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CHAPTER 5.

 UNIFORM STATE AERONAUTICAL REGULATORY LAW

**SECTION 55‑5‑10.** Short title.

This chapter may be cited as “The Uniform State Aeronautical Regulatory Act.”

**SECTION 55‑5‑20.** Definitions.

When used in this chapter:

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

(2) “Aircraft” means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air;

(3) “Public aircraft” means an aircraft used exclusively in governmental service, including military and naval aircraft, or of any state or territory thereof;

(4) “Civil aircraft” means any aircraft other than a public aircraft;

(5) “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, whether or not it provides facilities for the shelter, supply and repair of aircraft, and which meets the minimum requirements as to size, design, surface marking, equipment and management that may from time to time be provided by the division;

(6) “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 one hundred feet of usable width and not less than one thousand 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 division;

(7) “Person” means any individual, association, copartnership, firm, company, corporation or other association of individuals;

(8) “Air instruction” means the imparting of aeronautical information in any air school, flying club or by any aviation instructor;

(9) 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 out as giving or offering to give such instruction shall be termed and considered an “air school”;

(10) 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”;

(11) “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 and without employing or using other instructors; and

(12) Notwithstanding any other provision of law, “aviation gasoline” means gasoline and aviation jet fuel manufactured exclusively for use in airplanes and sold for such purposes.

**SECTION 55‑5‑30.** Repealed by Act No. 181, Sections 1289 and 1617(A), eff July 1, 1993.

**SECTION 55‑5‑40.** Repealed by Act No. 181, Sections 1289 and 1617(A), eff July 1, 1993.

**SECTION 55‑5‑50.** Deputy director of aeronautics and other employees.

Notwithstanding any other provision of law, the Aeronautics Commission shall employ a deputy director of aeronautics in accordance with the provision contained in Section 13‑1‑1050 and 13‑1‑1080 and such other employees as necessary for the proper transaction of the division’s business.

**SECTION 55‑5‑60.** Offices; expenses.

The State Budget and Control Board shall provide, as soon as practicable, suitable offices for the division in the city of Columbia, and the division may maintain offices in any other city in the State that the division may designate and may incur the necessary expense for the office furniture, stationery, printing, incidental expenses and other expenses necessary for the enforcement of this chapter and the general promotion of aeronautics within the State.

**SECTION 55‑5‑70.** Duties and powers of division.

The division shall foster air commerce within the State and the division shall have supervision over the aeronautical activities and facilities within the State. Such authority shall include supervision and control over all airports, landing fields, landing strips, air instruction, air parking, air beacons and all other air navigation facilities. Accordingly, the division may 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 and use of all airports, landing fields or landing strips. The division may further 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 division may further prescribe such reasonable rules and regulations as it may deem necessary and advisable for the public safety and the 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 division may further 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; provided, however, that no rules or regulations prescribed by the division under the authority of this section shall be inconsistent with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder.

**SECTION 55‑5‑75.** Division to furnish list of registered aircraft.

From information obtained from the Federal Aviation Administration, the division quarterly shall furnish the respective county auditors of this State with a list of all aircraft registered in their county according to the records of the Federal Aviation Administration.

**SECTION 55‑5‑80.** Development of aviation; establishment and operation of airports and aviation facilities.

The division shall assist in the development of aviation and aviation facilities within the State for the purpose of safeguarding the interest of those engaged in all phases of the industry and of the general public and of promoting aeronautics.

The division may cooperate with any county or municipality in the establishment, maintenance and operation of airports, landing fields or emergency landing strips and may do so in cooperation with other states or with any federal agency.

**SECTION 55‑5‑85.** Repealed by implication, by 1978 Act No. 635, Section 1.

**SECTION 55‑5‑86.** Approval by division of studies and plans prior to construction or addition of public airport.

Notwithstanding any other provision of law, no airport or landing strip open for public use shall be constructed in this State unless the master plan study or the construction plans and specifications for such airport or landing strip have been approved by the division. No additions shall be made to any existing airport or landing strip open for public use unless the master plan study or the construction plans and specifications for such airport or landing strip have been approved by the division.

**SECTION 55‑5‑87.** Approval of plan as prerequisite to state funding.

No state airport construction funding shall be provided to any airport unless it has an airport layout plan approved by and on file with the division at the time the request for funding is made.

**SECTION 55‑5‑88.** Exception to study or plan approval requirement.

The provisions of Sections 55‑5‑86 and 55‑5‑87 shall not apply to any airport or landing strip which does not receive state funds.

**SECTION 55‑5‑90.** Aircraft must be licensed by United States; exceptions; waiver.

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, 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 government of the United States; provided, however, that this restriction shall not apply to public aircraft of the United States or 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 division may, in its discretion, waive this provision in the interest of a non‑passenger‑carrying flight solely for inspection or test purposes.

**SECTION 55‑5‑100.** Pilots must be licensed by United States; exceptions.

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 government 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 government 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.

**SECTION 55‑5‑110.** Display of pilot’s license and aircraft license; burden of proof as to proper licensing.

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, any peace officer of this State, any authorized official or employee of the division 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 the 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 division 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 chapter 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 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.

**SECTION 55‑5‑120.** Division to approve airports, air schools, or other aviation facility.

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 division. All proposed airports, landing fields, air schools, flying clubs, air beacons or other air navigation facilities shall first be approved by the division before they or any of them shall be used or operated. The division may issue a certificate of its approval in each case.

**SECTION 55‑5‑130.** Provisions inapplicable to government airports and other aviation facilities.

No license, rule, order or regulation promulgated under the authority of this chapter 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, of the State or of any county or municipality of this State.

**SECTION 55‑5‑140.** Closing airports, air schools, or other aviation facilities.

In any case in which the division may deem it necessary it may order the closing of any airport or landing field or order any air school, flying club, air beacon or other air navigation facility to cease operations until it shall have complied with the requirements laid down by the division.

**SECTION 55‑5‑150.** Investigations, inquiries and hearings.

The division shall have power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of this chapter and all accidents in aeronautics within this State. All hearings conducted by the division shall be open to the public. Each officer of the division 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 and 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 chapter the division, or its authorized representative, may invoke the aid of any circuit court 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 the court may be punished by the court as a contempt thereof.

**SECTION 55‑5‑160.** Use of testimony obtained during investigations; employees not required to testify.

In order to facilitate the making of investigations by the division, 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, hearing or report thereof, except in case of criminal or other proceedings instituted by or in behalf of the division under the provisions of this chapter; nor shall any employee of the division be required to testify to any facts ascertained in, or information gained by reason of, his official capacity and, further, no employee of the division shall be required to testify as an expert witness in any suit, action or proceeding involving any aircraft.

**SECTION 55‑5‑170.** Seal; rules and regulations.

The division shall have a seal and shall make such rules and regulations for its administration, not inconsistent herewith, as it may deem expedient. It may from time to time amend such rules and regulations.

**SECTION 55‑5‑180.** Public inspection of rules and regulations; annual reports.

The division shall keep on file with the Secretary of State and at the principal office of the division for public inspection a copy of all its rules and regulations. On or before December thirty‑first, in each year, the division shall make to the Governor a full report of its proceedings for the year ending December first in each year and may submit with such report such recommendations pertaining to its affairs as seem to it to be desirable.

**SECTION 55‑5‑190.** Enforcement of chapter; public departments to cooperate.

The division, its members and employees and every county and municipal officer charged with the enforcement of state and municipal laws shall enforce and assist in the enforcement of this chapter. The division may also in the name of the State enforce the provisions of this chapter by injunction in the circuit courts of this State. Other departments and political subdivisions of the State may also cooperate with the Division of Aeronautics of the Department of Commerce in the development of aeronautics and aeronautic facilities within the State.

**SECTION 55‑5‑200.** Inspection of aviation facilities for enforcement purposes.

To carry out the provision of this chapter the division and any officer, state or municipal, charged with the duty of enforcing this chapter, may inspect and examine at reasonable hours any premises and the buildings and other structures thereof where airports, landing fields, air schools, flying clubs, air beacons or other air navigation facilities are operated.

**SECTION 55‑5‑210.** Reasons for certain orders to be stated.

In any case in which the division 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 in which the division 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.

**SECTION 55‑5‑220.** Service of orders.

Any order made by the division pursuant to this chapter shall be served upon the interested person by registered mail or in person before such order shall become effective.

**SECTION 55‑5‑230.** Appeal from orders.

A person against whom an order is entered may appeal within thirty days after the service to the Administrative Law Court as provided in Sections 1‑23‑380(B) and 1‑23‑600(D) for the purpose of having the reasonableness or lawfulness of the order inquired into and determined.

**SECTION 55‑5‑240.** Procedure on appeal.

The person taking the appeal shall file the notice of appeal in the office of the clerk with the Administrative Law Court and serve a copy on the director or his designee and all other parties of record. Upon appellate review, the administrative law judge shall enter an order either affirming or setting aside the order of the court; or may remand the matter to the court for further hearing. The filing of the notice of appeal operates as a supersedeas.

**SECTION 55‑5‑250.** Rights waived if no appeal taken.

If no appeal is taken from the order of the Division of Aeronautics within the period fixed, the party against whom the order is entered is deemed to have waived the right to have the reasonableness or lawfulness of the order reviewed by the Administrative Law Court, and there may be no trial of that issue in a court in which suit may be instituted for the penalty for failure to comply with the order.

**SECTION 55‑5‑260.** Penalty.

Any person failing to comply with the requirements or violating any of the provisions of this chapter or the rules and regulations for the enforcement of this chapter made by the division is 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.

**SECTION 55‑5‑270.** Exemptions.

The terms and provisions of this chapter shall not apply to unlicensed aircraft engaged entirely in private flying and which do not engage in flying for hire in any way.

**SECTION 55‑5‑280.** State Aviation Fund

All monies received from licensing of airports, landing fields, or air schools, funds appropriated for aviation grants, the tax on aviation gasoline, and fees for other licenses issued under this chapter must be paid into the State Treasury and credited to the fund known as the “State Aviation Fund”.

**SECTION 55‑5‑290.** Use of receipts to defray expenses.

Any moneys or fees coming into the hands of the division may be used for the necessary expenses of the division essential to the carrying out of this chapter but no overdraft shall be created by reason of any such expenditures.