

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# EIGHTY - SEVENTH LEGISLATURE

---

---

**Legislative Document**

**No. 602**

H. P. 1242

House of Representatives, February 12, 1935.

Referred to Committee on Aeronautics and Radio Control and 500 copies ordered printed. Sent up for concurrence.

HARVEY R. PEASE, Clerk.

Presented by Mr. Sewall of Bath by request.

---

---

## STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-FIVE

---

### **AN ACT Providing for the Regulation of Aeronautics Within This State.**

---

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

**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 300 feet wide, permitting landing in at least 6 direc-

tions at all times, with at least 1 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) 2 landing strips, 1 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 300 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 state aeronautics director.

(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 state aeronautics director.

(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 1,600 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 state aeronautics director.

(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 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 1 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 state aeronautics director may, in his 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 state aeronautics director 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 state aeronautics director 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. Director of aeronautics; appointment.** There is hereby created the office of state director of aeronautics, consisting of 1 person to be appointed by the governor and council for a term of 4 years. Such director shall receive as compensation the sum of \$4,000 per annum, and such travel expense and disbursements, as provided in section 7; provided, however, that any person appointed as such director must be, or have been actively engaged in and have had at least 5 years of practical experience in civil or military aeronautics.

**Sec. 6. Powers and duties of director; employees.** The director may employ, subject to the approval of the governor and council, such clerical and other employees and assistants as he may deem necessary for the proper transaction of business. The salaries of such employees shall be fixed by the governor and council. The director may with the approval of the governor and council appoint a sub-director in each county of the state, who shall serve without compensation, but be reimbursed for actual and necessary traveling expenses and disbursements incurred by them in the discharge of their official duties.

**Sec. 7. Powers and duties of director; office and expenses.** The superintendent of buildings shall provide suitable offices for the director in the city of Augusta, and the director may maintain offices in any other city in the state of Maine, that he 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. 8. Powers and duties of director; promulgation of rules and regulations.** It shall be the duty of the director to foster air commerce within the state of Maine, and the director shall have supervision over the aeronautical activities and facilities within the state, 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 director is empowered to prescribe such reasonable rules and regulations as he 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 director is further empowered to prescribe such reasonable rules and regulations as he 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 director is further empowered to prescribe such reasonable rules and regulations as he 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 director is further empowered to prescribe such reasonable air traffic rules and regulations as he shall deem necessary for public safety and the safety of those engaged in aeronautics, and for the promotion of aeronautics. The director is further empowered to prescribe all other reasonable rules and regulations as he 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 director under the authority of this section shall be inconsistent with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder.

**Sec. 9. Powers and duties of director; encouragement.** The director 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 director 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. 10. Powers and duties of director; license; fees.** Within 60 days after the director is appointed, 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 director for his approval of such airport, landing field, air school, flying club, air beacon, or other air navigation facility, and the director 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 director 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 director 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 director, 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 Maine, 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 director is hereby authorized to issue a certificate of his approval in each case and to make the following charges therefor:

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 ..... \$6

For issuance of each annual landing field license ..... 4

For issuance of each annual air school license ..... 2

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. 11. Powers and duties of director; investigations and hearings.** The director 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 director shall be open to the public. The director 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 state aeronautics director may invoke the aid of any superior court justice 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. 12. Powers and duties of director; investigations and hearings; records and testimony.** In order to facilitate the making of investigations by the state aeronautics director, 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 director under the provisions of this act, nor shall the director, any sub-director, or any employee of the state, aeronautics director be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, and, further, the director, any sub-director, or any employee of the state aeronautics director shall not be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft.

**Sec. 13. Powers and duties of director; regulations filed for inspection; report.** The director shall keep on file with the secretary of state, and at the principal office of the director, a copy of all his rules and regulations for public inspection. On or before the 31st day of December, in each year, the director shall make to the governor a full report of his proceedings for the year ending the 1st day of December in each year, and may submit with such report such recommendations pertaining to his affairs as seem to him to be desirable.

**Sec. 14. Powers and duties of director; enforcement; cooperation.** It shall be the duty of the director, his sub-directors 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 director is further authorized in the name of the "people of the state of Maine" to enforce the provisions of this act by injunction in the district courts of this state. Other departments and political sub-divisions of this state are further authorized to cooperate with the state aeronautics director in the development of aeronautics and aeronautic facilities within the state.

**Sec. 15. Powers and duties of director; licenses; refusal of.** In any case where the director 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 director shall issue any order requiring certain things to be done, he shall set forth his 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 director may deem it necessary he may order the closing of any airport, landing field, or order any air school, flying club, or air beacon, or other navigation facility to cease operations until it shall have complied with the requirements laid down by the director. To carry out the provisions of this act the state aeronautics director 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 the director pursuant to this act shall be served upon the interested person by registered mail or in person before such order shall become effective.

**Sec. 16. Appeal from director's order or regulation; superior court.** Any person against whom an order has been entered may within 10 days after the service thereof appeal to the superior court in 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. 17. Procedure for appeal.** The party taking the appeal shall file a praecipe in the office of the clerk of the superior court, and summons shall thereupon be issued by the clerk and shall be served upon the state aeronautics director. Upon the filing of the praecipe, the appeal shall be docketed for trial not less than 10 days nor more than 30 days after the service of the summons and shall be tried by the 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 director, or the court may remand the matter to the director for further hearing. The filing of the praecipe shall operate as a supersedeas.

**Sec. 18. Failure to file appeal; waiver.** If no appeal is taken from the order of the director 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. 19. 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 state aeronautics director, shall be guilty of a misdemeanor and punishable by a fine of not more than \$500, or by imprisonment for not more than 90 days or both.

**Sec. 20. State aviation fund.** There is hereby created a fund to be known as a "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, and all moneys received from taxes on aviation gasoline, shall be paid into the state treasury and credited to such fund.

**Sec. 21. Disposition of funds.** Any moneys or fees coming into the hands of the director may be used for the necessary expenses of the director essential to the carrying out of this act but no overdraft shall be created by reason of any such expenditures.

**Sec. 22. Prohibition of certain structures within airport zone.** Any county, city, village or town which has established and is operating, or will hereafter establish and operate, an airport, landing field or seaplane harbor, is hereby authorized to condemn, or acquire by purchase or gift, the right to abate or remove any structure, building, tower, pole, wire, tree or other thing, or portion thereof, located within 1,500 feet of such airport, landing field or seaplane harbor, and which the governing body of such county, city, village or town shall determine to constitute a menace to the safety of aircraft using such airport, landing field or seaplane harbor, including the right of ingress to and egress from the place upon which exists, for the purpose of such abatement or removal. Any such county, city, village or town is further authorized to condemn or acquire by purchase

or gift, the right to unobstructed use of such portion of the air space within 1,500 feet of such airport, landing field, or seaplane harbor so that nothing will interfere with the descent of any aircraft at a gliding angle of 1 foot in height to every 7 feet of horizontal distance from the nearest point of such airport, landing field or seaplane harbor. Any such county, city, village or town is further authorized to condemn, or acquire by purchase or gift, for a term of years or perpetually, the right to place and maintain, obstruction markers and/or lights upon any structure, building, tower, pole, wire, tree, or other thing located within 1,500 feet of such airport, landing field or seaplane harbor, which the governing body of such county, city, village or town shall determine to constitute a menace to aerial navigation to or from said airport, landing field or seaplane harbor, including the right to lay and maintain conduits and wires to such obstruction markers and/or lights. Any such property or property right in any structure, land, building, tower, pole, wire, tree or other thing or portion thereof shall be acquired by purchase, if the county, city, village or town is able to agree with the owners on the terms thereof, and otherwise any such property or property right in any structure, land, building, tower, pole, wire, tree or other thing or portion thereof may be taken by condemnation, in the manner provided by the law under which such county, city, village or town is authorized to acquire property for public purposes, or if there be no such law, in the manner provided for and subject to the provisions of the condemnation law.

**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."