

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Fourth Legislature

OF THE

STATE OF MAINE

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1969

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
ONE HUNDRED AND FOURTH LEGISLATURE
1969

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective July 2, 1969

Chapter 498

AN ACT Abolishing the Maine Aeronautics Commission, Transferring Certain of its Powers to an Aeronautical Director, Providing for the Tenure and Compensation of Such Director and Relating to the Aeronautical Fund.

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

Sec. 1. R. S., T. 6, § 2, sub-§ 2, repealed. Subsection 2 of section 2 of Title 6 of the Revised Statutes is repealed.

Sec. 2. R. S., T. 6, § 3, sub-§ 15, amended. Subsection 15 of section 3 of Title 6 of the Revised Statutes is amended to read as follows:

15. Certificate, registration (State). "Certificate, registration (State)" is a document issued by the ~~commission~~ director for ~~airmen~~ aircraft, landing areas and air carriers, specifying the aeronautical activities in which the holder thereof may engage.

Sec. 3. R. S., T. 6, § 3, sub-§ 18, repealed and replaced. Subsection 18 of section 3 of Title 6 of the Revised Statutes is repealed and the following enacted in place thereof:

18. Department. "Department" means the Maine Department of Aeronautics created by chapters 1 to 13.

Sec. 4. R. S., T. 6, § 3, sub-§ 19, amended. Subsection 19 of section 3 of Title 6 of the Revised Statutes is amended to read as follows:

19. Director. "Director" means the ~~Maine~~ Aeronautical Director of ~~Aeronautics~~ authorized by chapters 1 to 13.

Sec. 5. R. S., T. 6, § 4, repealed and replaced. Section 4 of Title 6 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 4. State airways system

The state airways system is declared to consist of all air navigation facilities available for public use now existing or hereafter established, whether natural or man-made, except those under the jurisdiction of the Federal Government. It is declared that jurisdiction over the state airways system is vested in the department and that expenditure of state funds in the interest of safety on any or all of the facilities of this system serves a useful public

purpose and satisfies a public need. The director shall prescribe the terms and conditions of the activities authorized for each such facility.

Sec. 6. R. S., T. 6, § 5, repealed and replaced. Section 5 of Title 6 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 5. Crop dusting

It shall be unlawful for any person to operate or authorize the operation of any civil aircraft in aerial pest control operations, including crop dusting, spraying and dispensing of insecticides and poisons, without a permit from the director.

The director may issue to any licensed pilot, a permit under such regulations as the director may determine, to fly aircraft in pest control operations, including crop dusting, spraying and dispensing of insecticides and poisons. In such operations, the director may waive regulations concerning altitude of flight. The possession of a permit shall not be a defense in any action for damages resulting from such aerial crop dusting, spraying or dispensing of insecticides and poisons, and shall not authorize a private pilot to engage in such operations over property other than his own.

Sec. 7. R. S., T. 6, cc. 3 § 5, repealed. Chapters 3 and 5 of Title 6 of the Revised Statutes, as amended, are repealed.

Sec. 8. R. S., T. 6, c. 2, additional. Title 6 of the Revised Statutes is amended by adding a new chapter 2, to read as follows:

CHAPTER 2

DEPARTMENT OF AERONAUTICS

§ 11. Department; director; appointment, tenure, salary

The Department of Aeronautics is established. The Governor, with the advice and consent of the Council, shall appoint an Aeronautical Director to administer the department as provided, to serve at the pleasure of the Governor during his term and until a successor director is appointed and qualifies. The compensation of the director shall be fixed by the Governor and Council not to exceed \$15,000.

§ 12. Duties

The director shall administer the laws relating to aeronautics and shall make such rules and regulations concerning air traffic, not inconsistent with federal regulations covering aeronautics, as may be necessary to promote public safety and the best interests of aviation in the State. The director shall advance the interest of aeronautics within the State by studying aviation needs, assisting and advising authorized representatives of political subdivisions within the State in the development of aeronautics and by cooperating and coordinating with such other agencies whether local, state, regional or federal, as may be working toward the development of aeronautics within the State.

The director shall supervise and control all state airports and shall make such rules and regulations concerning the use of the said airports and their facilities as he deems necessary for the efficient management thereof and the development of aviation. The director, with the consent of the Governor and Council, may lease facilities at state-owned airports on such terms as they direct.

