

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 657

H. P. 527

House of Representatives, February 24, 1977

On motion of Mr. Blodgett of Waldoboro, referred to the Committee on Natural Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Chonko of Topsham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Amend the Statutes Relating to Airmobiles.

Be it enacted by the People of the State of Maine, as follows:

12 MRSA c. 304-A, as enacted by PL 1973, c. 238 and as amended, is repealed and the following enacted in its place:

CHAPTER 304-A

AIRMOBILES

§ 1991. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Airmobile. "Airmobile" means any vehicle propelled by mechanical power that is primarily designed to travel upon a cushion of air on or within 2 feet of the water or land surface of the earth.

2. Airmobile for hire. "Airmobile for hire" means any airmobile which, while hired, is propelled by machinery regardless of horsepower, whether or not that machinery is the principal source of propulsion, and whether or not that machinery was leased or hired with the airmobile. It includes any airmobile propelled by motor which carries passengers for hire.

3. Bow. "Bow" means the forward half of the airmobile.

4. Carrying passengers for hire. "Carrying passengers for hire" means the use of an airmobile for the purpose of the carriage of any person or persons as passengers for valuable consideration, whether directly or indirectly flowing to the owner, charterer, agent or any other person interested in the

airmobile. A passenger includes every person carried on board the airmobile other than the owner or his representative, the operator and any guest on board an airmobile which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his carriage.

5. Commissioner. "Commissioner" means the Commissioner of Inland Fisheries and Wildlife.

6. Department. "Department" means the Department of Inland Fisheries and Wildlife.

7. Division. "Division" means the Division of Watercraft Registration and Safety.

8. Dwelling. "Dwelling" means any buildings used as a permanent residence or place of domicile.

9. Federal waters. "Federal waters" means all other waters not internal and subject to the jurisdiction of the United States.

10. Internal waters. "Internal waters" means waters under the exclusive jurisdiction of the State of Maine.

11. Operate. The verb "operate" in all its moods and tenses when it refers to airmobiles of any type or description means to use that airmobile in any manner on the waters specified whether or not the airmobile is under way.

12. Operation. The noun "operation" when it refers to airmobiles of any type or description means the act of operating as defined in subsection 11.

13. Operator. "Operator" means the person who is in control or in charge of an airmobile while it is in use.

14. Owner. "Owner" means a person who claims lawful possession of an airmobile by virtue of legal title or equitable interest therein which entitles him to such possession.

15. Person. "Person" includes an individual, firm, association or other entity.

16. State of principal use. "State of principal use" means the state on whose waters an airmobile is used or is to be used most during a calendar year.

17. Use. "Use" means operate, navigate or employ.

18. Waters of this State. "Waters of this State" means all internal waters and all federal waters within the jurisdiction of this State.

19. Water safety zone. "Water safety zone" means the area of water within 200 feet of any shoreline, whether the shoreline of the mainland or of an island.

§ 1992. Registration

Except as otherwise provided, no airmobile shall be operated within the jurisdiction of the State unless registered by the owner as provided in this chapter. All airmobiles owned by Maine residents and operated in Maine must be registered in this State unless specifically exempted elsewhere in this chapter. The Commissioner of Inland Fisheries and Wildlife is authorized to register and assign a registration number to all airmobiles, upon application and payment of an annual fee of \$11.25 by the owner. The resident registration fee shall be credited as follows: \$4.75 of each fee shall be credited to the Department of Inland Fisheries and Wildlife; 50¢ of each fee shall be credited to the Bureau of Parks and Recreation and \$6 of each fee shall be annually distributed to the municipality of the owner's residence as shown on his registration certificate, except that in unorganized townships \$6 of each fee shall be annually distributed to the county of the owner's residence as shown on his registration certificate. The nonresident registration fee shall be credited as follows: \$4.75 of each fee shall be credited to the Department of Inland Fisheries and Wildlife Trail Fund. All other moneys received under this chapter, including dealer license fees, shall be credited to the Department of Inland Fisheries and Wildlife.

All moneys credited to the Department of Inland Fisheries and Wildlife, including registration fees, shall be expended by the division solely for the cost of administration, establishment of a safety program for airmobile operators and enforcement of this chapter.

The moneys distributed to the municipalities by the Department of Inland Fisheries and Wildlife may be appropriated by the municipalities for any purpose for which they may lawfully appropriate moneys.

A registration shall be valid for one year commencing July 1st of each year. No municipality or political subdivision of this State may adopt any ordinance, law or regulation dealing with the operation or registration of airmobiles or any other subject matter of this chapter.

Whoever transfers the ownership or permanently discontinues the use of a registered airmobile and applies for registration of another airmobile in the same registration year shall be entitled to a certificate of registration upon payment of a transfer fee of \$2 and shall not be required to pay the regular registration fee of \$11.25.

§ 1992-A. Form

Such registration shall be issued by the commissioner or by agents designated by him and shall be in such form as the commissioner may determine. The registration certificate shall be subject to inspection by any law enforcement officer on demand. The registration number assigned to an airmobile shall be displayed in such form and manner as the commissioner shall determine.

Whenever ownership is transferred or the use of an airmobile for which a registration certificate has already been issued is discontinued, the old registration certificate shall be properly signed and executed by the owner showing that the ownership of the airmobile has been transferred or its use dis-

continued and returned to the commissioner within 10 days of said event. If there is a change of ownership of an airmobile for which a registration certificate number has previously been issued, the new owner shall apply for a new registration certificate and shall set forth the original number in the application. He shall pay the regular fee for the particular airmobile involved. The holder of any registration certificate issued under this section may obtain a duplicate from the department upon application and payment of a fee of \$1.

§ 1992-B. Numbers permanent

All numbers once awarded under this chapter to an airmobile shall remain with that airmobile until the airmobile is destroyed, abandoned or permanently removed from this State. The registrant shall notify the Department of Inland Fisheries and Wildlife if an airmobile is destroyed, abandoned or permanently removed from this State.

§ 1993. Vehicles exempt from registration

No registration shall be required for an airmobile operated on land on which the owner lives or on lands on which he is domiciled, provided the airmobile is not operated elsewhere within the jurisdiction of the State.

Airmobiles owned and operated in this State by the Federal Government, the State or political subdivision of the State shall be exempt from registration fees, but shall be registered and required to display numbers.

§ 1993-A. Authority under registration

1. Limitations on operation of airmobiles. No person shall operate an airmobile upon controlled access highways or within the right-of-way limits thereof.

No person shall operate an airmobile upon any private road after having been forbidden to do so by the owner thereof or the owner's agent, either personally or by appropriate notices posted conspicuously on said way. No person shall operate an airmobile upon the main traveled portion, the sidewalks or any other public way.

2. Exceptions. The following are exceptions to subsection 1 :

A. Controlled access highways. Properly registered airmobiles may cross controlled access highways by use of bridges over or roads under such highways, or by use of roads crossing controlled access highways at grade. The Commissioner of Transportation may issue special permits for designated crossings of controlled access highways.

B. Other ways. Properly registered airmobiles may operate on a public way only the distance necessary, but in no case to exceed 300 yards, on the extreme right of the traveled way for the purpose of crossing as directly as possible a public way, sidewalk or culvert and properly registered airmobiles may operate on a public way only the distance necessary, but in no case to exceed 500 yards, on the extreme right of the traveled way for the sole purpose of crossing as directly as possible a bridge, overpass or underpass, provided that such operation can be made in safety and that it does not interfere with vehicular traffic approaching from either direction on

such way. It shall be the responsibility of the operator of the airmobile to yield the right of way to all vehicular traffic upon any way before crossing same.

Airmobiles may operate on any portion of public ways when the main traveled portion is unplowed and unused by conventional motor vehicles. If the main traveled portion of a public way is plowed and utilized by conventional motor vehicles, airmobiles may operate only on that portion of the way not maintained or utilized for the operation of conventional motor vehicles, except that operation on the left side of the way shall be prohibited during the hours from sunset to sunrise of the portion of the way not maintained or utilized for the operation of conventional motor vehicles.

C. Operation on public ways.

- (1) Airmobiles shall be brought to a complete stop before entering a public way.
- (2) Airmobile operators shall yield the right of way to all vehicular traffic on said way.
- (3) Airmobiles, other than for the sole purpose of crossing a public way, shall be operated on the extreme right of the traveled way.
- (4) The Commissioner of Transportation may, following a public hearing, prohibit crossing of an individual bridge, culvert, overpass or underpass, if the commissioner determines such crossing or use of the public way is hazardous. Any bridge, culvert, overpass or underpass closed by the commissioner must be posted by appropriate notices.

§ 1993-B. Dealers

Any person who is in the business of selling airmobiles in the State shall register as a dealer and secure a dealer's license from the commissioner. Airmobiles so registered do not need to be individually registered. Dealers shall display their dealer's number on each such airmobile being so used. Upon the sale of the airmobile, it is then the owner's responsibility to register the airmobile.

Replacement for lost or stolen plates may be obtained for a fee of \$2 per plate.

The dealer's license and registration fee shall be \$25 annually from each July 1st. Each dealer shall receive 2 dealer's number plates for the \$25 fee. Additional plates, issued pursuant to regulations of the commissioner, may be obtained at \$10 for each additional plate.

The commissioner may issue temporary numbers and registration to bona fide dealers who may upon the sale or exchange of an airmobile issue them to new owners in order to allow them to operate airmobiles for a period of 20 consecutive days only after the day of sale in lieu of a permanent number as required by this chapter.

§ 1994. Operation

1. **Reckless operation.** It is unlawful for any person to operate any airmobile recklessly.

2. **Operating under the influence.** It is unlawful to operate or attempt to operate any airmobile in any place while intoxicated by the use of intoxicating liquor or drugs or to operate or attempt to operate any airmobile in any place while a person's mental or physical faculties are impaired by the use of intoxicating liquors or drugs. Title 29, section 1312, relating to weight of alcohol in defendant's blood and its admission in evidence shall apply to this subsection.

3. **Operating to endanger.** It is unlawful for any person to operate any airmobile as to endanger any person or property.

4. **Prudent speed.** It is unlawful to operate any airmobile, except at a reasonable and prudent speed for the existing conditions.

5. **Age restrictions for operation.** No person under the age of 14 years shall operate an airmobile when crossing any public way maintained for travel. No operator's license shall be required for the operation of an airmobile.

6. **Noise.** Every airmobile manufactured after July 1, 1977, and offered for sale or sold in this State shall be constructed so as to limit total vehicle noise to not more than 82 decibels of sound pressure level at 50 feet on the "A" scale, as measured by the SAE standards J-192. Every airmobile manufactured after July 1, 1978, and offered for sale or sold in this State, shall be so constructed as to limit total vehicle noise to not more than 78 decibels of sound pressure level at 50 feet on the "A" scale as measured above. No airmobile shall be modified by any person in any manner that shall amplify or otherwise increase total noise emission above that emitted by the airmobile as originally constructed regardless of the date of manufacture.

It shall be unlawful to operate any airmobile which exceeds noise limit as set forth in this subsection, except:

A. Airmobiles manufactured and in lawful use on or before July 1, 1977, may be operated without reference to this subsection, except that they may not be so operated if they have been modified in violation of this subsection; and

B. Airmobiles operated at prearranged racing meets in compliance with subsection 8 may operate pursuant to said subsection 8.

7. **Operating on land of another.** Any person operating an airmobile upon the land of another shall stop and identify himself upon the request of the landowner or his duly authorized representative. If restriction on operation is posted on the land of another, the person operating the airmobile must observe those restrictions. This chapter is in no way to be construed as giving license or permission to cross or go on the property of another. Any person in violation shall be held accountable to the owner under existing law.

8. **Airmobiles operated at prearranged racing meets.** Airmobiles operated at prearranged racing meets, whose sponsor has obtained a permit from the Department of Inland Fisheries and Wildlife, shall be exempt from this chapter concerning registration, noise and lights during the time of such operation at prearranged organized racing meets. This shall include all prerace practice at the location of the meet.

9. **Operation on railroad tracks.** No person shall operate any airmobile along or adjacent and parallel to the tracks of any railroad within the limits of the railroad right-of-way without written permission from the railroad.

10. **Operation in cemeteries.** It shall be unlawful to operate any airmobile in any cemetery, burial place or burying ground. Any person who violates this subsection shall be punished by a fine of not less than \$50 nor more than \$150 and may additionally be required by the court to reimburse the owner or operator of said cemetery, burying ground or burying place for any damage to the memorials, tombs, gravestones or monuments located therein caused by such operation.

11. **Operation at certain times.** Airmobiles may be operated on streets and public ways during a period of emergency when the emergency has been so declared by a police agency having jurisdiction and when travel by conventional motor vehicles is not practicable. Airmobiles may be operated on streets and public ways in special airmobile events of limited duration conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

12. **Lights.** Every airmobile shall have mounted on the front thereof at least one headlight capable of casting a white beam for a distance of at least 100 feet directly ahead of the airmobile. Every airmobile shall have mounted on the rear thereof at least one lamp capable of displaying a red light which shall be visible at a distance of at least 100 feet behind each airmobile. These lights shall be in operation during the period of from $\frac{1}{2}$ hour after sunset to $\frac{1}{2}$ hour before sunrise and at any time when, due to insufficient light or unfavorable atmospheric conditions caused by fog or otherwise, other persons, vehicles and other objects are not clearly discernible for a distance of 500 feet ahead. When operated on water, an airmobile shall have those lights and equipment provided in section 1995.

13. **Stopping for law enforcement officer.** Any law enforcement officer in uniform whose duty it is to enforce provisions of this chapter may stop and examine any airmobile for the purpose of ascertaining whether it is being operated in compliance with this chapter and the officer may demand and inspect the operator's certificate of registration. He may also examine the identification numbers of the airmobile and any marks thereon. It shall be unlawful for the operator of any airmobile to fail or refuse to stop such airmobile on request or signal of any such officer.

14. **Distance from dwellings.** It shall be unlawful to operate an airmobile within 200 feet of any dwelling, hospital, nursing home, convalescent home or church, except as follows:

- A. When operating on public ways in accordance with section 1993-A, subsection 2;
- B. When operating on the frozen surface of any body of water; or
- C. When operating on land which a person owns or is permitted to use.

15. Prudent speed required. It is unlawful to operate any airmobile on water, except at a reasonable and prudent speed for the existing conditions. The speed of airmobiles shall at all times be so regulated as to avoid danger or injury or unnecessary inconvenience in any manner to other airmobiles or any occupants therein whether anchored or under way, waterfront piers, floats or other property or shorelines either directly or by the effect of any wash or wave created.

16. Operation in bathing areas prohibited. It is unlawful to operate an airmobile within any bathing area marked or buoyed for bathing.

17. Owner responsibility. It shall be unlawful for the owner of any airmobile to knowingly permit it to be operated in violation of any section of this chapter.

§ 1995. Safety equipment and regattas

1. Safety equipment.

A. All airmobiles while in use on the waters of this State shall comply with the same requirements pertaining to lights, life-saving devices, fire extinguishers and other safety equipment as required by federal laws and regulations on federal navigable waters as promulgated under the Federal Boat Safety Act of 1971 (Public Law 92-75). The commissioners may prescribe additional equipment not in conflict with Federal Navigation Laws if there is a demonstrated need.

B. The operator shall be responsible to see that airmobiles are equipped as specified in this section before operating said airmobiles on the waters of this State.

