

Is Your Pilot Legal and Safe?

By *Mark Pierce, Pierce Sauer PLLC*

Many pilots enjoy personal flying because it provides a sense of freedom. However, their passengers are entitled to expect that a pilot who has a license issued by the Federal Aviation Administration is qualified and competent to conduct the flight and will do so safely and in accordance with federal regulations.

Everyone expects the pilots and aircraft to meet very high standards in the commercial airline context. I'm going to talk with you about pilots in what is known as "general aviation," flying in usually smaller aircraft, where passengers may not have a full appreciation of the different decision-making processes—and the different risks—that may be involved.

The first thing you need to be aware of is this: Non-commercial flights are not governed as strictly as "for hire" operations

Because personal non-commercial flights are regulated by different rules from those that govern airlines and charter operations, a person who is offered a ride in a private aircraft does not have the same protections as passengers in the more highly regulated airline, air taxi, and charter realms. Personal flights are governed by Part 91 of the Federal Aviation Regulations, which allow a great deal of freedom for decision-making by the pilot. Airlines, air taxi, and air charter operations are generally subject to much stricter requirements concerning air crew qualifications and training, as well as aircraft equipment and maintenance.

Pilot certification

How can a passenger be assured that a pilot is qualified and competent to make a particular flight? A passenger may ask to see:

1. The Pilot's Certificate...a government-issued card indicating that a person has been found to be qualified to exercise the privileges of a Private Pilot, Sport Pilot, Recreational Pilot, Commercial Pilot, or Airline Transport Pilot. Recreational and Sport Pilots may carry no more than one passenger, and Sport Pilots are further limited to daytime operations in Light Sport Aircraft. Student Pilots may NOT carry passengers.
2. The Pilot's Medical Certificate...unless the flight is in a "light sport" aircraft (a 2-seater with a gross weight under 1320 pounds), or the pilot has a "Basic Med" form from a physician attesting to the pilot's medical fitness, the pilot must carry a 1st, 2nd, or 3rd class medical certificate issued by the FAA, certifying that the pilot has met the medical standards prescribed in the regulations.
3. Pilot's Logbook...the pilot may be asked whether he or she has met the regulations which mandate that the pilot must have made at least 3 takeoffs and landings within the preceding 90

days (and at least 3 takeoffs/landings at night for a night flight). If those takeoffs and landings haven't been made and logged, then the flight is not legal, and it may not be safe for the passengers, either.

Aircraft certification and condition

Any aircraft carrying passengers will be required to have on board certain documentation. You as a passenger are entitled to see these documents, if you ask.

1. Airworthiness certificate...this must be visible in the aircraft.
2. Registration certificate...this shows the name of the owner of the aircraft.
3. Operating limitations...typically in the form of approved flight manual detailing the operating guidelines, including normal and emergency procedures, for that particular aircraft. This is sometimes called the POH, or Pilot's Operating Handbook.
4. Weight and balance...calculation of the total weight of the aircraft and how it is distributed, which is critical to the performance and handling characteristics of the aircraft. In addition to the items listed above, the aircraft must have been maintained so that it is "airworthy" at the time of the flight. This essentially means that certain required inspections must have been performed and recorded in the aircraft's logbooks. The pilot is responsible for making sure that the aircraft is airworthy and that the appropriate documentation is available.

Conditions of flight

Some pilots are limited to flying in certain weather and lighting conditions. Unless a pilot is "instrument rated," he or she cannot fly in (and in some circumstances, near) clouds. An instrument rating will be shown on the pilot's certificate. If a pilot has a Sport Pilot certificate, that pilot cannot fly in clouds or at night. Other conditions that might affect safety include whether the flight is to be conducted over water, in which case flotation devices and other equipment may be required, or over large uninhabited areas, where extra survival equipment may be advisable. A passenger should let the pilot know of any medical condition that might affect him or her in flight (for example, illness, susceptibility to motion sickness, stress), and be aware that passengers can be a source of distraction to a pilot that can affect the safety of a flight.

Passenger briefing

The pilot is required to brief each person on board as to how to fasten and unfasten that person's safety belt and, if installed, shoulder harness. In addition, the pilot should instruct all passengers on the operation of the doors, so that each person would be capable of escaping in case of an emergency. A pilot should also brief all passengers on use of the intercom/radio, other knobs, handles, buttons and controls in the cockpit, and any other aspect of the aircraft that might make the flight safer and more enjoyable. Passengers should feel free to ask questions before the flight to make sure that all safety rules are clearly understood.

Pilot self-assessment

Pilots are taught to examine their own attitudes and fitness for flight. Hazardous attitudes that have been identified in some pilots include:

1. Invulnerability... Antidote: It COULD happen to me.
2. Machismo or ego... Antidote: Taking chances is foolish.
3. Resignation... Antidote: I'm not helpless. Decide!
4. Anti-authority... Antidote: The rules are there for a reason.
5. Impulsivity... Antidote: Not so fast; think first.

Fitness for a particular flight may depend on several factors, and pilots are taught to assess themselves using the "IMSAFE" checklist before each flight:

1. Illness
2. Medication
3. Stress
4. Alcohol: 8 hours, bottle to throttle
5. Fatigue
6. Eating

Passengers may want to ask whether the pilot has made a self-assessment so they're "good to go" on the flight.

Conclusion

The pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft. This rule applies to pilots flying small aircraft on non-commercial flights as well as professional pilots flying for major airlines. Prudent passengers will make sure that their pilot is competent, fit, and equipped for a safe flight.