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State airline passenger bill of rights struck down

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A federal appeals court Tuesday struck down a New York State law requiring airlines to provide food, water, working toilet facilities and fresh air to passengers stuck on the ground for more than three hours.

The law, signed by then-Gov. Eliot Spitzer, was supported by consumer groups angered by lengthy delays that they said trapped passengers on airplanes for hours, sometimes without food or water. It took effect Jan. 1.

But the bill was opposed by aviation trade groups, which said individual states should not have authority over airlines. A lower court federal judge in December dismissed an industry group's challenge to the law, saying those provisions are "presumed" and constitute necessary health and safety factors.

In its ruling Tuesday, the appeals court in Washington wrote that if the law was allowed to stand, "another state could be free to enact a law prohibiting the service of soda on flights departing from its airports, while another could require allergen-free food options on its outbound flights, unraveling the centralized federal framework for air travel."

The court said also the goals of the legislation were "laudable" but that only the federal government has the right to enact laws governing airlines. There have been efforts to press for similar bills in Congress, but nothing has passed.

State officials could appeal the ruling to the U.S. Supreme Court, but officials said such a move was not certain.

One of the main incidents spurring the law was a February 2007 ice storm at Kennedy Airport that crippled flights, especially for JetBlue, and left many passengers stuck on planes for hours.

In the wake of that, JetBlue put together a "passenger bill of rights" that addressed some of the issues in the eventual legislation. In a statement yesterday, JetBlue said "We believe we can best care for our customers using the guidelines established," by the airline.

State Senator Charles Fuschillo, (R-Merrick), chairman of the Senate Committee on Consumer Protection and a prime sponsor of the legislation, said he was disappointed by the ruling.

"I continue to be stunned by the audacity of the airline industry which fought so hard to deny the flying public simple basic rights like being able to use a restroom or get a drink of water while stranded on a delayed plane," Fuschillo said.

"I am hopeful that the appeals process by the State of New York will continue for the protection of all New York air passengers," Fuschillo said

Assemb. Michael Gianaris (D-Astoria), prime sponsor of the "Passengers Bill of Rights" in the Assembly, said he was disappointed by the ruling. Gianaris said he intends to talk to State Attorney General Andrew Cuomo about whether the ruling should be appealed.

"This law was written to provide only the basic necessities," he said. "It's a far cry from picking and choosing which beverages people can have."

But the Air Transport Association, which represents the major carriers, said its position was vindicated by the ruling. "A patchwork of laws by states and localities would be impractical and harmful to consumer interests," the ATA said.

Kate Hanni, the Napa, Calif., real estate agent widely credited with starting a grassroots effort to pass legislation, said, "I'm sick to my stomach."

Hanni began her efforts after she and other passengers were stuck aboard a plane at the airport in Austin, Texas, for 13 hours in December 2006. "We had no food and no potable water," she recalled.

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