

For questions, call David J. Flynn
(312) 540-7662



www.querrey.com[®]

© 2024 Querrey & Harrow, Ltd. All rights reserved.

ILLINOIS LAW MANUAL

CHAPTER XVI COMMON CARRIERS

B. DUTIES OF COMMON CARRIERS

1. General

A common carrier owes its passengers the highest duty of care consistent with the practical operation of its conveyances. Sheffer v. Springfield Airport Authority, 261 Ill. App. 3d 151, 154 (4th Dist. 1994); Gaines v. Chicago Transit Authority, 346 Ill. App. 3d 346 (1st Dist. 2004). This duty continues until the passenger has safely alighted from the carrier at a safe location and reached a place of safety. Id. Pursuant to this duty, the carrier must protect the passengers from dangers to which they may not have otherwise been exposed and from which they cannot otherwise protect themselves. Fillpot v. Midway Airlines, Inc., 261 Ill. App. 3d 237, 243 (4th Dist. 1994). Such a duty applies because the passenger must rely wholly on the carrier for his safety while he is a passenger. Id. at 242.

The duty to provide a safe place for passengers to alight does not require the carrier to protect passengers from obvious street dangers, such as those arising from the operation of other vehicles on the street. Mitchell v. City of Chicago, 221 Ill. App. 3d 1017, 1021 (1st Dist. 1991). Further, a carrier may not be held liable for injuries occurring when a passenger fails to exercise ordinary care to reach a place of safety. Borus v. Yellow Cab Co., 52 Ill. App. 3d 194, 200 (1st

Dist. 1977) (passenger's contributory negligence is a question of fact). Lillit Deike v. Sears Roebuck & Co., 112 Ill. App. 3d 747 (1st Dist. 1983).

A carrier has a special duty, beyond the care owed to an ordinary passenger, to a passenger that the carrier knows, or in the exercise of reasonable care should know, is afflicted by a physical or mental disability. Suarez v. Trans World Airlines, Inc., 498 F. 2d 612 (1974). See also, IL Pattern Instruction §77.08.

Once the passenger safely alights from the carrier and reaches a place of safety, the carrier owes the former passenger only a duty of ordinary care. Trevino v. Flash Cab Co., 272 Ill. App. 3d 1022, 1028 (1st Dist. 1995).

2. Natural Accumulation

A carrier has no duty to remove slush and snow from the steps of its buses, and its drivers have no duty to warn passengers of such conditions, especially when they are readily apparent. Serritos v. Chicago Transit Authority, 153 Ill. App. 3d 265, 272 (1st Dist. 1987); Yette v. Casey's General Stores, Inc., 263 Ill. App. 3d 422 (4th Dist. 1994). A carrier also does not have a duty to equip its buses with drainage systems to allow water on the bus from natural accumulations of slush and snow to flow onto the streets. Jones v. Chicago Transit Authority, 206 Ill. App. 3d 736, 739 (1st Dist. 1990).

3. Criminal Acts

At common law, a carrier has a duty to exercise ordinary care to prevent reasonably foreseeable criminal acts in its stations and on its platforms. Roth v. Costa, 272 Ill. App. 3d 594, 596 (1st Dist. 1995). A carrier will be held liable when a criminal act is reasonably foreseeable and the carrier could have prevented the injury to the passenger but failed to do so. Smith v. West Suburban Transit Lines, Inc., 27 Ill. App. 3d 220 (1st Dist. 1975). This duty may encompass

criminal acts by fellow passengers, McCoy v. Chicago Transit Authority, 69 Ill.2d 280 (1st Dist. 1977), Collins v. Chicago Transit Authority, 286 Ill. App. 3d 737, 742 (1st Dist. 1997), and third-parties, Morgan v. 253 E. Delaware Condo. Ass'n., 231 Ill. App. 3d 208 (5th Dist. 1992), Judith Stern and Yvette Schlumpf v. Ritz Carlton, 299 Ill. App.3d 674 (1st Dist. 1998).

However, any duty owed by a common carrier to protect a passenger against criminal acts ends once the passenger safely exits. See, Hernandez v. Rapid Bus Co., 267 Ill. App. 3d 519 (1st Dist. 1994).

With respect to certain entities, however, the duty to prevent criminal attacks has been altered by statute. Pursuant to Section 27 of the Metropolitan Transit Authority Act, 70 ILCS 3605/27, and Section 2.08 of the Regional Transportation Authority Act, 70 ILCS 3615/2.08, the Chicago Transit Authority, Pace, and Metra are immune from liability for the failure to provide a security or police force. If a security or police force is provided, they are immune from a failure to:

- (1) provide adequate police protection or security;
- (2) prevent the commission of crimes by fellow passengers or third persons; and
- (3) apprehend criminals.

Eagan v. Chicago Transit Authority, 158 Ill. 2d 527, 534 (1994).