

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1898

IN THE MATTER OF:

Served October 4, 1978

DAWSON'S CHARTER SERVICE, INC.,)
Supplement No. 4 to WMATC Tariff)
No. 2)

MP-78-13

On September 6, 1978, Dawson's Charter Service, Inc. (Dawson's), filed Supplement No. 4 to its WMATC Tariff No. 2. The effect of the proposed supplement is to adopt the following rule:

RULE 8. NO SMOKING

No person shall smoke or carry a lighted or smoldering pipe, cigar or cigarette on a bus. The carrier reserves the right to refuse to transport any individual who refuses to comply with this regulation.

If approved, this rule would be added to Dawson's tariff (Supplement No. 3 to WMATC Tariff No. 2) covering regular-route operations between Montgomery Village, Gaithersburg, Md., and Washington, D. C., serving intermediate points as authorized by Dawson's Certificate of Public Convenience and Necessity No. 9.

Dawson posted notice of the proposed rule in its buses, indicating that comments should be filed with the Commission by September 22, 1978. The Commission received seven letters by that date, each from individuals supporting the proposed rule. In addition, on September 26 the Commission received a letter from the Lung Association of Mid-Maryland in support of the proposed rule.

The language of the proposed Rule 8 is similar to statutes of the two jurisdictions through which this service passes. The Montgomery County Code provides, in pertinent part,

It shall be unlawful for passengers or occupants, while aboard a public passenger vehicle seating twelve or more passengers, while such vehicle is transporting passengers in regular route service within the boundaries of the county to:

(a) Smoke or carry a lighted or smoldering pipe, cigar or cigarette in or upon any bus or rail transit car, except when the carrier designates a smoking area on the vehicle. (1976 Mont. Co. Code §54A-2.)

The Montgomery County Code further provides that any public carrier transporting passengers shall have the right to refuse to transport persons who fail to comply^{1/} and that such persons shall be guilty of a misdemeanor and, upon conviction, are subject to a fine or imprisonment.^{2/}

The D. C. Code provides, in pertinent part,

Unlawful conduct on public passenger vehicles.

It shall be unlawful for passengers or occupants while aboard a public passenger vehicle with a capacity for seating twelve or more passengers, including vehicles owned and/or operated by the Washington Metropolitan Area Transit Authority while said vehicle is transporting passengers in regular route service within the corporate limits of the District of Columbia to:

(a) Smoke or carry a lighted or smoldering pipe, cigar or cigarette in or upon any bus or rail transit car. . . (D. C. Code (1973 Ed., Supp. IV) §44-216.)

While these local codes certainly come directly to the point at issue here, there is a section of the Compact which provides,

Applicability of Other Laws

Upon the date this Act becomes effective, the applicability of all laws of the signatories, relating to or affecting transportation subject to this Act and to persons engaged therein, and all rules, regulations and orders promulgated or issued thereunder, shall except to the extent in this Act specified, be suspended. . . [Compact, Title II, Article XII, Section 20(a)]

Therefore, enactments of the signatories are suspended with respect to transportation subject to the Compact and to persons--such as Dawson's--engaged therein.

1/ 1976 Mont. Co. Code §54A-3.

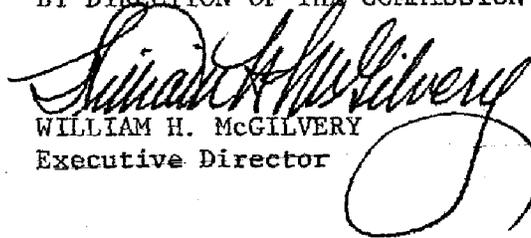
2/ 1976 Mont. Co. Code §54A-4.

Accordingly, we believe it is appropriate to act on Dawson's proposed tariff supplement, and we shall permit its adoption, giving weight to its consonance with local enactments in the involved jurisdictions and to the expressions of the involved passengers.

We here treat this matter on an individual-case basis because that is how it has come before us, and it is the most expeditious way to handle this particular case. We shall, however, in the weeks ahead consider the usefulness of a similar regulation applicable to all regular-route carriers certificated by the Commission.

THEREFORE, IT IS ORDERED that Supplement No. 4 to WMATC Tariff No. 2 of Dawson's Charter Service, Inc., is hereby approved, effective Monday, October 7, 1978.

BY DIRECTION OF THE COMMISSION


WILLIAM H. MCGILVERY
Executive Director