The director shall have the care and supervision of such planes as may be owned by the State for the use of its departments and agencies and shall provide adequate hangar facilities and be responsible for the maintenance, repair, upkeep and operation of such planes. The director is authorized to charge said departments and agencies requisitioning planes, amounts sufficient to reimburse the State for operating expense of said planes. Planes owned or operated by the Department of Inland Fisheries and Game, the Department of Sea and Shore Fisheries or the Forestry Department are exempt and excluded from this paragraph.

The director shall exercise general supervision, control and direction on behalf of the State over all matters pertaining to the location, construction and maintenance of all air navigation facilities now or hereafter built or maintained, either in whole or in part, with money appropriated from the State Treasury. He may recommend to the Governor and Council that the State acquire land, easements and rights of way for the establishment of air navigation facilities. Such land, easements and rights of way may be acquired by purchase, grant or condemnation in the manner provided by law by which the Governor and Council are authorized to acquire real property for public purposes, and property so acquired may be conveyed to a town for use in connection with the establishment of air navigation facilities for such a consideration as the Governor and Council may determine.

§ 13. Powers

The director shall have the power to hold investigations, inquiries and hearings concerning matters covered by chapters 1 to 13 and the rules, regulations and orders of the director promulgated thereunder. Hearings shall be open to the public and, except as provided in section 15, shall be held upon such call or notice as the director may by regulation provide. The director shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas and order the attendance and testimony of witnesses and the production of papers, books and documents. In case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the director may invoke the aid of any court of this State of general jurisdiction. The court may thereupon order such person to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof.

The director may employ, subject to the Personnel Law, such personnel as may be necessary to aid him in the fulfillment of the duties imposed upon him by law.

§ 14. Registration certificates

The director is empowered to issue registration certificates for aircraft and aircraft dealers and establish the requirements for the terms, conditions and

limitations of such certificates. A state registration certificate for aircraft and aircraft dealers shall not be effective until in actual possession of the applicant and, except for dealer registration, shall always be carried on the person of the operator or occupant, or in some easily accessible place in or about the aircraft. A dealer registration certificate shall be displayed at a permanent place of business and a tag issued under the registration shall be carried in the aircraft. A state registration certificate for aircraft and aircraft dealers shall remain in force until the first day of January next following the date of its issue, except that on and after December 25th of each calendar year it shall be lawful to use and display in aircraft, the aircraft and air carrier registration certificate or dealer tag issued for the next succeeding year. Aircraft registrations issued in any calendar year shall be valid for use and display until March 1st of the next calendar year or until sooner suspended, revoked or cancelled. A state registration certificate of aircraft shall not be transferable.

1. Aircraft. All aircraft owners resident in the State and operating planes in the State shall register such aircraft with the director and pay a fee of \$5 for each registration. All nonresident aircraft owners engaged in air commerce within the State shall register such aircraft with the director and pay a fee of \$35 for each registration.

A. No aircraft shall be registered under this section until the excise tax or personal property tax has been paid in accordance with Title 36, sections 1482 and 1484.

2. Exemptions. This section shall not apply to:

A. An aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the Government of the United States, any state, territory or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

B. An aircraft registered under the laws of a foreign country and not engaged in air commerce within the State;

C. An aircraft not engaged in air commerce within the State which is owned by a nonresident and registered in another state, or otherwise qualified therein;

D. An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

E. An individual piloting an aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the Government of the United States, any state, territory or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

F. An individual piloting any aircraft registered under the laws of a foreign country, and not engaged in air commerce within the State;

G. A nonresident not engaged in air commerce and piloting aircraft in this State who is registered in another state, or otherwise qualified therein;

H. An individual piloting an aircraft principally in commercial flying constituting an act of interstate or foreign commerce;

I. An individual operating model aircraft;

J. An individual piloting an aircraft which is equipped with fully functioning dual controls when a properly certificated pilot is in full charge of one set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser;

K. A nonresident-owned aircraft and pilot when participating in air shows, air fairs or other aeronautical demonstrations held for bona fide charitable purposes and approved by the director.

