more than a motor carrier, so long as the State can sufficiently justify the differences in treatment between the similarly situated classes.

The Court then noted that if a state levies a tax to one group that is roughly equivalent to a different tax levied against another, there is likely no discrimination. The state argued that the fuel-excise tax against motor carriers is roughly equivalent to the 4% sales tax that rail carriers are charged. The fuel-excise tax charges motor carriers 19 cents per gallon on diesel fuel. The Court remanded this issue of rough equivalency to the lower court.

Finally, the Court addressed whether the state violated the 4-R Act by levying the sales tax and fuel excise taxes against rail and motor carriers, but levying no additional tax to water carriers. The state argues that federal law compels the tax exemption for water carriers. Because the Eleventh Circuit did not address this issue, the Court remanded the issue of whether the water carrier's exemption is justified to the lower court.

Accordingly, the Court reversed the Eleventh Circuit's determination of discrimination. Then remanded the case to the circuit court to determine if Alabama had sufficient justification for the exemption for both the motor and water carriers.

Jaclyn M. Calicchio

Airlines for Am. V. Transp. Sec. Admin., 780 F.3d 409 (D.C. Cir. 2015) (holding that the Transportation Security Administration may impose a screening fee per one-way trip including international flights that have a connecting flight in the United States and that this fee does not violate 49 U.S.C. §44940(c)(1)).

The Transportation Security Administration (TSA) is permitted to charge airline passengers a screening fee of $5.60 for all one-way trips that originate in the United States. TSA rules state that any trip with a stopover lasting more than four hours, contains multiple one-way trips. Airlines for America, an airline trade organization representing individual airlines, challenged the TSA's rule, claiming that it violated statute 49 U.S.C. § 44940(c)(1) which stated, "Fees imposed under subsection (a)(1) shall be $ 5.60 per one-way trip in air transportation or intrastate air transportation that originates at an airport in the United States, except that the fee imposed per round trip shall not exceed $11.20."

The airlines made two claims against the Transportation Security Administration: 1) the TSA had no right to charge a passenger more than $11.20 per round trip, and 2) it is prohibited for TSA to charge passengers for travel that started abroad but have a connecting flight in the United

States. During the proceedings, the wording in the statute was changed to specify that the fee of $ 11.20 shall not be exceeded per round trip, therefore the airlines' first claim was dismissed.

In addressing the airlines claims, the court started by holding that the airlines have standing on the second claim because an increase in airline fees will cause economic losses. The TSA argued that the airlines failed to prove their claim; however, the court referred to a proposition in *Branton v. FCC*, 993 F.2d 906 (D.C. Cir. 1993) that stated, "increasing the price of an activity . . . will decrease the quantity of that activity demanded in the market." The court contended that this injury is self evident because it can be inferred due to the fact that the injury relies on a generally applicable economic principle, and not a special circumstance, so no further evidence is needed.

Next, TSA argued that the right way to understand statute 49 U.S.C. § 4490(c)(1) is that the TSA is authorized to collect fees from travelers with connecting flights within the United States even if they are traveling from out of the country. In order for this to be clear, the phrase, "that originates at an airport in the United States" must be seen as modifying "air transportation or intrastate air transportation" not "one-way trip." This means that the connecting flight in the United States would be air transportation originating within the United States. For example, a flight that begins in Paris, has a stopover in Chicago, and ends in New York has a one-way trip with air transportation that originates at an airport inside the United States (Chicago to New York).

After looking deeper into the statute's definitional provisions, the court decided the TSA's reading of the statute is acceptable, and the fees imposed are in line with the statute's instruction of the fee as "$5.60 per one-way trip." The airlines argued that this would cause disparity among passengers who are travelling to and from the same location with only some of them having a stopover; regardless, the court decided that some disparity is unavoidable. The court determined that due to the textual ambiguity of the statute, the TSA is being reasonable in its interpretation. The court cited to *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), which stated the interpretation "governs if it is a reasonable interpretation of the statute—not necessarily the only possible interpretation, nor even the interpretation deemed most reasonable by the courts." The airlines second claim was thus denied.

Accordingly, the court dismissed part of Airlines for America's claim against the TSA for excessive fees and denied the claim that TSA's interpretation of the statute was unreasonable.

Shainna B. Hayes