING BY PASSENGERS PROHIBITED IN URBAN SERVICE. A passenger shall not smoke or carry a lighted cigarette, pipe, or cigar on any passenger stage or trolley coach operating in urban service.
- 14.02 SMOKING OF CIGARETTES PERMITTED IN OTHER THAN URBAN SERVICE. A passenger shall not smoke or carry a lighted cigarette, pipe or cigar on any passenger stage operating in other than urban service, with the exception that a passenger may smoke a cigarette only, in the last four rows of seats, provided that:
- a. Passenger stage is equipped with ventilating blowers capable of delivering at least 1200 cubic feet per minute of air into the passenger stage of which 20 per cent is fresh air.
  - b. Ventilating blowers are operating.
  - c. Cigarette ash trays are provided.

## APPENDIX B

## APPEARANCES

J. Worthington, for petitioner.

Gerald H. Trautman, for Western Greyhound Lines; Glanz & Russell, by Theodore W. Russell, for Transcontinental Bus System, Continental Pacific Lines, American Bus Lines, Inc., Gibson Lines, interested parties supporting petitioner.

E. Sam Davis, for Key System Transit Lines, interested party.

Mrs. Viola I. Eldon, for the Alameda County W.C.T.U., Health Consultant; L. Victoria Ronning, for Women of The Evangelical Luth. Church from Santa Barbara to Oregon line, Women's Christian Temperance Union for Sonoma & Marin Counties; Mr. Ruda Jeseck, for himself and wife; Mrs. Ethel A. Bachmann, for Alameda County Women's Christian Temperance Union of over 600 members; Ralph L. Baker, for himself; Ross Thompson, for himself; George S. Stonebach, for himself; Walter Baker, for the non-smoking public; Mrs. Dixie Simmons, for herself; Pastor R. E. Adams, for American Temperance Society; Paul M. Debooy, for the Central California American Temperance Society; Rev. Douglas W. M. Noble, for the San Pablo Ministerial Alliance; Mrs. Lois Randolph, teacher, for herself; Mrs. B. W. Parker, for W.C.T.U. of Alameda County (representing 600 members); Flora M. Sequera, for herself; C. A. Talbott, for himself; Althea C. Hartley, for herself; Ernest A. Wagner, M.D. for himself and public; Stanley M. Jefferson, for Pacific Union Conference of Seventh-Day Adventists, interested parties.

Martin J. Porter, for the Commission staff.