2. Regattas, races, exhibitions. Whenever a regatta, race or exhibition is to be held on any of the internal waters of this State, the person or persons in charge of it shall request written permission from the division at least 15 days prior to the event.

A. The request shall be in writing, set forth the date, time and location of the event.

B. It is unlawful to hold such an event without written permission from the division.

C. The person or organization obtaining the permission is responsible for providing reasonable protection as prescribed by the division from water traffic interference and hazards and must take reasonable precautions to safeguard persons and property.

D. During any authorized event, the officials conducting it shall conspicuously display one or more orange warning flags of a size not less than 4

feet by 4 feet while the event is in progress. It is unlawful for any watercraft other than the participants to cross or traverse the course or area of the authorized event when said warning flag is displayed, except in an emergency. The officials conducting the event shall remove the warning flag or flags for reasonable periods of time during the event to allow nonparticipating airmobiles to pass through the area.

§ 1996. Regulatory authority

The commissioner is authorized to amend and adopt rules and regulations in accordance with Title 5, chapter 303, which are not inconsistent with this chapter on the following matters:

1. Procedure. Regulations to further establish administrative procedures including, but not limited to, the appointment and compensation of agents for the issuance of registrations; the provision of procedures for the issuance of registrations by such agents and methods of payment of their portion of the registration fees to municipalities;
2. Use and operation. Regulations governing the use and operation of airmobiles to insure the safety of persons and property;
3. Equipment. Regulations governing safety equipment including type, quality and quantity of such equipment;
4. Temporary registration. Regulations providing for issuance of temporary registrations;
5. Racing. Regulations with respect to location, erection, construction and maintenance of grandstands, bleachers, stadiums, arenas, fences, safety barriers or other like structures intended principally to support or protect spectators during any type of airmobile racing and any other regulations necessary to insure the safety of spectators at airmobile races;
6. Issuance of dealer plates. Regulations providing for the issuance of dealer plates, including replacement for lost or stolen plates and including determination of the number of plates to be issued to persons who are in the business of selling airmobiles;
7. Registration number. Regulations governing the form and manner for displaying the registration number assigned to an airmobile;
8. Noise. Regulations to require manufacturers and distributors of airmobiles sold or offered for sale within this State to provide certification and supporting test results which show that the airmobiles they are offering for sale are in compliance with the applicable laws.

§ 1996-A. Regulatory authority; limitations

The commissioner shall have authority to adopt or amend such regulations as he deems necessary to carry out the intent and purpose of this chapter. Such action shall be subject to the following:

1. Public hearings. Set a time and place for a public hearing and publish notice thereof in a state paper at least 7 days prior to the hearing date, including the location, time and place and substance of the hearing;

2. Adoption or amendment. After holding the hearing, he may adopt or amend any or all of the proposed regulations;

3. Publication. He shall publish the so adopted rules and regulations in the state paper;

4. Effective date. Such rules and regulations shall become effective one week following publication in the state paper and shall have the full force of law.

§ 1997. Accidents

1. This subsection shall apply to all airmobile accidents on land.

A. The operator of any airmobile involved in any accident on land resulting in injuries requiring the services of a physician or death of any person or property damage to the estimated amount of \$100 or more, or some person acting for him, or the owner of said airmobile having knowledge of the accident should the operator of same be unknown, shall immediately by the quickest means of communication give notice of the accident either to the State Police officer or warden of the Department of Inland Fisheries and Wildlife assigned to the area wherein the accident occurred, to the nearest State Police office or to the sheriff's office within the county wherein the accident occurred, or the office of the police department of the municipality wherein the accident occurred. Failure of such persons to give notice of any accident requiring notice to the State Police officer or warden or one of the 3 offices named shall be prima facie evidence that such accident was not reported.

B. All accident reports made by investigating officers shall be for the purpose of a statistical analysis and for accident prevention purposes and shall not be admissible in evidence in any trial, civil or criminal, arising out of such accident, but any investigating agency may disclose, upon the request of any person, the date, time, location of the accident and the names and addresses of drivers, owners, injured persons, witnesses and the investigating officer. The investigating agency may upon written request furnish a photo copy of any report at the expense of the person making the request.

2. This subsection shall apply to all airmobiles operated on any waters within the jurisdiction of this State.

A. Duty to render aid. It is the duty of every operator of any airmobile involved in a collision, accident or other casualty to render all necessary aid and assistance to all persons involved, so far as he can do so without serious danger to his airmobile, crew and passengers, if any.

B. Operators involved in accident to identify themselves. The operator of any airmobile involved in an accident or collision shall give his name, address and identification of his airmobile to any person injured and to the owner of any property damaged.

C. Accident report required. The operator or owner of any airmobile involved in any casualty or accident while using an airmobile which results

in the death of a person, a person losing consciousness or receives medical treatment or a person disappears from an airmobile under circumstances that indicate death or injury, damage to the airmobile or other property of more than \$100 must immediately file a written accident report on forms provided by the division containing such information as required. The report must be made within 48 hours of the occurrence if a person dies or disappears. A report involving property damage only may be made within 5 days of the occurrence.

In addition to making a written report to the division, the owner or operator shall report said occurrence to the nearest available law enforcement officer where the accident occurred.

D. Transmittal of information. In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the division pursuant to this section shall be transmitted to said official or agency of the United States.

§ 1998. Enforcement

Every law enforcement officer in the State, including wardens of the Department of Inland Fisheries and Wildlife, wardens of the Department of Marine Resources, foresters and wardens of the Bureau of Forestry and supervisors and rangers of the State Bureau of Parks and Recreation and the Allagash Wilderness Waterway shall enforce this chapter.

§ 1999. Penalty

Any person who violates this chapter or any rules or regulations promulgated by the Commissioner of Inland Fisheries and Wildlife shall be subject to the penalties provided in section 3060 for each offense.

STATEMENT OF FACT

The purpose of this bill is to amend the statutes relating to airmobiles.

The 106th Legislature enacted Title 12, section 1990, et. seq., by the public laws of 1973, chapter 238, which prohibited the operation of "airmobiles" pending a study by a committee which that statute established.

The reason for the outright ban on operation was that the "airmobiles" were an unknown quantity which might have the potential for damage and destruction to the natural environment and the plant and animal life therein as well as the invasion of privacy.

The statute defined "airmobiles" as any vehicle propelled by mechanical power that is primarily designed to travel upon a cushion of air or within 2 feet of the water or land surface of the earth. It is submitted that a better name for these vehicles is "hovercraft," as this is more descriptive of the means by which the vehicles operate and is the name commonly used in other jurisdictions.

The Committee to Study Airmobiles was unable to develop the necessary data to prescribe legislation controlling airmobiles so it recommended continuation of the outright prohibition against the use of airmobiles.

This Act is designed to permit the limited use of airmobiles in the State. Their use would be as recreational vehicles and would be under the same control as snowmobiles and watercraft. The Commissioner of Inland Fisheries and Wildlife would have the right to promulgate such regulations restricting operation as he deems necessary.

Since the proposed statute permits use as a recreational vehicle, the restrictions and controls are almost identical to those on snowmobiles. Since the airmobile has unique amphibious qualities, regulations similar to those imposed on watercraft have also been incorporated.

It should be noted that the proposed statute governing the use of hovercraft is similar, in large measure, to that statute governing snowmobiles. Since hovercraft can also be used on water, additional regulations must be imposed to insure that operation thereon is safe, does not impinge upon the rights of others and is ecologically sound. In this last regard, the Department of Inland Fisheries and Wildlife should be encouraged to promulgate additional regulations concerning restrictions of use in those areas which may be particularly sensitive to noise pollution of a degree somewhat less than snowmobiles. It is submitted that, other than a modicum of noise less than that of a snowmobile, the hovercraft poses **no** ecological threat. Of course, if restrictions similar to those imposed on snowmobile use are imposed on hovercraft use, then property rights and privacy will similarly be protected.