3. Revocation or suspension. The director is empowered to revoke or suspend a registration certificate issued pursuant to the terms of this section, after notice and opportunity for hearing to the holder thereof, for any one of the following causes:

A. Making any false statement in an application for a certificate or in any report required by the director;

B. Conviction of a violation of federal law or rules or regulations or the law, rules and regulations of another state which are not inconsistent with the then current federal law or rules or regulations relating to civil aeronautics;

C. Violation of any provision of chapters 1 to 13 or any rule or regulation duly issued hereunder.

4. Dealer registration certificates; application; fee. Every manufacturer or dealer in new or used aircraft may, instead of registering each aircraft owned or controlled by him, make application upon a blank provided by the director for a dealer registration. The director, if satisfied that the applicant maintains a permanent place of business in the State where said applicant will be principally engaged in the business of manufacturing, buying and selling of aircraft and is satisfied with the other facts stated in the application, shall issue a certificate of registration. Such certificate of registration shall contain the name, place of residence and business of the applicant and the general distinguishing number assigned to him and made in such form as the director may determine, and all aircraft owned or controlled by such applicant shall be regarded as registered under such general distinguishing number until sold, exchanged or operated for hire. To be eligible for the renewal of such aircraft dealer registration, the applicant must maintain in said State a permanent place of business where said applicant is principally engaged in the business of buying and selling aircraft. The annual fee for every such certificate of registration shall be \$15. The director shall furnish applicant with 3 dealer aircraft tags free of cost, and upon payment of \$5 per tag additional dealer tags shall be furnished. On application for registration, or for additional tags applied for during the period between the first day of September and the 31st day of December in any year $\frac{1}{2}$ of the registration fee shall be charged.

5. All fees collected by the director under this section shall be paid over by him forthwith to the Treasurer of State, and by the treasurer credited to the General Fund.

§ 15. Orders ; notices ; hearings ; review

Every order of the director requiring performance of certain acts or compliance with certain requirements and any denial or revocation of an approval, certificate or license shall set forth the reasons and shall state the acts to be done or requirements to be met before approval by the director will be given or the approval, license or the certificate granted or restored or the order modified or changed. Orders issued by the director pursuant to chapters 1 to 13 shall be served upon the persons affected either by registered mail or in person. In every case where notice and opportunity for hearing are required under chapters 1 to 13 the order of the director shall, on not less than 14 days' notice, specify a time when and a place where the person affected may be heard, or the time within which he may request hearing, and such order shall become effective upon the expiration of the time for exercising such opportunity for hearing, unless a hearing is held or requested within the time provided, in which case the order shall be suspended until the director shall affirm, disaffirm or modify such order after hearing held or default by the person affected. Hearings on such orders shall be held in the county where the affected person resides or does business. Any person aggrieved by an order of the director or by the grant, denial or revocation of any approval, license or certificate may have the action of the director reviewed by the courts of this State in the manner provided for, and subject to the rules of law applicable to, the review of the orders of administrative bodies of the State.

§ 16. Civil Air Patrol

The director shall allocate and supervise any funds made available by the Legislature to the Civil Air Patrol, which patrol shall expend such funds as in its best judgment would most effectively carry out its purposes and objectives.

Sec. 9. R. S., T. 6, § 162, sub-§ 1, repealed and replaced. Subsection 1 of section 162 of Title 6 of the Revised Statutes is repealed and the following enacted in place thereof.

1. Director. The director shall biennially recommend to the Legislature that it appropriate such sums as the director shall deem necessary during the following biennium to :

A. Aid in the construction, extension and improvement of state, county or municipal airports within the State ;

B. Aid in repair, maintenance of and removal of snow from municipal, state, county and federal airports in this State. Such aid may be given for snow removal on such airports used by a commercial air carrier of passengers and freight operating on a regular schedule, this aid being extended to such carrier where the municipal, state or federal owner does not obligate itself and the airport is open to itinerant planes ;

C. Aid in the construction, repair and maintenance of a system of air marking ;

D. Develop and promote aviation within this State;

E. Provide for the maintenance, repair, upkeep and operation of such planes as may be owned by the State and to provide adequate hangar facilities for such planes except planes owned or operated by the Department of Inland Fisheries and Game, the Department of Sea and Shore Fisheries and the Forestry Department; and

F. Carry out such other and further duties as are by law imposed upon him.

All payments made out of said sums for the purposes described in paragraph A shall be made on order of the director with the approval of the Governor and Council.

