

1 navigation.

2 (2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair,
3 or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other
4 air navigation facilities.

5 (3) "Aeronautics instructor" means any individual engaged in giving or offering to give
6 instruction in aeronautics, flying, or ground subjects, either with or without:

- 7 (a) compensation or other reward;
- 8 (b) advertising the occupation;
- 9 (c) calling his facilities an air school, or any equivalent term; or
- 10 (d) employing or using other instructors.

11 (4) "Aircraft" means any contrivance now known or in the future invented, used, or
12 designed for navigation of or flight in the air.

13 (5) "Air instruction" means the imparting of aeronautical information by any aviation
14 instructor or in any air school or flying club.

15 (6) "Airport" means any area of land, water, or both, that:

- 16 (a) is used or is made available for landing and takeoff;
- 17 (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of
18 passengers and cargo; and
- 19 (c) meets the minimum requirements established by the division as to size and design,
20 surface, marking, equipment, and operation.

21 (7) "Airport authority" has the same meaning as "authority" in Section 17A-2-1502, the
22 Utah Public Airport Authority Act definitions.

23 (8) "Air school" means any person engaged in giving, offering to give, or advertising,
24 representing, or holding himself out as giving, with or without compensation or other reward,
25 instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

26 (9) "Airworthiness" means conformity with requirements prescribed by the Federal
27 Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or
28 accessories.

29 (10) "Antique aircraft" means a civil aircraft that is:

- 30 (a) 30 years old or older, calculated as to include the current year;
- 31 (b) primarily a collector's item and used solely for recreational or display purposes;

1 (c) not used for daily or regular transportation; and

2 (d) not used for commercial operations.

3 (11) "Civil aircraft" means any aircraft other than a public aircraft.

4 (12) "Commercial aircraft" means aircraft used for commercial purposes.

5 (13) "Commercial airport" means a landing area, landing strip, or airport that may be used
6 for commercial operations.

7 (14) "Commercial flight operator" means a person who conducts commercial operations.

8 (15) "Commercial operations" means:

9 (a) any operations of an aircraft for compensation or hire or any services performed
10 incidental to the operation of any aircraft for which a fee is charged or compensation is received,
11 including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the
12 operation of flight or ground schools, the operation of aircraft for the application or distribution
13 of chemicals or other substances, and the operation of aircraft for hunting and fishing; or

14 (b) the brokering or selling of any of these services; but

15 (c) does not include any operations of aircraft as common carriers certificated by the
16 federal government or the services incidental to those operations.

17 [~~(16)~~] "~~Committee~~" means the ~~Aeronautical Committee~~ created in ~~Section 2-1-12.~~]

18 [~~(17)~~] (16) "Dealer" means any person who is actively engaged in the business of flying
19 for demonstration purposes, or selling or exchanging aircraft, and who has an established place of
20 business.

21 [~~(18)~~] (17) "Department" means the Department of Transportation.

22 [~~(19)~~] (18) "Division" means the Operations Division in the Department of Transportation,
23 created in Section 63-49-7.

24 [~~(20)~~] (19) "Experimental aircraft" means:

25 (a) any aircraft designated by the Federal Aviation Administration or the military as
26 experimental and used solely for the purpose of experiments, or tests regarding the structure or
27 functioning of aircraft, engines, or their accessories; and

28 (b) any aircraft designated by the Federal Aviation Administration as:

29 (i) being custom or amateur built; and

30 (ii) used for recreational, educational, or display purposes.

31 [~~(21)~~] (20) "Flight" means any kind of locomotion by aircraft while in the air.

1 ~~[(22)]~~ (21) "Flying club" means five or more persons who for neither profit nor reward
2 own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

3 ~~[(23)]~~ (22) "Glider" means an aircraft heavier than air, similar to an airplane, but without
4 a power plant.

5 ~~[(24)]~~ (23) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or
6 overhauls aircraft, engines, or accessories.

7 ~~[(25)]~~ (24) "Parachute jumper" means any person who has passed the required test for
8 jumping with a parachute from an aircraft, and has passed an examination showing that he
9 possesses the required physical and mental qualifications for the jumping.

10 ~~[(26)]~~ (25) "Parachute rigger" means any person who has passed the required test for
11 packing, repairing, and maintaining parachutes.

12 ~~[(27)]~~ (26) "Passenger aircraft" means aircraft used for transporting persons, in addition
13 to the pilot or crew, with or without their necessary personal belongings.

