CHAPTER 3

State Law for Aeronautics

**SECTION 55‑3‑10.** Short title.

 This chapter may be cited as the State Law for Aeronautics.

HISTORY: 1962 Code Section 2‑1; 1952 Code Section 2‑1; 1942 Code Section 7111; 1932 Code Section 7111; 1929 (36) 220; 2012 Act No. 270, Section 2, eff June 18, 2012.

Effect of Amendment

The 2012 amendment deleted “Uniform” preceding “State Law”.

CROSS REFERENCES

Firing missiles, see Sections 23‑33‑10 et seq.

Regulation of common carriers, see SC Const, Art 9, Section 1.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 2, Background.

**SECTION 55‑3‑20.** Reserved by 2012 Act No. 270, Section 2, eff June 18, 2012.

Editor’s Note

See now Section 55‑1‑5.

**SECTION 55‑3‑30.** Reserved by 2012 Act No. 270, Section 2, eff June 18, 2012.

Editor’s Note

Former Section 55‑3‑30 was entitled “Sovereignty” and was derived from 1962 Code Section 2‑3; 1952 Code Section 2‑3; 1942 Code Section 7101; 1932 Code Section 7101; 1929 (36) 220.

**SECTION 55‑3‑40.** Reserved by 2012 Act No. 270, Section 2, eff June 18, 2012.

Editor’s Note

Former Section 55‑3‑40 was entitled “Ownership” and was derived from 1962 Code Section 2‑4; 1952 Code Section 2‑4; 1942 Code Section 7102; 1932 Code Section 7102; 1929 (36) 220.

**SECTION 55‑3‑50.** Landing an aircraft on the property of another with consent; exceptions; liability.

 The landing of an aircraft on the lands or waters of another without his consent is unlawful, except in the case of a cautionary or emergency landing. This section shall not apply to landings on waters of the state or other navigable waters where the waters are normally open to the public or available for public use nor shall this section apply to landing at public use airports, or airports owned or operated by a governmental body or political subdivision. The owner or lessee of the aircraft or the airman is liable in accordance with applicable law for injury to a person or property caused by an emergency or precautionary landing made in accordance with this section.

HISTORY: 1962 Code Section 2‑5; 1952 Code Section 2‑5; 1942 Code Section 7103; 1932 Code Section 7103; 1929 (36) 220; 2012 Act No. 270, Section 2, eff June 18, 2012.

Effect of Amendment

The 2012 amendment rewrote the section.

Attorney General’s Opinions

The provision of section 55‑3‑50 prohibiting the landing of aircraft on lands or waters of another should be construed as being inapplicable to public property, including a water reservoir owned by a political subdivision. 1988 Op Atty Gen, No. 88‑13, p 48.

**SECTION 55‑3‑60.** Liability and lien for damages.

 The owner of an aircraft operated over the land or waters of this State is absolutely liable for injury to persons or property on the land or water beneath the aircraft which is caused by ascent, descent or flight of the aircraft or the dropping or falling of an object from an aircraft, whether the owner was negligent or not, unless the injury is caused in whole or in part by the negligence of the person injured or of the owner or bailee of the property injured. If the aircraft is leased at the time of the injury to person or property both owner and lessee is liable and they may be sued jointly or either or both of them may be sued separately. An airman who is not the owner or lessee is liable only for the consequences of his negligence. The injured person or owner or bailee of the injured property shall have a lien next in priority to the lien for State and county taxes on the aircraft causing the injury to the extent of the damage caused by the aircraft or an object falling from it. A chattel mortgagee, conditional vendor or trustee under an equipment trust of an aircraft out of possession shall not be considered an owner or lessee within the provisions of this section. This section shall not apply to damage to airport property that is neither malicious nor intentional, nor shall this section apply to damage to crushable materials, collapsible structures, or aircraft arresting systems that are designed to deform when used.

HISTORY: 1962 Code Section 2‑6; 1952 Code Section 2‑6; 1942 Code Section 7104; 1932 Code Section 7104; 1929 (36) 220; 1946 (44) 1371; 2012 Act No. 270, Section 2, eff June 18, 2012.

Effect of Amendment

The 2012 amendment in the third sentence, substituted “airman” for “aeronaut”; added the last sentence to the section; and made other, nonsubstantive, changes throughout.

RESEARCH REFERENCES

Treatises and Practice Aids

Restatement (3d) of Torts: Liability for Physical Harm (Basic Principles) Section 20 TD 1, Abnormally Dangerous Activities.

Restatement (3d) of Torts: Liability for Physical Harm (Basic Principles) Section 20 PFD 1, Abnormally Dangerous Activities.

Restatement (3d) of Torts: Liability for Physical and Emotional Harm Section 20, Abnormally Dangerous Activities.

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1. Generally

The effect of this section is to make the infliction of injury or damages by the operation of an airplane of itself a wrongful act giving rise to liability. U.S. v. Praylou (C.A.4 (S.C.) 1953) 208 F.2d 291, certiorari denied 74 S.Ct. 628, 347 U.S. 934, 98 L.Ed. 1085.

It is not necessary for plaintiffs to prove negligence in defendant’s operation of its aircraft in view of this section. Nevertheless, it is essential of their causes of action that plaintiffs prove a causal connection between the overflight of defendant’s aircraft over the property and their alleged damages. Lorick v. U. S. (D.C.S.C. 1967) 267 F.Supp. 96.

To recover plaintiffs must establish by the preponderance of the evidence that the overflight of the government aircraft over their properties was the proximate cause of their damages. Lorick v. U. S. (D.C.S.C. 1967) 267 F.Supp. 96.

This section imposes absolute liability whether the invasion of personal rights is intentional or not. Long v. U. S., 1965, 241 F.Supp. 286.

Irrespective of the actionable negligence of defendant in the manner in which it operated its helicopter at low altitude over the head of plaintiff’s team of mules, defendant was liable to plaintiff under the provisions of Code 1962 Sections 2‑5 and 2‑6. Long v. U. S., 1965, 241 F.Supp. 286.

Defendant is liable for plaintiff’s injuries in the absence of contributory negligence on the part of plaintiff if defendant’s helicopter is operated over plaintiff’s land with resulting injury to plaintiff. Long v. U. S., 1965, 241 F.Supp. 286.

2. Distinction between owner of aircraft and nonowner operator

No denial of equal protection results from difference in classification making owner of aircraft absolutely liable under Section 55‑3‑60 while nonowner operator is liable only for consequences of negligence. Green v. Zimmerman (S.C. 1977) 269 S.C. 535, 238 S.E.2d 323.

3. Damage occasioned by airplanes operated by United States government

Under this section the infliction of injuries or damages by the operation of an airplane in itself is a wrongful act giving rise to liability, and the United States is liable under the Federal Tort Claims Act when such damages are inflicted by airplanes operated by government employees on business for the United States. Lorick v. U. S. (D.C.S.C. 1967) 267 F.Supp. 96. United States 964(1)

To recover plaintiffs must establish by the preponderance of the evidence that the overflight of the government aircraft over their properties was the proximate cause of their damages. Lorick v. U. S. (D.C.S.C. 1967) 267 F.Supp. 96.

4. Effect of plaintiff’s conduct

Even had plaintiff known that helicopters were operating in the area, this would not relieve defendant of its liability under the Uniform Aeronautics Act nor could it relieve defendant from the consequences of its negligence in operating its helicopter. Long v. U. S., 1965, 241 F.Supp. 286.

Where plaintiff signed a permit authorizing defendant to enter upon his lands during maneuvers, he was not thereby placed on notice that airplanes and helicopters would be used and the permit was not a bar or defense to an action for damages resulting from operation of a helicopter over the lands. Long v. U. S., 1965, 241 F.Supp. 286.

5. Dropping or falling objects

Spraying or dusting of chemicals from aircraft in flight constitutes dropping or falling of object therefrom within meaning of Section 55‑3‑60. Green v. Zimmerman (S.C. 1977) 269 S.C. 535, 238 S.E.2d 323.

There is no basis for conclusion that, in adopting licensing requirements for aerial applicators, the Legislature intended to exempt operators of aircraft used in dusting or spraying from liabilities imposed by Section 55‑3‑60. Green v. Zimmerman (S.C. 1977) 269 S.C. 535, 238 S.E.2d 323.

**SECTION 55‑3‑70.** Liability for collisions.

 Subject to the provisions of Section 55‑1‑10, the liability of the owner of one aircraft to the owner of another aircraft, or to an airman or passengers on either aircraft, for damage caused by collision on land or in the air must be determined by the rules of law applicable to torts on land.

HISTORY: 1962 Code Section 2‑7; 1952 Code Section 2‑7; 1942 Code Section 7105; 1932 Code Section 7105; 1929 (36) 220; 2012 Act No. 270, Section 2, eff June 18, 2012.

Effect of Amendment

The 2012 amendment substituted “an airman” for “aeronauts”; and made another nonsubstantive change.

**SECTION 55‑3‑80.** Crimes and torts.

 All crimes, torts, and other wrongs committed by or against an airman or passenger while in flight over this State is governed by the laws of this State. The question of whether damage occasioned by or to an aircraft while in flight over this State constitutes a tort, crime, or other wrong by or against the owner of the aircraft must be determined by the laws of this State.

HISTORY: 1962 Code Section 2‑8; 1952 Code Section 2‑8; 1942 Code Section 7106; 1932 Code Section 7106; 1929 (36) 220; 2012 Act No. 270, Section 2, eff June 18, 2012.

Effect of Amendment

The 2012 amendment substituted “airman” for “aeronaut” following “wrongs committed by or against an”; and made nonsubstantive changes throughout the section.

**SECTION 55‑3‑90.** Use of navigable waters for landing, docking, and takeoff of seaplanes.

 Navigable waterways, which are available for use under the public trust doctrine, may be used for the landing, docking, and takeoff of seaplanes in accordance with this provision. This section does not authorize the use of seaplanes in a manner or location which would violate the property rights of another person.

 During the landing, docking, and takeoff of a seaplane, its pilot shall comply with all applicable federal and state laws and aeronautical rules.

 Seaplane takeoff, landing, and water operations must be done safely and in a manner which does not endanger other persons, watercraft, and property.

 A seaplane shall not land, dock, or take off on a waterway in a manner that would violate applicable laws, ordinances, and rules if done by a motorized watercraft, except that a seaplane is not required to comply with a statewide speed limit for watercraft while landing and taking off, if a higher speed is necessary for safe operation and is not in conflict with any other restrictions applicable to watercraft.

 In no event shall the landing, docking, or takeoff of seaplanes be approved if the landing, docking, or takeoff would pose unreasonable risks to public health, safety, or property as determined by the division.

HISTORY: 2012 Act No. 270, Section 2, eff June 18, 2012.

Editor’s Note

Former Section 55‑3‑90 was entitled “Contracts” and was derived from 1962 Code Section 2‑9; 1952 Code Section 2 9; 1942 Code Section 7107; 1932 Code Section 7107; 1929 (36) 220.

**SECTION 55‑3‑100.** Restrictions on the use of waterway by seaplane; criteria.

 If the division determines that use of a waterway by a seaplane poses an unreasonable risk to public health, safety, or property, the division or commission may withdraw approval or limit use of the waterway or make the use of the waterway subject to conditions, after following criteria set forth in this section. If considered necessary to protect public health, safety or property, the division may issue an interim order restricting the use of a waterway by a seaplane pending completion of the procedures in this section. In determining if a waterway is suitable for seaplane use, the division shall consider the following criteria:

 (1) the safety and general suitability of the waterway for seaplane use;

 (2) the impact of seaplane use on the use and enjoyment of the waterway and adjacent properties by other persons;

 (3) the availability of suitable alternative waterways for seaplane use;

 (4) the public interest in fostering aviation and allowing the use of navigable waterways for aviation and other purposes;

 (5) whether competing interests may be balanced by imposing limitations or conditions on use of the waterway by seaplanes; and

 (6) any other factor which reasonably would be affected by a decision to allow seaplane use notwithstanding the local ordinance.

