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CHAPTER 1.

 GENERAL PROVISIONS

**SECTION 55‑1‑1.** Division of Aeronautics established within Department of Commerce; Director of Department shall govern.

 There is created a Division of Aeronautics within the Department of Commerce which shall be governed by the Secretary of Commerce as provided in Chapter 1 of Title 13.

HISTORY: 1993 Act No. 181, Section 1288, eff July 1, 1993; 1994 Act No. 361, Section 8, eff May 3, 1994.

**SECTION 55‑1‑5.** Definitions.

 For the purposes of Chapters 1 through 9 of Title 55, the following words and terms are defined as follows:

 (1) "Division", unless otherwise indicated, means the Division of Aeronautics of the Department of Commerce.

 (2) "Secretary", unless otherwise indicated, means the executive and administrative head of the Department of Commerce or his designee.

 (3) Notwithstanding any other provision of law, " director" means the person or persons appointed by the Governor in accordance with Section 13‑1‑1080 and serving at the pleasure of the Aeronautics Commission to supervise and carry out the functions and duties of the Division of Aeronautics as provided for by law.

HISTORY: 1993 Act No. 181, Section 1288, eff July 1, 1993; 1994 Act No. 361, Section 7, eff May 3, 1994; 2005 Act No. 11, Section 1.C, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 55‑1‑10.** Liability of owners and operators generally to guests.

 No person transported by the owner or operator of an aircraft as his guest without payment for such transportation shall have a cause of action for damages against such aircraft, its owner or operator for injury, death, or loss in case of accident unless such accident shall have been intentional on the part of such owner or operator or caused by his heedlessness or his reckless disregard of the rights of others.

HISTORY: 1962 Code Section 2‑21; 1952 Code Section 2‑21; 1942 Code Section 5908; 1932 Code Section 5908; 1930 (36) 1164; 1935 (39) 356; 1960 (51) 1926; 1993 Act No. 181, Section 1288, eff July 1, 1993.

**SECTION 55‑1‑20.** Liability of public carriers.

 Section 55‑1‑10 shall not relieve a public carrier of responsibility for any injuries sustained by a passenger being transported by such public carrier.

HISTORY: 1962 Code Section 2‑22; 1952 Code Section 2‑22; 1942 Code Section 5908; 1932 Code Section 5908; 1930 (36) 1164; 1935 (39) 356; 1993 Act No. 181, Section 1288, eff July 1, 1993.

**SECTION 55‑1‑30.** Unlawful removing or damaging of airport facility or equipment.

 It is unlawful to remove or damage an airport facility or equipment with malicious intent. A person violating the provisions of this section is guilty of a felony and, upon conviction, must be:

 (1) fined not less than one thousand dollars or imprisoned not more than five years, or both;

 (2) fined not less than one thousand dollars or imprisoned not more than ten years, or both, if injury results from malicious damage or removal of airport facilities or equipment;

 (3) imprisoned not more than thirty years if death results from the malicious damage or removal of airport facilities or equipment.

HISTORY: 1962 Code Section 2‑23; 1972 (57) 2344; 1993 Act No. 181, Section 1288, eff July 1, 1993; 1993 Act No. 184, Section 80, eff January 1, 1994.

**SECTION 55‑1‑40.** Unlawful entry of aircraft; damaging or removing equipment.

 (1) It is unlawful for any person to enter any aircraft or damage or remove therefrom any equipment or other property attached thereto without the permission of the owner or a person authorized by the owner to grant such permission.

 (2) The provisions of this section do not apply to any airport personnel or other persons while acting in an official capacity except when such capacity is used to accomplish an unlawful purpose.

 (3) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than ten thousand dollars or imprisoned not less than one year nor more than ten years.

 (4) The provisions of this section are cumulative.

HISTORY: 1962 Code Section 2‑24; 1974 (58) 2365; 1993 Act No. 181, Section 1288, eff July 1, 1993.

**SECTION 55‑1‑50.** Landing or taking off on public highways.

 It shall be unlawful for any person to land or cause to be landed any aircraft on or take off from a public highway in this State except in situations authorized by the deputy director of the division or in an emergency situation in which the safety of the aircraft is involved. In any prosecution for violation hereof, the burden of proving that such emergency situation existed shall be upon the person landing the aircraft on the highway or causing it to take off therefrom.

 Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than sixty days.

HISTORY: 1962 Code Section 2‑25; 1974 (58) 2320; 1993 Act No. 181, Section 1288, eff July 1, 1993.

**SECTION 55‑1‑60.** Operator of intrastate scheduled airline service to obtain certificate.

 Any person desiring to operate an intrastate scheduled airline service wherein a schedule of flights is to be posted or otherwise publicized or maintained shall apply to the division for a certificate to allow him to operate such service. Before any certificate shall be issued by the division the schedule of flights to be made by such service must be approved by the division and the equipment to be used by such airline service must also be approved. After the division issues a certificate to a person desiring to operate such airline service, the scheduled flights approved by the division must be commenced within ninety days of such certification.

HISTORY: 1962 Code Section 2‑81; 1957 (50) 358; 1993 Act No. 181, Section 1288, eff July 1, 1993.

**SECTION 55‑1‑70.** Rules and regulations for intrastate scheduled airlines.

 The division shall promulgate such rules and regulations as are necessary to govern the operation of any and all intrastate scheduled airline operations.

HISTORY: 1962 Code Section 2‑82; 1957 (50) 358; 1993 Act No. 181, Section 1288, eff July 1, 1993.

