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## The Uniform State Aeronautical Regulatory Act

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## Appendix

## THE UNIFORM STATE AERONAUTICAL REGULATORY ACT\*

AN ACT PROVIDING FOR THE REGULATION OF AERONAUTICS WITHIN THIS STATE; PROVIDING FOR UNIFORMITY WITH FEDERAL LAWS REGULATING AERONAUTICS; CREATING A STATE AERONAUTICS COMMISSION; PROVIDING THE POWERS AND DUTIES OF SUCH COMMISSION; PROVIDING FOR THE PROMULGATION AND ISSUANCE OF RULES AND REGULATIONS BY SUCH COMMISSION.

*Be it enacted:*

Sec. 1. **Definitions:** When used in this Act.

(a) "Aeronautics" means the act or practice of the art and science of transportation by aircraft, and operation, construction, repair or maintenance of aircraft, airports, landing fields, landing strips, air navigation facilities or air instruction.

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

(c) "Public Aircraft" means an aircraft used exclusively in the governmental service, including military and naval aircraft, or of any state or territory thereof.

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

(e) "Airport" means any area, either of land or water, which is used or which is made available for the landing and take-off of aircraft, and which provides facilities for the shelter, supply and repair of aircraft, and which, as to size and design, has (1) at least 1,800 feet of effective landing length in all directions, with clear approaches, and which field shall be in good condition for landing at all times, or has (2) landing strips not less than 500 feet wide, permitting landing in at least six directions at all times, with at least one landing strip aligned with the general direction of the prevailing wind, the landing strip not to cross or converge at angles of less than 40 degrees, nor any of the landing strips to be less than 1,800 feet in effective length with clear approaches or has (3) two landing strips, one aligned with the general direction of the prevailing wind, permitting at least 4-way landing at all times and having clear approaches, the landing strips to be at least 500 feet wide and at least 2,500 feet in effective length, and not to cross or converge at any angle less than 80 degrees; and which, in any case hereinbefore mentioned, meets the minimum requirements as to surface, marking, equipment, and management as may from time to time be provided, by the ..... Aeronautics Commission.

(f) "Landing Field" means any area, either of land or water, which is used or which is made available for the landing and take-off of aircraft, which may or which may not provide facilities for the shelter, supply, and repair of aircraft, and which meets the minimum requirements as to size, design, surface marking, equipment and management as may from time to time be provided by the ..... Aeronautics Commission.

(g) "Landing Strip" means an area, either of land or water, which is available for the landing and take-off of aircraft, having not less than 200 feet of usable width and not less than 1,000 feet of usable length, the use of which shall, except in case of emergency, be only as provided from time to time by the regulations of the ..... Aeronautics Commission.

(h) "Person" means any individual, association, copartnership, firm, company, corporation, or other association of individuals.

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

(j) Any person engaged in giving instruction, or offering to give instruction in aeronautics—either in flying or ground subjects, or both—for or without hire or reward, and advertising, representing, or holding himself

\*For a detailed explanation and discussion of the provisions of an almost identical act, see *Fred D. Fagg, Jr.*, "The Minnesota Aeronautics Act," 4 JOURNAL OF AIR LAW 340 (1933).

or itself out as giving or offering to give such instruction, shall be termed and considered an "Air School."

(k) Any person (other than an individual) who, neither for profit nor reward, owns, leases, or uses one or more aircraft for the purpose of instruction, pleasure, or both, shall be termed and considered a "Flying Club."

(l) "Aviation Instructor" means any individual engaged in giving instruction, or offering to give instruction, in aeronautics—either in flying or ground subjects, or both—for or without hire or reward, without advertising such occupation, without calling his facilities an "Air School" or anything equivalent thereto, or without employing or using other instructors.

**Sec. 2. Aircraft: Construction, Design, and Airworthiness: Federal License:** The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that aircraft operating within this State should conform with respect to design, construction, and airworthiness to the standards prescribed by the United States government with respect to navigation of civil aircraft subject to its jurisdiction, it shall be unlawful for any person to operate, or pilot, or navigate, or cause or authorize to be operated, piloted, or navigated, any aircraft within the State unless such aircraft has an appropriate effective license, issued by the Department of Commerce of the United States: Provided, however, that this restriction shall not apply to public aircraft of the United States, or public aircraft of any state, territory or possession thereof; or to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft; and Provided further, that the ..... Aeronautics Commission may, in its discretion, waive this provision in the interest of a non-passenger-carrying flight solely for inspection or test purposes.

