

Tip of the day

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Fly as Cheaply as a Supreme Court Justice

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TIP OF THE DAY

Fly as Cheaply as a Supreme Court Justice

BUSINESS

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The tickets airlines don't want you to buy

BY SCOTT MCCARTNEY

The Wall Street Journal

You go duck hunting in Louisiana with Vice President Dick Cheney, and you fly down from Washington in a government plane. But your commercial flight back home is expensive -- currently about \$698 -- because it's a one-way ticket. What to do?

Supreme Court Justice Antonin Scalia recently disclosed that he did what most of us would probably do: He bought a cheaper, round-trip ticket -- with no intention to use the return leg.

Airlines consider that fraud, but it didn't stop Scalia: "We purchased round-trip tickets that cost precisely what we would have paid if we had gone both down and back on commercial flights," he wrote in a 21-page memo.

The round-trip ticket, which today costs \$218, may have seemed a Solomon-like solution to any ethical issue raised by accepting a free ride with the vice president.

But airlines call it breach of contract. In fact, it's an emerging legal battleground. Currently, there's a federal class-action lawsuit pending against several airlines related to ticketing rules.

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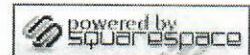
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about

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Carriers write their elaborate rules to defend their incongruous fares and sometimes go to great lengths to enforce them. They dun travel agencies for issuing tickets that aren't "properly" used. They sometimes demand higher fares from travelers caught dodging the rules.

And at the height of a crackdown in the late 1990s, airlines even seized some travelers' frequent-flier miles, saying they were fraudulently obtained.

But if a Supreme Court justice can skirt irrational rules -- after all, how can one flight be three times more expensive than two flights? -- why can't you?

Travel experts say you can. For one thing, it's not illegal. People engaging in these practices are breaking airline rules, but not breaking any law -- unless they lie about what they are doing. (More on that later.)

Also, airlines aren't likely to track down first-time offenders, especially since they need all the customers they can get and aren't selling many top-dollar, unrestricted tickets anyway.

"It's not a practice we encourage, but there's little we can do about it," says Jason Schechter, a spokesman for UAL Corp.'s United Airlines.

One of the airlines' favorite targets is the practice known as a "hidden-city" itinerary. That's when travelers, bound for a hub city, book a trip to a cheaper destination but end their travel at the hub. Heading home to Detroit from New York? Northwest's unrestricted one-way fare from New York to Detroit is \$559, and its unrestricted fare from New York to Akron, Ohio, is \$221. The Akron ticket means a stop in Detroit, on the same flight for which Northwest wants to charge more than twice the price. Book the Akron trip and just get off the plane in Detroit.

Some travelers use a variation known as "back-to-back" ticketing. Their strategy is to avoid an expensive midweek business round-trip fare by buying two cheap round-trip, Saturday-night stay tickets and using only one coupon from each. Every big airline, except Southwest Airlines, bans the practice. (Southwest's rules allow it and also hidden-city ticketing.)

HUGE SAVINGS

On the high-fare carriers, the savings can be huge. The current unrestricted fare between New York and Houston on Continental Airlines is \$1,972 round-trip.

But someone who plans two weeks in advance can save a bundle by buying two \$232 discounted round-trips -- one from New York to Houston and throwing away the return, and one from Houston to New York and tossing that return, too. Savings: \$1,508.

It's tougher for airlines to know this is going on if the tickets are booked without a frequent-flier number or if the two round-trips are booked with different credit cards or on different airlines (though most airlines still prohibit that because it's still back-to-back ticketing).

Airlines say ticketing tricks are actually less frequent these days than even two years ago because low-fare carriers have forced them to cut prices and erase a lot of restrictions.

"There are better deals out there," said one pricing executive at a major airline, who asked that his carrier not be identified.

Still, travelers are pushing the issue. There's a federal class-action lawsuit pending in the Eastern District of Michigan accusing Northwest Airlines, Delta Air Lines and others of violating antitrust laws by conspiring to fix rules against hidden-city ticketing.

Travelers were injured to the tune of at least \$4 billion because prices were 'artificially inflated by defendants' illegal and anticompetitive conduct," the suit alleges. Airlines have denied the allegations in the suit and fought it vigorously.

Courts have held so far that airlines have the right to set their own rules. They used to be printed, in fine type, on booklets stuffed into ticket jackets, but in this age of ticketless travel, now you usually have to go to airline websites to look for a ``contract of carriage."

Breaking the rules could constitute breach of contract, and airlines could possibly sue travelers for price differences. That's highly unlikely.

But where travelers have gotten into legal trouble in the past is in lying about their intentions when asked after the fact.

NO LYING

"Lying to the airlines in order to get the cheap fare would be fraud, but silence coupled with a purchase cannot be fraud," says Mark Pestronk, a Fairfax, Va., attorney who specializes in travel law.

``It's perfectly OK to take advantage of loopholes in tariff rules as long as you're not actively engaged in lying about it."

If you're caught, airlines can demand higher fees if you haven't completed your travel. If they catch you after the fact, however, they are stuck, Pestronk says. If they tried to charge your credit card, you could protest the charge, and card companies would likely side with you since the charge wasn't authorized.

And now, if we get caught, we have Justice Scalia to point to as an example. (A Supreme Court spokesman says he has no further comment on the ticket.)