**SECTION 55‑1‑80.** Appointment of additional members to county aviation commission.

 (A) Any county aviation commission or like authority may be increased by two members, one of whom must be appointed by the House of Representatives' delegation of the county and one of whom must be appointed by the Senatorial delegation of the county. The additional members shall serve terms of the same length as other members of the commission or like authority.

 (B) Any county governing body who has the authority to appoint members to the aviation commission or like authority may add two members for terms as provided in this section.

 (C) In counties that have two municipalities with a population in excess of fifty thousand persons according to the latest official United States Census, and the county has an aviation commission or like authority, then the mayors of such municipalities having a population in excess of the fifty thousand persons shall serve, ex officio, as members of the commission or authority.

HISTORY: 1984 Act No. 471; 1985 Act No. 64; 1993 Act No. 181, Section 1288, eff July 1, 1993.

**SECTION 55‑1‑90.** Use of state‑owned aircraft in medical emergency; payment of insurance proceeds to State Treasurer.

 If a state‑owned aircraft is needed on a medical‑emergency basis by an individual other than a member of the General Assembly, the aircraft may be used upon the filing with the division or other agency of state government owning and operating the aircraft of an affidavit by a medical doctor that an emergency or a life‑saving situation exists with respect to the individual which would probably make waiting or the use of a commercial or nonstate‑owned aircraft or other transportation not in the best interest of the individual's physical condition and upon the completion of all other records, forms, or paperwork as may be required. If the individual needing and using the state‑owned aircraft on a medical‑emergency basis has insurance which covers this transportation, an insurance claim must be filed by the insured individual or by any other person permitted or required to file the claim, and any reimbursement under any policy of insurance pertaining to this transportation must be paid to the State Treasurer, who must deposit the funds in the general fund of the State.

HISTORY: 1984 Act No. 512, Part II, Section 56; 1993 Act No. 181, Section 1288, eff July 1, 1993.

**SECTION 55‑1‑100.** Operating or acting as flightcrew member of aircraft while under influence of alcohol or drugs unlawful; penalties.

 (A) It is unlawful for any person to operate or act as a flightcrew member of any aircraft in this State:

 (1) within eight hours after the consumption of any alcoholic beverage;

 (2) while under the influence of alcohol; or

 (3) while using any drug that affects his faculties in any way contrary to safety; or

 (4) with four one‑hundredths of one percent or more by weight of alcohol in his blood at the time of the alleged violation.

 (B) Any person who operates or acts as a flightcrew member of any aircraft in this State is considered to have given consent to a chemical test of his breath for the purpose of determining the alcoholic content of his blood if arrested for violating the provisions of subsection (A). The test must be administered at the direction of a law enforcement officer who has apprehended a person while or after operating or acting as a flightcrew member of any aircraft in this State while under the influence of intoxicating liquor. The test must be administered by a person trained and certified by the South Carolina Law Enforcement Division, using methods approved by the division. The arresting officer may not administer the test, and no test may be administered unless the defendant has been informed that he does not have to take the test. Any person who refuses to submit to the test violates the provisions of this subsection and, upon conviction, must be punished by a fine of two hundred dollars or imprisonment for not less than forty‑eight hours nor more than thirty days, or both. The penalties provided for in this subsection are in addition to those provided for in subsection (F).

 No person is required to submit to more than one test for any one offense for which he has been charged, and the test must be administered as soon as practicable without undue delay.

 The person tested may have a physician, qualified technician, chemist, registered nurse, or other qualified person of his own choosing conduct a test or tests in addition to the test administered by the law enforcement officer. The failure or inability of the person tested to obtain an additional test does not preclude the admission of evidence relating to the test taken at the direction of the law enforcement agency or officer.

 The arresting officer or the person conducting the chemical test of the person apprehended promptly shall assist that person to contact a qualified person to conduct additional tests.

 The division shall administer the provisions of this subsection and may make regulations as may be necessary to carry out its provisions. The Department of Health and Environmental Control shall cooperate with the division in carrying out its duties.

 (C) In any criminal prosecution for the violation of this section, the amount of alcohol in the defendant's blood at the time of the alleged violation, as shown by chemical analysis of the defendant's breath, is admissible as evidence.

 The provisions of this subsection do not limit the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

 (D) Any person who is unconscious or otherwise in a condition rendering him incapable of refusal is considered not to have withdrawn the consent provided by subsection (B).

 (E) The person conducting the chemical test for the law enforcement officer shall record in writing the time of arrest, the time of the test, and the results of the test, a copy of which must be furnished to the person tested or his attorney prior to any trial or other proceedings in which the results of the test are used as evidence; and any person administering any additional test shall record in writing the time, type, and results of the test and promptly furnish a copy of the test to the arresting officer. A copy of the results of the test must be furnished to the Federal Aviation Administration and the division by the arresting officer or the agency involved in the arrest.

 (F) Any person who violates the provisions of subsection (A), upon conviction, must be punished by a fine of five hundred dollars or imprisonment for not less than forty‑eight hours nor more than one year, or both.

 (G) Any person who is convicted under the provisions of this section must be reported to the Federal Aviation Administration within ten days of conviction.

 (H) For the purposes of this section flightcrew member means a pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time, and aircraft means any contrivance now known or invented, used, or designed in the future for navigation of or flight in the air.

HISTORY: 1987 Act No. 105 Section 1; 1993 Act No. 181, Section 1288, eff July 1, 1993.