14 ~~[(28)]~~ (27) "Person" means any individual, corporation, limited liability company, or
15 association of individuals.

16 ~~[(29)]~~ (28) "Pilot" means any person who operates the controls of an aircraft while
17 in-flight.

18 ~~[(30)]~~ (29) "Primary glider" means any glider that has a gliding angle of less than ten to
19 one.

20 ~~[(31)]~~ (30) "Public aircraft" means an aircraft used exclusively in the service of any
21 government or of any political subdivision, including the government of the United States, of the
22 District of Columbia, and of any state, territory, or insular possession of the United States, but not
23 including any government-owned aircraft engaged in carrying persons or goods for commercial
24 purposes.

25 ~~[(32)]~~ (31) "Reckless flying" means the operation or piloting of any aircraft recklessly, or
26 in a manner as to endanger the property, life, or body of any person, due regard being given to the
27 prevailing weather conditions, field conditions, and to the territory being flown over.

28 ~~[(33)]~~ (32) "Registration number" means the number assigned by the Federal Aviation
29 Administration to any aircraft, whether or not the number includes a letter or letters.

30 ~~[(34)]~~ (33) "Secondary glider" means any glider that has a gliding angle between ten to
31 one and 16 to one, inclusive.

1 ~~[(35)]~~ (34) "Soaring glider" means any glider that has a gliding angle of more than 16 to
2 one.

3 Section 2. Section 2-1-12 is amended to read:

4 **2-1-12. Rulemaking requirement.**

5 ~~[(1) (a) There is created an Aeronautical Committee within the division to act in an
6 advisory capacity in determining the aeronautics policy within the state.]~~

7 ~~[(b)]~~ (1) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
8 the ~~[committee]~~ department shall make rules:

9 ~~[(i)]~~ (a) governing the establishment, location, and use of air navigation facilities; and

10 ~~[(ii)]~~ (b) regulating the use, licensing, and supervision of airports;

11 ~~[(iii)]~~ (c) establishing minimum standards with which all air navigation facilities, flying
12 clubs, aircraft, gliders, pilots, and airports must comply; and

13 ~~[(iv)]~~ (d) safeguarding from accident and protecting the safety of persons operating or
14 using aircraft and persons and property on the ground.

15 (2) The rules may:

16 (a) require that any device or accessory that forms part of any aircraft or its equipment be
17 certified as complying with this chapter;

18 (b) limit the use of any device or accessory as necessary for safety; and

19 (c) develop and promote aeronautics within this state.

20 (3) (a) To avoid the danger of accident incident to confusion arising from conflicting rules
21 governing aeronautics, the ~~[committee's]~~ rules shall conform as nearly as possible with federal
22 legislation, rules, regulations, and orders on aeronautics.

23 (b) The ~~[committee's]~~ rules may not be inconsistent with paramount federal legislation,
24 rules, regulations, and orders on the subject.

25 (4) The ~~[committee]~~ department may not require any pilot, aircraft, or mechanic who has
26 procured a license under the Civil Aeronautics Authority of the United States to obtain a license
27 from this state, other than required by this chapter.

28 (5) The ~~[committee]~~ department may not make rules that conflict with the regulations of:

29 (a) the Civil Aeronautics Authority; or

30 (b) other federal agencies authorized to regulate the particular activity.

31 (6) All schedules of charges, tolls, and fees established by the division shall be approved

1 and adopted by the [committee] department.

2 (7) The [committee] department shall comply with the procedures and requirements of
3 Title 63, Chapter 46b, Administrative Procedures Act, in its adjudicative proceedings.

4 Section 3. Section **2-1-13** is amended to read:

5 **2-1-13. Investigations and hearings -- Powers.**

6 (1) The [~~Aeronautical Committee~~] department may conduct investigations, inquiries, and
7 hearings concerning matters covered by this chapter and accidents or injuries incident to the
8 operation of aircraft occurring within this state.

9 (2) The [committee] department may:

10 (a) administer oaths and affirmations;

11 (b) certify to all official acts;

12 (c) issue subpoenas;

13 (d) compel the attendance and testimony of witnesses; and

14 (e) compel the production of papers, books, and documents.

15 (3) (a) If any person fails to comply with any subpoena or order issued by the [committee]
16 department, the [committee] department may petition any district court in this state to order
17 compliance.

18 (b) The district court may order the person to comply with the requirements of the
19 subpoena or order of the [committee] department, or to give evidence upon the matter in question.

20 (c) Any failure to obey the order of the court may be punished by the court as contempt.

21 Section 4. Section **2-1-14** is amended to read:

22 **2-1-14. Reports of investigations or hearings -- Restrictions on use -- Employees of**
23 **division not required to testify.**

24 (1) The reports of investigations or hearings, or any part of them, may not be admitted in
25 evidence or used for any purpose in any suit, action, or proceeding growing out of any matter
26 referred to in the investigations or hearings, or in any report of them, except in case of criminal or
27 other proceedings instituted by or on behalf of the division under this title.

28 (2) [~~A member of the committee or any~~] An employee of the division may not be required
29 to testify to any fact ascertained in or information gained by reason of his official capacity.

30 (3) The [~~members or~~] employees of the division may not be required to testify as expert
31 witnesses in any suit, action, or proceeding involving any aircraft or any navigation facility.

1 Section 5. Section **2-1-15** is amended to read:

2 **2-1-15. Enforcement of chapter -- Fees for services by division.**

3 (1) (a) The division and every county and municipal officer required to enforce state laws
4 shall enforce and assist in the enforcement of this chapter.

5 (b) The division may enforce this chapter by injunction in the district courts of this state.

6 (c) Other departments and political subdivisions of this state may cooperate with the
7 [~~committee~~] department and the division in the development of aeronautics within this state.

8 (2) (a) Unless otherwise provided by statute, the division may adopt a schedule of fees
9 assessed for services provided by the division.

10 (b) Each fee shall be reasonable and fair, and shall reflect the cost of the service provided.

11 (c) Each fee established in this manner shall be submitted to and approved by the
12 Legislature as part of the division's annual appropriations request.

13 (d) The division may not charge or collect any fee proposed in this manner without
14 approval by the Legislature.

15 Section 6. Section **2-1-16** is amended to read:

16 **2-1-16. Airport license required -- Issuance by division -- Restrictions on use of lands
17 or waters of another -- Annual fee.**

18 (1) (a) An airport open to public use may not be used or operated unless it is duly licensed
19 by the division.

20 (b) Any person who owns or operates an airport open to public use shall file an application
21 with the division for a license for the facility.

22 (2) (a) A license shall be granted whenever it is reasonably necessary for the
23 accommodation and convenience of the public and may be granted in other cases in the discretion
24 of the division.

25 (b) The division may not issue a license if the division finds that the facility is not
26 constructed, equipped, and operated in accordance with the standards set by the [~~committee~~]
27 department.

28 (3) (a) The landing or taking off of aircraft on or from the lands or waters of another
29 without consent is unlawful, except in the case of a forced landing.

30 (b) For damages caused by a takeoff or landing, the owner, lessee of the aircraft, operator,
31 or any of them is liable.

1 (4) (a) A student pilot may not land on any area without the knowledge of the operator,
2 instructor, or school from which the student is flying.

3 (b) The use of private landing fields must not impose a hazard upon the person or property
4 of others.

5 (5) A certificate of registration is not required of, and the rules made under this title do not
6 apply to an airport owned or operated by the government of the United States.

7 (6) The division, with the approval of the [committee] commission, may charge a fee
8 determined by the division pursuant to Section 63-38-3.2 for the issuance of an annual airport
9 license.

10 Section 7. Section **2-1-16.5** is amended to read:

11 **2-1-16.5. Aircraft landing permits -- Eligible aircraft -- Special licenses -- Rules --**
12 **Proof of insurance -- Bonds.**

13 (1) (a) The county executive of any county may issue permits authorizing aircraft to land
14 on or take off from designated county roads.

15 (b) Permits may be issued to aircraft operated:

16 (i) as air ambulances;

17 (ii) as pesticide applicators; or

18 (iii) by or under contract with public utilities and used in connection with inspection,
19 maintenance, installation, operation, construction, or repair of property owned or operated by the
20 public utility.

21 (2) Permits may also be issued by the county executive to other aircraft under rules made
22 by the division.

23 (3) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
24 the division shall make rules for issuing a special license to:

25 (i) an aircraft permitted by a county executive to land on a county road; and

26 (ii) a pilot permitted to operate an aircraft licensed under this subsection from a county
27 road.