The director with the consent of the Governor and Council may, from the sum appropriated for the purposes described in paragraph A, match funds with the federal government for the purpose of constructing, extending or improving state owned airports.

Sec. 10. R. S., T. 6, § 162, sub-§§ 2, 3, amended. Subsections 2 and 3 of section 162 of Title 6 of the Revised Statutes are amended to read as follows:

2. **State aid.** The ~~commission~~ director with the consent of the Governor and Council may from the amount appropriated to aid in the construction, extension and improvement of state, municipal or county airports, known as the "Airport Construction Fund", grant to cities, towns or counties separately and cities and towns jointly with one another or with counties an amount not to exceed 50% of the total cost of the construction, extension or improvement of such airport or airports.

3. **State approval.** No municipality or county in this State, whether acting alone or jointly with another municipality or county or with the State, shall submit to the Administrator of Civil Aeronautics of the United States any project application under section 9 of the Federal Airport Act, so-called, or any amendment thereof, unless the project and the project application have been first approved by the ~~Aeronautics Commission~~ director.

Sec. 11. R. S., T. 6, § 202, sub-§§ 3, 4, 6, 7 and 8, amended. Subsections 3, 4, 6, 7 and 8 of section 202 of Title 6 of the Revised Statutes are amended to read as follows:

3. **Service without certificate; exemptions.** For any person to serve in any capacity as an airman in connection with any civil aircraft without an airman certificate issued by the administration authorizing him to serve in such capacity ~~and if a resident, or a nonresident engaged in air commerce within the State, unless possessed of such certificate issued by the administration and an appropriate State registration certificate. Such State registration certificate shall not be required of a person receiving a demonstration flight or dual flying instruction carried out in accordance with the civil air regulations;~~

4. **Employment of uncertified persons.** For any person to employ for service in connection with any civil aircraft an airman who does not have the ~~certificates~~ certificate required by subsection 3 authorizing him to serve in the capacity for which he is employed;

6. **Designation of landing areas.** For any person to designate any area of land or of the inland waters as a landing area by markings, the display of a wind direction indicator, or otherwise, or operate or permit operation of aircraft on or from any area for compensation or hire, unless such area is registered with the ~~commission~~ department. For the purpose of this section, an area used either as the point of departure or as the destination of an aircraft operation, but not as both, shall not be considered a landing area;

7. **Unlawful operation.** For any person to operate or authorize the operation of aircraft in violation of any other rule or regulation, or in violation of the terms of any certificate issued under the authority of chapters 1 ~~to 13~~ and 2;

8. **Operation from unregistered areas.** For any person to operate or authorize the operation of aircraft for compensation or hire from any of the public inland waters or ice areas of the State unless each such area is registered with the ~~commission~~ department. Applications for such registration shall contain such details with respect to the areas from which flights are to be made as the ~~commission~~ department may from time to time require;

Sec. 12. R. S., T. 6, § 203, sub-§ 1, amended. Subsection 1 of section 203 of Title 6 of the Revised Statutes is amended to read as follows:

1. **Violations of rules or orders.** Any person who violates any provisions of chapters 1 to 13 pertaining to registration, trespass or the air traffic rules, or who violates any provisions of an order, rule or regulation made hereunder, or fails to answer a subpoena or to testify before the ~~commission~~ director shall be punished by a fine of not more than \$200 or by imprisonment for not more than 3 months, or by both.

Sec. 13. R. S., T. 6, § 271, sub-§ 2, repealed and replaced. Subsection 2 of section 271 of Title 6 of the Revised Statutes is repealed and the following enacted in place thereof:

2. **Director.** "Director" means the Aeronautical Director authorized by chapters 1 to 13.

Sec. 14. R. S., T. 6, §§ 272 - 275, amended. Sections 272 to 275 of Title 6 of the Revised Statutes are amended to read as follows:

§ 272. Approval of ramp

Any person who intends to launch, fire or operate any missile, rocket or similar device in this State using any explosive, fire, heat or other propellant whatsoever shall, prior to such launching or operation of such missile, rocket or similar device, make application to the ~~commission~~ director for approval of the ramp, launching site or sites and operational range to be used for the launching or operation of any such missile, rocket or similar device.