HISTORY: 2012 Act No. 270, Section 2, eff June 18, 2012.

Editor’s Note

Former Section 55‑3‑100 was entitled “Trick flying and other misuse of aircraft” and was derived from 1962 Code Section 2 10; 1952 Code Section 2‑10; 1942 Code Sections 1130, 7108; 1932 Code Sections 1130, 7108; 1929 (36) 220.

NOTES OF DECISIONS

In general 1

1. In general

Laws prohibiting stunt flying in congested areas are justified by state’s interest in protecting human life and property; although, if especially skilled pilots were to attach streamers to airplanes, their conduct would have expressive element and unusual maneuvers would help draw attention to their messages, laws may nonetheless be enforced against such persons without proof their conduct was actually harmful or dangerous. F.T.C. v. Superior Court Trial Lawyers Ass’n, U.S.Dist.Col.1990, 110 S.Ct. 768, 493 U.S. 411, 107 L.Ed.2d 851, on remand 897 F.2d 1168, 283 U.S.App.D.C. 146.

**SECTION 55‑3‑110.** Hunting from aircraft.

 An airman or passenger who, while in flight within this State, shall intentionally kill or attempt to kill any birds or animals is guilty of a misdemeanor and punishable by a fine of not more than two thousand dollars, or by imprisonment for not more than thirty days, or both.

HISTORY: 1962 Code Section 2‑11; 1952 Code Section 2‑11; 1942 Code Section 7109; 1932 Code Section 7109; 1929 (36) 220; 2012 Act No. 270, Section 2, eff June 18, 2012.

Effect of Amendment

The 2012 amendment substituted “An airman” for “Any aeronaut”; substituted “two thousand” for “one hundred” and made another nonsubstantive change.

CROSS REFERENCES

Hunting, generally, see Section 50‑1‑10 et seq.

**SECTION 55‑3‑120.** Construction.

 This chapter must be interpreted and construed as to effectuate its general purpose of promoting aviation, aeronautics, aviation safety, and conforming and making consistent this State’s laws with federal law, and the laws of other states on the subject of aviation and aeronautics.

HISTORY: 1962 Code Section 2‑12; 1952 Code Section 2‑12; 1942 Code Section 7110; 1932 Code Section 7110; 1929 (36) 220; 2012 Act No. 270, Section 2, eff June 18, 2012.

Effect of Amendment

The 2012 amendment rewrote the section.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 2, Background.

**SECTION 55‑3‑130.** Pointing, aiming, or discharge of laser device at aircraft; penalties.

 The pointing, aiming, or discharge of a laser device at an aircraft in flight or on the ground while occupied is unlawful. A person who wilfully and maliciously discharges a laser at an aircraft, whether stopped, in motion or in flight, while occupied, is guilty of a misdemeanor punishable by imprisonment for not more than one year or by a fine of two thousand dollars, or both. For a second or subsequent violation of this section a person is guilty of a felony punishable and must be imprisoned for not more than three years, or fined not more than five thousand dollars, or both. This section does not apply to the conduct of laser development activity by or on behalf of the United States Armed Forces.

 A person who, with the intent to interfere with the operation of an aircraft, wilfully shines a light or other bright device, of an intensity capable of impairing the operation of an aircraft, at an aircraft, must be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both.

 As used in this section, “laser” means a device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum, and when discharged exceeds one milliwatt continuous wave.

HISTORY: 2012 Act No. 270, Section 2, eff June 18, 2012.