**Sec. 3. Qualifications of Pilots: Federal License:** The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that a person engaging within this State in navigating aircraft in any form of navigation, shall have the qualifications necessary for obtaining and holding a pilot's license issued by the Department of Commerce of the United States, it shall be unlawful for any person to pilot any aircraft in this State, unless such person is the holder of a correct, effective pilot's license issued by the Department of Commerce of the United States: Provided, however, that this restriction shall not apply to those persons operating public aircraft of the United States, or public aircraft of any state, territory, or possession thereof, or operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.

**Sec. 4. Possession and Display of License: Burden of Proof:** The certificate of the license required for pilots shall be kept in the personal possession of the licensee when he is operating aircraft within this State and must be presented for inspection upon the demand of any passenger, or any peace officer of this State, any authorized official or employee of the ..... Aeronautics Commission or any official, manager, or person in charge of any airport in this State upon which he shall land, or upon the reasonable request of any other person. The aircraft license must be carried in the aircraft at all times and must be conspicuously posted therein where it may be readily seen by passengers or inspectors; and such license must be presented for inspection upon the demand of any passenger, any peace officer of this State, any authorized official or employee of the ..... Aeronautics Commission or any official, manager, or person in charge of any airport in this State upon which it shall land, or upon the reasonable request of any other person. In any criminal prosecution under any of the provisions of this Act, a defendant who relies for his justification upon a license of any kind shall have the burden of proving that he is properly licensed, or is the possessor of a proper license, as the case may be, and the fact of non-issuance of such a license may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that he has made diligent search in the records of his office

and that from the records it appears that no such license was issued up to the date of the making of such certificate.

**Sec. 5. Aeronautics Commission: Appointment:**<sup>1</sup> There is hereby created an aeronautics commission to be known as the ..... Aeronautics Commission, consisting of five persons to be appointed by the Governor and to serve without compensation,<sup>2</sup> other than for travel expense and disbursements as provided in Section 7; provided, however, that at least two members of the commission must be, or have been actively engaged in and have had at least three years of practical experience in civil or military aeronautics. The members of the commission shall elect a chairman who shall so serve during the term of his appointment.<sup>3</sup> Three of said persons shall be appointed for a period of four years from and after the ..... in the ..... following their appointment, and two for a period of two years from and after the ..... in the ..... following their appointment, and upon the expiration of the terms of such respective commissioners the Governor shall appoint their successors, each to serve for a term of four years, and all to serve until their successors are appointed and qualified.

**Sec. 6. Powers and Duties of Commission: Organization: Seal:** The commission shall, within thirty days after its appointment, organize, adopt a seal for the commission and make such rules and regulations for the administration of the commission not inconsistent herewith as it may deem expedient, and may from time to time amend such rules and regulations.

**Sec. 7. Powers and Duties of Commission: Employees:** The commission may employ such clerical and other employees and assistants as it may deem necessary for the proper transaction of its business, and shall fix their salaries. Each commissioner, and the employees of the commission shall be reimbursed for all actual and necessary traveling expenses and disbursements incurred by them in the discharge of their official duties.

**Sec. 8. Powers and Duties of Commission: Office and Expenses:** The Secretary of State (or other state official who is charged with the duty of housing state commissions or other similar state bodies) shall provide suitable offices for the commission in the city of ....., and the commission may maintain offices in any other city in the State of ....., that the commission may designate, and may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this Act, and the general promotion of aeronautics within the state.

**Sec. 9. Powers and Duties of Commission: Promulgation of Rules and Regulations:** It shall be the duty of the commission to foster air commerce within the State of ..... and the commission shall have supervision over the aeronautical activities and facilities within the state,<sup>4</sup> which authority shall include supervision and control over all airports, landing fields, landing strips, air instruction, air marking, air beacons, and all other air navigation facilities. Accordingly, the commission is empowered to prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public safety and for the promotion of aeronautics governing the designing, laying out, location, building, equipping, operation,

1. It is entirely possible to substitute a single state administrative officer, such as a "Director of Aeronautics," for the commission proposed. However, the commission form of organization is believed to be desirable.

2. In Michigan, the Highway Commissioners and the Commissioner of Public Safety are, with five other persons, made members of the state Board of Aeronautics. The addition of these officials, at least as *ex officio* members, would seem to be particularly desirable.

3. In some state statutes, the provision reads as follows: "The Governor shall from time to time designate the member of the Commission who shall be its chairman and who shall so serve during the term of his appointment."

4. Where the state corporation, or utilities, commission has jurisdiction over scheduled air transport operations within the state, it will be necessary to make a change—such as the following: "Subject to the provisions of 'An Act concerning public utilities,' approved ....., as amended, the commission shall have jurisdiction . . ."

and use, of all airports, landing fields, or landing strips. The commission is further empowered to prescribe such reasonable rules and regulations as it may deem necessary governing the curriculum, equipment, personnel, and operation and management of all air instruction, for the purpose of protecting the health and safety of students receiving or to receive such instruction, and insuring, so far as may be, the public safety through the proper training and instruction of student aviators. The commission is further empowered to prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public safety and safety of those engaged in aeronautics, and for the promotion of aeronautics, governing the establishment, location, maintenance and operation of all air markings, air beacons, and other air navigation facilities. The commission is further empowered to prescribe such reasonable air traffic rules and regulations as it shall deem necessary for public safety and the safety of those engaged in aeronautics, and for the promotion of aeronautics. The commission is further empowered to prescribe all other reasonable rules and regulations as it shall deem necessary for the public safety and the safety of those engaged in aeronautics, and for the promotion of aeronautics; provided, however, that no rule or regulation prescribed by the commission under the authority of this section shall be inconsistent with the then current Federal legislation governing aeronautics and the regulations duly promulgated thereunder.<sup>5</sup>

**Sec. 10. Powers and Duties of Commission: Encouragement:** The commission shall assist in the development of aviation and aviation facilities within the state for the purpose of safeguarding the interests of those engaged in all phases of the industry and of the general public and of promoting aeronautics. Accordingly, the commission is empowered to expend any or all the moneys allocated to, and deposited in, the State Aviation Fund, for the acquisition or enlargement by purchase, grant, lease, condemnation, or other means, and for the construction, operation and maintenance of, airports, landing fields, or emergency landing strips within this state, and/or of other aeronautic facilities or services within this state for the safety and advancement of aeronautics, which shall include the joint establishment or provision of such aeronautic facilities or services in cooperation with other State or Federal department or with other political subdivisions of this state.

**Sec. 11. Powers and Duties of Commission: License: Fees:** Within sixty days after the commission is created, all owners and/or operators of all airports, landing fields, air schools, and flying clubs, and the owners and/or operators of all air beacons and air navigation facilities shall make application to the commission for its approval of such airport, landing field, air school, flying club, air beacon, or other air navigation facility, and the commission shall immediately consider and pass upon such applications. Within the same period all resident pilots and owners and/or operators of all aircraft shall register the Federal licenses of said airmen and of said aircraft in such manner as the commission may by regulation prescribe. All proposed airports, landing fields, air schools, flying clubs, air beacons, or other air navigation facilities shall first be approved by the commission before they or any of them shall be so used or operated. It shall be unlawful for any airport, landing field, air school, flying club, air beacon, or other air navigation facility to be used or operated without the approval of the commission, and it shall be unlawful for any aircraft, except in case of emergency, to land upon or take off from any area in the State of . . . . ., other than an airport, landing field, or landing strip; provided, however, that no license, rule, order, or regulation promulgated under the authority of this section or of this entire Act shall apply to airports, landing fields, air beacons, air markings, or other air navigation facilities owned or operated by the Government of the United States or by this state. The commission is hereby authorized to issue a certificate of its approval in each case and to make the following charges therefor:

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5. ". . . and provided further that such supervision, rules and regulations shall not be in conflict with the authority of the . . . . . Commerce Commission to supervise and regulate public utilities."

For the issuance of each certificate of registration of each Federal license for pilots and aircraft, no fee shall be charged.

For issuance of each annual airport license.....<sup>6</sup>

For issuance of each annual landing field license.....

For issuance of each annual air school license.....

For issuance of each annual flying club license, no fee shall be charged.

For issuance of each annual air beacon license, no fee shall be charged.

For issuance of each annual other air navigation facility license, no fee shall be charged.

**Sec. 12. Powers and Duties of Commission: Investigations and Hearings:** The commission or any commissioner, or officer of the commission designated by the commission, shall have the power to hold investigations, inquiries and hearings concerning matters covered by the provisions of this Act, and all accidents in aeronautics within this state. All hearings conducted by the commission shall be open to the public. Each commissioner, and every officer of the commission designated by it to hold any inquiry, investigation or hearing, shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, compel the attendance and testimony of witnesses, and the production of papers, books, and documents. In case of failure to comply with any subpoena or order issued under authority of this act, the ..... Aeronautics Commission, or its authorized representative, may invoke the aid of any County or Circuit or Superior Court<sup>7</sup> in this state. The court may thereupon order the witness to comply with the requirements of the subpoena or order to give evidence touching the matter in question. Any failure to obey the order of said court may be punished by the court as a contempt thereof.

**Sec. 13. Powers and Duties of Commission: Investigations and Hearings: Records and Testimony:** In order to facilitate the making of investigations by the ..... Aeronautics Commission, in the interest of the public safety and the promotion of aeronautics, the public interest requires and it is therefore provided that the reports of investigations or hearings, or any part thereof, or any testimony given thereat, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in said investigation, hearings, or report thereof, except in case of criminal or other proceedings instituted by or in behalf of the commission under the provisions of this Act, nor shall any commissioner or employee of the ..... Aeronautics Commission be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, and, further, no commissioner or employee of the ..... Aeronautics Commission shall be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft.

**Sec. 14. Powers and Duties of Commission: Regulations Filed for Inspection: Report:** The commission shall keep on file with the Secretary of State, and at the principal office of the commission, a copy of all its rules and regulations for public inspection. On or before the thirty-first day of December, in each year, the commission shall make to the Governor a full report of its proceedings for the year ending the first day of December in each year, and may submit with such report such recommendations pertaining to its affairs as seem to it to be desirable.

**Sec. 15. Powers and Duties of Commission: Enforcement: Cooperation:** It shall be the duty of the commission, its members and employees, and every county and municipal officer charged with the enforcement of state and municipal laws, to enforce, and assist in the enforcement of this Act. The commission is further authorized in the name of the "People of the State of ....." to enforce the provisions of this Act by injunction

6. In the early period of aeronautical regulation, it is desirable that these fees be maintained at a nominal amount, that is, considerably less than the cost of licensing. Some states charge only two dollars for airport, landing field, and air school licenses.

7. It is suggested that the courts to which reference is made in this and subsequent sections (16 and following), shall be those having general nisi prius jurisdiction.

in the District Courts of this state. Other departments and political subdivisions of this state are further authorized to cooperate with ..... Aeronautics Commission in the development of aeronautics and aeronautic facilities within the state.

**Sec. 16. Powers and Duties of Commission: Licenses: Refusal of:** In any case where the commission rejects an application for permission to operate or establish an airport, landing field, air school, flying club, air beacon, or other air navigation facility, or in any case where the commission shall issue any order requiring certain things to be done, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be given or such order modified or changed. In any case where the commission may deem it necessary it may order the closing of any airport, landing field, or order any air school, flying club, or air beacon, or other air navigation facility to cease operations until it shall have complied with the requirements laid down by the commission. To carry out the provisions of this Act the ..... Aeronautic Commission and any officers, state or municipal, charged with the duty of enforcing this Act, may inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where such airports, landing fields, air school, flying clubs, air beacons, or other air navigation facilities are operated. Any order made by this commission pursuant to this act shall be served upon the interested person by registered mail or in person before such order shall become effective.

**Sec. 17. Appeal From Commission Order or Regulation: ° Circuit Court:** Any person against whom an order has been entered may within ten days after the service thereof appeal to the Circuit or Superior Court of the county in which the property affected by the order is located, for the purpose of having the reasonableness or lawfulness of the order inquired into and determined.

**Sec. 18. Procedure for Appeal:** The party taking the appeal shall file a praecipe in the office of the clerk of the Circuit or Superior Court, and summons shall thereupon be issued by the clerk and shall be served upon the secretary of the ..... Aeronautics Commission. Upon the filing of the praecipe, the appeal shall be docketed for trial not less than ten days nor more than thirty days after the service of the summons and shall be tried by the Circuit or Superior Court without formal pleadings in term time or in vacation. Upon trial of the appeal the court shall hear evidence as to matters concerning the order in question, as to the condition of the property in question and the manner of its operation, and shall enter judgment either affirming or setting aside the order of the commission, or the court may remand the matter to the commission for further hearing. The filing of the praecipe shall operate as a supersedeas.

**Sec. 19. Failure to File Appeal: Waiver:** If no appeal is taken from the order of the commission within the period fixed, the party against whom the order was entered, shall be deemed to have waived the right to have the reasonableness or lawfulness of the order reviewed by a court and there shall be no trial of that issue in any court in which suit may be instituted for the penalty for failure to comply with the order.

**Sec. 20. Penalty:** Any person failing to comply with the requirements of, or violating any of the provisions of this Act, or the rules and regulations for the enforcement of this Act made by the ..... Aeronautics Commission, shall be guilty of a misdemeanor and punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than ninety days or both.

**Sec. 21. State Aviation Fund:** There is hereby created a fund to be known as the "State Aviation Fund." All moneys received from the licensing of airports, landing fields, air schools, or other licenses issued under the provisions of this Act, shall be paid into the State Treasury and credited to such fund.

**Sec. 22. Disposition of Funds:** Any monies or fees coming into the hands of the said Commission may be used for the necessary expenses of

the Commission essential to the carrying out of this act but no overdraft shall be created by reason of any such expenditures.

Sec. 23. **Separability:** If any provision of this Act is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

Sec. 24. **Repeal:** All acts or parts of acts which are inconsistent with the provisions of this Act are hereby repealed.

Sec. 25. **Short Title:** This Act may be cited as "The Uniform State Aeronautical Regulatory Act."