§ 273. Approval to fire

Any person who intends to arm, load, fire or to launch or operate any missile, rocket or similar device using any explosive, fire, heat, chemical or other propellant whatsoever shall make application to the ~~commission~~ director for approval to arm, load, fire or to launch or operate any such missile, rocket or similar device, prior thereto and no person shall launch or operate any such missile, rocket or device unless or until the ~~commission~~ director has approved such application.

§ 274. Form of application

Application for approval of any ramp, launching site or sites and approval of the launching, operation and the operational range pursuant to sections 272 and 273 shall be made upon such forms as may be provided by the ~~commission~~ director from time to time.

§ 275. Protection of public

The ~~commission~~ director, prior to approval or disapproval of any application submitted in accordance with section 274, shall give due consideration to and require the reasonable protection of the public and general safety of aeronautics in this State.

Sec. 15. R. S., T. 6, § 278, amended. Section 278 of Title 6 of the Revised Statutes is amended to read as follows:

§ 278. Rules and regulations

The ~~commissioner~~ director may adopt and promulgate rules and regulations and issue orders in the manner prescribed under this Title as necessary in order ~~for it~~ to carry out this chapter.

Sec. 16. R. S., T. 5, § 2301, sub-§ 1, amended. Subsection 1 of section 2301 of Title 5 of the Revised Statutes, as amended by section 4 of chapter 344 of the public laws of 1967, is further amended by adding after the first paragraph the following:

Aeronautical Director.

Sec. 17. R. S., T. 36, § 1484, sub-§ 4, amended. Subsection 4 of section 1484 of Title 36 of the Revised Statutes is amended to read as follows:

4. **When paid to State.** When an excise tax is to be paid to the State under this section, it shall be paid to the ~~Aeronautics Commission~~ Treasurer of State in the case of aircraft and to the Secretary of State in the case of motor vehicles.

Sec. 18. R. S., T. 36, § 2912, repealed and replaced. Section 2912 of Title 36 of the Revised Statutes, as amended by section 21 of chapter 425 of the public laws of 1965, is repealed and the following enacted in place thereof:

§ 2912. Records and reports regarding sales of fuels for aeronautical purposes

Every distributor of internal combustion fuels shall keep a record of sales of such fuels as are sold to be used for aeronautical purposes and shall render a report thereof as provided in section 2906. The tax received by the State on internal combustion engine fuels which are sold to be used for aeronautical purposes shall accrue to the General Fund. The necessary expenses of the collection of the tax on such fuels to be used for aeronautical purposes shall be deducted.

Sec. 19. Aeronautical Fund. Any balance remaining in the Aeronautical Fund after the effective date of this Act shall not lapse but shall be carried forward and expended for the purposes for which such fund was heretofore established until such balance is exhausted.

Effective October 1, 1969

Chapter 499

AN ACT Relating to the Water and Air Environmental Improvement Commission.

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

Sec. 1. R. S., T. 38, § 361, amended. The first paragraph of section 361 of Title 38 of the Revised Statutes, as amended, is further amended to read as follows:

The Water and Air Environmental Improvement Commission, as heretofore established and hereinafter in this subchapter called the "commission," shall consist of ~~the Commissioner of Health and Welfare who shall serve during his term of office and~~ 10 members appointed by the Governor with the advice and consent of the Council, 2 of whom shall represent manufacturing interests of the State, 2 of whom shall be representatives of municipalities, 2 of whom shall represent the public generally, 2 of whom shall represent the conservation interests in the State and 2 other members knowledgeable in matters relating to air pollution. The members ~~appointed by the Governor~~ shall be appointed for a term of 3 years and until their successors are appointed and duly qualified.

Sec. 2. R. S., T. 38, § 361, amended. The last sentence of the 3rd paragraph of section 361 of Title 38 of the Revised Statutes is amended to read as follows:

~~Five~~ Three members of the commission shall constitute a quorum.

Sec. 3. R. S., T. 38, § 361, amended. Section 361 of Title 38 of the Revised Statutes, as amended, is further amended by adding after the 4th paragraph, a new paragraph, as follows: