

**SUNSET AERONAUTICS COMMITTEE**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Brian R. Allen**

AN ACT RELATING TO AERONAUTICS; REPEALING THE AERONAUTICAL COMMITTEE WITHIN THE DEPARTMENT OF TRANSPORTATION; AMENDING CERTAIN DEPARTMENT AND COMMISSION DUTIES; PROVIDING AN EFFECTIVE DATE; AND PROVIDING A COORDINATION CLAUSE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

- 2-1-1, as last amended by Chapter 120, Laws of Utah 1994
- 2-1-12, as last amended by Chapter 120, Laws of Utah 1994
- 2-1-13, as last amended by Chapter 161, Laws of Utah 1987
- 2-1-14, as last amended by Chapter 120, Laws of Utah 1994
- 2-1-15, as last amended by Chapter 120, Laws of Utah 1994
- 2-1-16, as last amended by Chapters 120 and 313, Laws of Utah 1994
- 2-1-16.5, as last amended by Chapter 120, Laws of Utah 1994
- 2-1-21, as last amended by Chapter 178, Laws of Utah 1986
- 2-1-40, as last amended by Chapter 1, Laws of Utah 1983
- 2-2-7, as last amended by Chapter 120, Laws of Utah 1994

REPEALS:

- 2-1-2, as last amended by Chapters 194 and 243, Laws of Utah 1996

*Be it enacted by the Legislature of the state of Utah:*

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

**2-1-1. Definitions.**

As used in this title:

(1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.

(2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair,

or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.

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

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

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

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

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

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

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

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

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

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

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

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

(d) not used for commercial operations.

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

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

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

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

(15) "Commercial operations" means:

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

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

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

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

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

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

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

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

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

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

- (i) being custom or amateur built; and
- (ii) used for recreational, educational, or display purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The rules may:

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

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

(c) develop and promote aeronautics within this state.

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

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

(4) The ~~[committee]~~ department may not require any pilot, aircraft, or mechanic who has

procured a license under the Civil Aeronautics Authority of the United States to obtain a license from this state, other than required by this chapter.

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

- (a) the Civil Aeronautics Authority; or
- (b) other federal agencies authorized to regulate the particular activity.

(6) All schedules of charges, tolls, and fees established by the division shall be approved and adopted by the [committee] department.

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

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

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

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

(2) The [committee] department may:

- (a) administer oaths and affirmations;
- (b) certify to all official acts;
- (c) issue subpoenas;
- (d) compel the attendance and testimony of witnesses; and
- (e) compel the production of papers, books, and documents.

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

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

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

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

**2-1-14. Reports of investigations or hearings -- Restrictions on use -- Employees of**

**division not required to testify.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Permits may be issued to aircraft operated:

(i) as air ambulances;

(ii) as pesticide applicators; or

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

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

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

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

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

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

(4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the [committee] department shall make rules for the landing and taking off of aircraft to which permits have been issued, which may include annual reports of activities of the aircraft.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) adopt rules, establish charges, fees, and tolls for the use of airports and landing fields, fix penalties for the violation of the rules, and establish liens to enforce payment of the charges, fees, and tolls, subject to approval by the [~~Aeronautical Committee~~] commission;

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

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

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

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

(2) The department or political subdivision shall pay the construction, equipment, improvement, maintenance, and operations expenses of any airport established by them under

Subsection (1) (a).

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

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

**Section 11. Repealer.**

This act repeals:

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

**Section 12. Effective date.**

This act takes effect on July 1, 1998.

**Section 13. Coordination clause.**

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