28 (b) The rules made under this subsection shall include provisions for the safety of the
29 flying and motoring public.

30 (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
31 [committee] department shall make rules for the landing and taking off of aircraft to which permits

1 have been issued, which may include annual reports of activities of the aircraft.

2 (5) Prior to obtaining a permit or license to any aircraft, the applicant shall file with the
3 county executive and the division a certificate of insurance executed by an insurance company or
4 association authorized to transact business in this state upon a form prescribed by the division that
5 there is in full force and effect a policy of insurance covering the aircraft for liability against:

6 (a) personal injury or death for any one person in an amount of \$50,000 or more;

7 (b) any one accident in an amount of \$100,000 or more; and

8 (c) property damage in an amount of \$50,000 or more.

9 (6) In addition to the insurance required under this section, either the county executive or
10 the division may require the posting of a bond to indemnify the county or division against liability
11 resulting from issuing the permit or license.

12 Section 8. Section **2-1-21** is amended to read:

13 **2-1-21. Violations -- Penalty.**

14 Any person failing to comply with the requirements or violating any of the provisions of
15 this act, or the rules or orders adopted by the [board] department is guilty of a class B
16 misdemeanor.

17 Section 9. Section **2-1-40** is amended to read:

18 **2-1-40. Approval of expenditures for Civil Air Patrol.**

19 No expenditure of state funds for the civil air patrol shall be made unless a purchase order
20 is first approved by the director of aeronautics under guidelines established by the [Aeronautical
21 Committee] department and unless the funds are specifically used as required in this act.

22 Section 10. Section **2-2-7** is amended to read:

23 **2-2-7. Powers of department and political subdivisions over airports -- Security unit.**

24 (1) The Department of Transportation, and counties, municipalities, or other political
25 subdivisions of this state that have established or may establish airports or that acquire, lease, or
26 set apart real property for those purposes, may:

27 (a) construct, equip, improve, maintain, and operate the airports or may vest the authority
28 for their construction, equipment, improvement, maintenance, and operation in an officer of the
29 Department of Transportation or in an officer, board, or body of the political subdivision;

30 (b) adopt rules, establish charges, fees, and tolls for the use of airports and landing fields,
31 fix penalties for the violation of the rules, and establish liens to enforce payment of the charges,

1 fees, and tolls, subject to approval by the [~~Aeronautical Committee~~] commission;

2 (c) lease the airports to private parties for operation for a term not exceeding 50 years, as
3 long as the public is not deprived of its rightful, equal, and uniform use of the facility;

4 (d) lease or assign space, area, improvements, equipment, buildings, and facilities on the
5 airports to private parties for operation for a term not exceeding 50 years;

6 (e) lease or assign real property comprising all or any part of the airports to private parties
7 for the construction and operation of hangars, shop buildings, or office buildings for a term not
8 exceeding 50 years, if the projected construction cost of the hangar, shop building, or office
9 building is \$100,000 or more; and

10 (f) establish, maintain, operate, and staff a security unit for the purpose of enforcing state
11 and local laws at any airport that is subject to federal airport security regulations.

12 (2) The department or political subdivision shall pay the construction, equipment,
13 improvement, maintenance, and operations expenses of any airport established by them under
14 Subsection (1) (a).

15 (3) (a) If the department or political subdivision establishes a security unit under
16 Subsection (1) (f), the department head or the governing body of the political subdivision shall
17 appoint persons qualified as peace officers under Title 77, Chapter 1a, Peace Officer Designation
18 to staff the security unit.

19 (b) A security unit appointed by the department or political subdivision is exempt from
20 civil service regulations.

21 **Section 11. Repealer.**

22 This act repeals:

23 **Section 2-1-2, Aeronautical Committee -- Members, appointment, terms -- Chair --**
24 **Quorum -- Per diem allowance and expenses.**

25 **Section 12. Effective date.**

26 This act takes effect on July 1, 1998.

27 **Section 13. Coordination clause.**

28 If this bill and H.B. 202, Transportation Code Recodification, both pass during the 1998
29 General Session, it is the intent of the Legislature that the sections in this bill be renumbered to
30 conform to the renumbering in H.B. 202 and that the sections in H.B. 202 be renumbered as
31 appropriate to accommodate the repealed sections in this bill.

Legislative Review Note
as of 1-21-98 11:20 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel