

SB0200S01 compared with SB0200

~~{deleted text}~~ shows text that was in SB0200 but was deleted in SB0200S01.

Inserted text shows text that was not in SB0200 but was inserted into SB0200S01.

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Senator Wayne A. Harper proposes the following substitute bill:

AERONAUTICS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to aeronautics.

Highlighted Provisions:

This bill:

- ▶ transfers certain functions related to aeronautics from the State Tax Commission to the Department of Transportation;
- ▶ grants rulemaking authority to the Department of Transportation;
- ▶ permits the Department of Transportation to assess the value of certain aircraft;
- ▶ requires an aircraft without a valid airworthiness certificate to apply for a certificate of registration;~~†~~

~~→ prohibits certain airports from domiciling an unregistered aircraft;~~

~~→ requires certain airports to maintain evidence of current aircraft registration for~~

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~~each aircraft domiciled at the airport;~~

~~authorizes the Utah Division of Aeronautics to impose a fine for a violation of certain provisions of this bill;}~~ and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-404, as last amended by Laws of Utah 2008, Chapter 206

72-10-109, as last amended by Laws of Utah 2017, Chapter 364

72-10-110, as last amended by Laws of Utah 2016, Chapters 224 and 333

72-10-112, as last amended by Laws of Utah 2016, Chapter 333

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

Section 1. Section **59-2-404** is amended to read:

59-2-404. Uniform fee on aircraft -- Collection of fee by Department of Transportation -- Distribution of fee.

(1) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6), beginning on January 1, 2009, an aircraft, required to be registered with the state is:

(a) exempt from the tax imposed by Section 59-2-103; and

(b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee of \$25.

(2) (a) The Department of Transportation shall collect the uniform fee [~~shall be collected by the commission with the registration fee and distributed~~] and provide the uniform fee to the commission for distribution to the county in which the aircraft is based.

(b) A based aircraft is an aircraft which is hangared, tied down, ~~[or { } parked at the airport]~~ parked, or domiciled in the state for a plurality of the year.

(3) (a) The uniform fees received by a county under Subsection (2) shall be distributed to each taxing entity within the county in the same proportion in which revenues collected from

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the ad valorem property tax are distributed.

(b) Each taxing entity described in Subsection (3)(a) that receives revenues from the uniform fee imposed by this section shall distribute the revenues in the same proportion in which revenues collected from the ad valorem property tax are distributed.

(4) ~~[The commission shall promulgate]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to implement this section.

Section 2. Section **72-10-109** is amended to read:

72-10-109. Certificate of registration of aircraft required -- Exceptions.

(1) (a) A person may not operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state any civil aircraft ~~[located]~~ domiciled in this state unless the aircraft has a current certificate of registration issued by ~~[this state through the county in which the aircraft is located]~~ the department.

(b) ~~[This]~~ The restriction described in Subsection (1)(a) does not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of the registered aircraft or to a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration.

(2) Aircraft centrally assessed by the State Tax Commission are exempt from the state registration requirement under Subsection (1).

(3) Unmanned aircraft as defined in Section 72-14-102 are exempt from the state registration requirement under Subsection (1).

Section 3. Section **72-10-110** is amended to read:

72-10-110. Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.

(1) All applications for aircraft registration shall contain:

(a) a description of the aircraft, including:

(i) the manufacturer or builder;

(ii) the Federal Aviation Administration aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and

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- (iii) gross weight;
- (b) the name and address of the owner of the aircraft; and
- (c) where the aircraft is located, or the address where the aircraft is usually used or

based.

(2) (a) Except as provided in Subsection (3), at the time application is made for registration or renewal of registration of an aircraft under this chapter, an annual registration fee of 0.4% of the average wholesale value of the aircraft shall be paid.

(b) For purposes of calculating the average wholesale value of ~~[the]~~ an aircraft under Subsection (2)(a) ~~fff~~ or (3)(d) ~~fff~~, the ~~[State Tax Commission]~~ department shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.

(c) For an aircraft not listed in the Aircraft Bluebook Price Digest, the department shall calculate the average wholesale value of the aircraft using common industry standards.

(d) (i) An owner of an aircraft may challenge the department's calculation of the average wholesale value of the aircraft.

(ii) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for challenging the department's calculation under Subsection (2)(d)(i).

(3) (a) An annual registration fee of \$100 is imposed on ~~[the following aircraft]~~ an aircraft that is used:

~~[(i) an aircraft not listed in the Aircraft Bluebook Price Digest;]~~

~~[(ii) an experimental aircraft; or]~~

~~[(iii) an aircraft that is used:]~~

~~[(A)]~~ (i) exclusively by an entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, and exempt from property taxation under Title 59, Chapter 2, Property Tax Act; and

~~[(B)]~~ (ii) for the emergency transportation of medical patients for at least 95% of its flight time.

(b) An annual registration fee is imposed on an aircraft ~~[50]~~ ~~75~~ 60 years or older equal to the lesser of:

(i) \$100; or

(ii) the annual registration fee provided for under Subsection (2)(a).

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(c) ~~[An]~~ Except as provided in Subsection (3)(c)(ii), an owner of an aircraft that is in the manufacture, construction, fabrication, ~~for~~ assembly, or repair process ~~is~~; is not complete; and does not have a valid airworthiness certificate ~~[for a period of six months or more]~~:

~~[(i)]~~ (A) ~~[may not]~~ shall apply for a certificate of registration required under Section 72-10-109; and

~~[(ii)]~~ (B) is exempt from ~~[an]~~ the annual registration fee ~~[until the aircraft has a valid airworthiness certificate]~~ described in Subsection (2)(a).

(ii) The registration requirement described in Subsection (3)(c)(i) does not apply to an aircraft that, in accordance with Section 59-12-104, is exempt from the taxes imposed under Title 59, Chapter 12, Sales and Use Tax Act.

~~[(d)]~~ (d) An annual registration fee of .25% of the average wholesale value of the aircraft is imposed on an aircraft if the aircraft is: ~~[(i)]~~

~~[(i)]~~ (i) used by an air charter service for air charter; and ~~[(ii)]~~

~~[(ii)]~~ (ii) owned by a person other than the air charter service. ~~[(iii)]~~

~~[(e)]~~ ~~[(d)]~~ (e) ~~[(d)]~~ The annual registration fee required in this section is due on December 31 of each year.

(4) (a) The ~~[State Tax Commission]~~ department shall provide a registration card to an owner of an aircraft if:

(i) the owner complies with the registration requirements of this section; and

(ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.

(b) An owner of an aircraft shall carry the registration card in the registered aircraft.

(5) The registration fees assessed under this chapter shall be collected by the ~~[State Tax Commission]~~ department to be distributed as provided in Subsection (6).

(6) After deducting the costs of administering all aircraft registrations under this chapter, the ~~[State Tax Commission]~~ department shall deposit all remaining aircraft registration fees in the Aeronautics Restricted Account created by Section 72-2-126.

(7) Aircraft which are initially registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in proportion to the fraction of the calendar year during which the aircraft is registered in this state.

(8) (a) For purposes of this section, an aircraft based at the owner's airport means an

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aircraft that is hangared, tied down, or parked at an owner's airport for a plurality of the year.

(b) Semi-annually, an owner or operator of an airport open to public use, or of an airport that receives grant funding from the state, shall provide a list of all aircraft based at the owner's airport to the [~~Utah Division of Aeronautics~~] department.

~~{ (c) An airport described in Subsection (8)(b) may not hangar, tie down, or otherwise domicile an aircraft unless the aircraft owner or operator has a current aircraft registration for the aircraft.~~

~~— (d) An airport described in Subsection (8)(b) shall maintain evidence of current aircraft registration for each aircraft that is hangared, tied down, or otherwise domiciled at the airport.~~

~~— (e) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the Utah Division of Aeronautics may impose a fine of up to \$250 against an airport described in Subsection (8)(b) that fails to comply with Subsection (8)(c) or (d).~~

‡ (9) [(a) The Utah Division of Aeronautics] The department shall maintain a statewide database of all aircraft based within the state.

[(b) On or before October 1 of each year, the Utah Division of Aeronautics shall provide the State Tax Commission with the data the State Tax Commission requires from the database described in Subsection (9)(a).]

[(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the contents of the database described in Subsection (9)(a).]

[(d) The State Tax Commission shall annually provide the Utah Division of Aeronautics a list of all aircraft registered in this state.]

(10) The [~~State Tax Commission~~] department may suspend or revoke a registration if [it] the department determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

Section 4. Section **72-10-112** is amended to read:

72-10-112. Failure to register -- Penalty -- Compliance audits and inspections -- Rulemaking.

(1) Failure to register any aircraft required to be registered with the state [~~in the county in which the aircraft is located~~] subjects the owners of the aircraft to the same penalties provided for motor vehicles under Sections 41-1a-1101, 41-1a-1301, and 41-1a-1307.

(2) (a) The [~~division~~] department shall conduct compliance audits and inspections as

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needed to enforce state laws related to the registration of aircraft.

(b) The ~~[division]~~ department shall coordinate with airport operators to determine and verify accurate reporting of aircraft that are based within the state for the purpose of administering and enforcing state aircraft registration laws.

(3) (a) In addition to the penalties described in Subsection (1), the ~~[division]~~ department may impose a fine of 10% of the registration fee for the first month and 5% of the registration fee for each subsequent month an aircraft is operated in violation of Section 72-10-109.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the ~~[division]~~ department shall make rules establishing procedures for the enforcement of state aircraft registration laws and the administration of penalties described in this section.

(c) The ~~[division]~~ department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in all adjudicative proceedings conducted for the enforcement of penalties under this section.

†

Legislative Review Note

~~Office of Legislative Research and General Counsel~~