

# OKLAHOMA STATUTES CITATIONIZED

## TITLE 3: AIRCRAFT AND AIRPORTS

*Section 1-7 Repealed by Laws 1947*

*Section 11-15 Repealed by Laws 1943*

*Section 21-34 Repealed by Laws 1963 effective June 22, 1963*

### **MUNICIPAL AIRPORTS**

#### ***Section 61 - Municipalities Power to Acquire and Operate Airport Facilities-Eminent Domain-Issue Bonds***

Every municipal corporation within this state shall have the right and power to acquire, own, operate, improve and maintain, within or without the corporate limits of such municipal corporation, real estate, buildings, improvements and facilities for aviation airports and rights-of-way therefor. For such purposes every municipal corporation shall have the power to exercise the right of eminent domain within or without the corporate limits of such municipal corporation. For any and all of such purposes in order to carry out the same they shall have the power and authority to issue and sell bonds under and by virtue of the Constitution of this state, bearing interest not to exceed six percent (6%) per annum, maturing within twenty-five (25) years, and issued in the manner and form provided by law.

#### ***Section 62 - Leases-Option to Purchase***

Whenever it shall be deemed impractical to issue bonds, as above provided for, such municipal corporation, when deemed necessary or advisable for the public interest, and without increasing the total indebtedness of such municipal corporation beyond the Constitutional limitation, it shall be lawful for such municipal corporation to lease at a stipulated rental any real estate for use as an airport, or any improved airport within or without the corporate limits thereof from any person, firm or corporation which will contract to lease the same; providing further that in making any such lease contract the municipal corporation may reserve to such municipal corporation the option to purchase such real estate or improved airport in the future.

### **MUNICIPAL AIRPORTS ACT**

#### ***Section 65.1 - Definitions***

As used in this act, unless the text otherwise requires:

- (a) "Airport" means an area on land or water that is used, or intended to be used, for the landing and taking off of aircraft, and includes its buildings and facilities, if any.
- (b) "Air navigation facility" means any facility - other than one owned and operated by the United States - used in, available for use in, or designed for use in, aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.
- (c) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.
- (d) "Helipad" means a small designated area, usually with a prepared surface, on a heliport, airport, landing or takeoff area, apron or ramp, or movement area used for takeoff, landing or parking of helicopters.
- (e) "Heliport" means an area of land, water or structure used or intended to be used for the landing and takeoff of helicopters and includes its buildings and facilities, if any.
- (f) "Municipality" means any county, city, or town of this state. "Municipal" means pertaining to a municipality as herein defined.
- (g) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee or other similar representative thereof.

#### ***Section 65.2 - Establishment, Operation and Land Acquisition of Air Navigation Facilities***

(a) Establishment, Operation, Land Acquisition. Every municipality is authorized, out of any appropriations or other monies made available for such purpose, to plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police airports and air navigation facilities, either within or without the territorial limits of such municipality and within or without the territorial boundaries of this state, including the construction, installation, equipment, maintenance and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers, and the purchase and sale of supplies, goods and commodities as an incident to the operation of its airport

properties. For such purposes the municipality may use any available property that it may now or hereafter own or control and may, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, acquire property, real or personal, or any interest therein including easements in airport hazards or land outside the boundaries of an airport or airport site as are necessary to permit safe and efficient operation of the airport or to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards or to prevent the establishment of airport hazards.

(b) Acquisition of Existing Airports. Any municipality may by purchase, gift, devise or lease acquire existing airports and air navigation facilities, provided however it shall not acquire or take over any airport or air navigation facility without the consent of the owner thereof.

(c) Establishment of Airports on Public Waters and Reclaimed Lands. For the purposes of this act, a municipality may establish or acquire and maintain, within or bordering upon the territorial limits of the municipality, airports in, over and upon, any public waters of this state, any submerged lands under such public waters, and any artificial or reclaimed lands which before the artificial making or reclamation thereof constituted a portion of the submerged lands under such public waters; and may construct and maintain terminal building, landing floats, causeways, roadways and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof.

(d) Limitation on Design and Operation of Air Navigation Facilities. All air navigation facilities established or operated by municipalities shall be supplementary to and coordinated in design and operation with those established and operated by the federal and state governments.

### ***Section 65.3 - Eminent Domain Proceedings***

In the acquisition of property by eminent domain proceedings authorized by this act, the municipality shall proceed in the manner now provided by law for the exercise of the right of eminent domain by railroad corporations in this state. The fact that the property to be acquired by eminent domain proceedings was acquired by its owner by eminent domain proceedings shall not prevent its acquisition by such proceedings by the municipality. For the purpose of making surveys and examinations relative to any eminent domain proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. Notwithstanding the provisions of any other statute or of any applicable municipal charter, the municipality may take possession of any property to be acquired by eminent domain proceedings at such time after the commencement of such proceedings as is now provided by law. The municipality shall not be precluded from abandoning such proceedings in any case where possession of the property has not been taken.

### ***Section 65.4 - Sale, Lease or Disposal of Airport Property***

Except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section 13 of this act, every municipality may by sale, lease or otherwise, dispose of any airport, air navigation facility or other property, or portion thereof or interest therein, acquired pursuant to this act. Such disposal by sale, lease, or otherwise, shall be in accordance with the laws of this state, or provisions of the charter of the municipality, governing the disposition of other property of the municipality, except that in the case of the disposal of another municipality or agency of the state or federal government for aeronautical purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the governing body of the municipality may deem in the best interest of the municipality.

### ***Section 65.5 - Operation of Air Facilities-Contracts, Loans, Leases***

(a) Under Municipal Operation. In operating an airport, air navigation facility or aircraft maintenance or manufacturing facility owned, leased or controlled by a municipality, such municipality may, except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section [65.13](#) [3-65.13] of this title, enter into contracts, leases and other arrangements for a term not exceeding forty (40) years with any persons.

(1) granting the privilege of using or improving such airport, air navigation facility or aircraft maintenance or manufacturing facility or any portion or facility thereof, or space therein for commercial purposes;

(2) conferring the privilege of supplying goods, commodities, things, services or facilities at such airport, air navigation facility or aircraft maintenance or manufacturing facility; or

(3) making available services to be furnished by the municipality or its agents at such airport, air navigation facility or aircraft maintenance or manufacturing facility. In each case the municipality may establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the expenses of operation to the municipality.

(b) Under Other Operation. Except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section [65.13](#) [3-65.13] of this title, a municipality may by contract, lease or other arrangement, upon a consideration fixed by it, grant to any qualified person for a term not to exceed five (5) years the privilege of operating, as agent of the municipality or otherwise, any airport owned or controlled by the municipality; provided, that no such person shall be granted any authority to operate such airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the municipality might not have undertaken under subsection (a) of this section.

### ***Section 65.6 - Property Liens***

To enforce the payment of any charges for repairs or improvements to or storage or care of, any personal property made or furnished by the municipality or its agents in connection with the operation of an airport or air navigation facility owned or operated by the municipality, the municipality shall have a lien on such property, which shall be enforceable by the municipality as provided by law.

***Section 65.7 - Vesting of Power in Airport Officer or Board***

Any authority vested by this act in a municipality or in the governing body thereof, for the planning, establishment, development, construction, enlargement, improvement, maintenance, equipment, operation, regulation, protection and policing of airports or other air navigation facilities established, owned or controlled, or to be established, owned or controlled by the municipality may be vested by resolution of the governing body of the municipality in an officer or board or other municipal agency whose powers and duties shall be prescribed in the resolution; provided, however, that the expense of such planning, establishment, development, construction, enlargement, improvement, maintenance, equipment, operation, regulation, protection and policing shall be a responsibility of the municipality.

***Section 65.8 - Scope-Jurisdiction-Conformity to Federal and State Law***

(a) Scope. A municipality, which has established or acquired or which may hereafter establish or acquire an airport or air navigation facility, is authorized to adopt, amend and repeal such reasonable ordinance, resolutions, rules, regulations and orders as it shall deem necessary for the management, government and use of such airport or air navigation facility under its control, whether situated within or without the territorial limits of the municipality. For the enforcement thereof, the municipality, may, by ordinance or resolution, as may by law be appropriate, appoint airport guards or police, with full police powers, and fix penalties, within the limits prescribed by law, for the violation of the aforesaid ordinances, resolutions, rules, regulations and orders. Said penalties shall be enforced in the same manner in which penalties prescribed by other ordinances, or resolutions of the municipality are enforced. To the extent that an airport or other air navigation facility controlled and operated by a municipality is located outside the territorial limits of the municipality, it shall, subject to federal and state laws, rules and regulations, be under the jurisdiction and control of the municipality controlling or operating it, and no other municipality shall have any authority to charge or exact a license fee or occupation tax for operations thereon.

(b) Conformity to Federal and State Law. All ordinances, resolutions, rules, regulations or orders which are issued by the municipality shall be kept in substantial conformity with the laws of this state or any regulations promulgated or standards established pursuant thereto, and, as nearly as may be, with the federal laws governing aeronautics and the rules, regulations and standards duly issued thereunder.

***Section 65.9 - Appropriation and Taxation Authority***

The governing body of any municipality having power to appropriate and raise money, is hereby authorized to appropriate, and to raise by taxation or otherwise, sufficient monies to carry out the provisions of this act.

***Section 65.10 - Bonds for Costs of Planning, Improving, etc. Airports***

The cost of planning and acquiring, establishing, developing, constructing, enlarging, improving, or equipping, an airport or air navigation facility, or the site therefor, including buildings and other facilities incidental to the operation thereof, and the acquisition or elimination of airport hazards, may be paid for wholly or partly from the proceeds of the sale of bonds or notes of the municipality, as the governing body of the municipality shall determine. For such purposes a municipality may issue general or special obligation bonds, revenue bonds or other forms of bonds or notes, secured or unsecured, including refunding bonds, in the manner and within the limitations prescribed by the laws of this state or the charter of the municipality for the authorization and issuance of bonds or notes thereof for public purposes generally. Any bonds or notes issued by a municipality pursuant to this act which are payable, as to principal and interest, solely from the revenues of an airport or air navigation facility (and such bonds or notes shall so state on their face) shall not constitute a debt of such municipality within the meaning of any constitutional or statutory debt limitation or restriction. In any suit, action or proceeding involving the security, or the validity or enforceability, of any bond or note issued by a municipality, which bond or note states on its face that it was issued pursuant to the provisions of this act and for a purpose or purposes authorized to be accomplished by this act, such bond or note shall be conclusively deemed to have been issued pursuant to this act for such purpose or purposes.

***Section 65.11 - Prior Acquisition, Actions and Bonds***

Any acquisition of property heretofore made, within or without the limits of any municipality of the state, for the purposes authorized by this act, and any other action heretofore taken by a municipality in furtherance of such purposes, including but not limited to the making of appropriations, the expenditure of money, the incurring of debts, the acceptance and disbursement of federal, state or other grants or loans, the issuance and payment of bonds and notes, the execution of leases and contracts, which acquisition or action would have been authorized had this act been in effect at the time of such acquisition or action, is hereby ratified and made valid. All bonds and notes heretofore issued in furtherance of purposes authorized by this act and actions ratified by this section are confirmed as legal obligations of the municipality, and, without prejudice to the general powers granted to the municipality by this act, such municipality is hereby authorized to issue further bonds and notes for such purposes up to the limit fixed in the original authorization therefor, which bonds and notes shall be legal obligations in accordance with their terms.

**Section 65.12 - Disposition of Airport Revenues and Sale Proceeds**

The revenues obtained by a municipality from the ownership, control or operation of any airport or air navigation facility, including proceeds from the sale of any airport or portion thereof of air navigation facility property, shall be deposited in a special fund to be designated the "Airport Fund", which revenues shall be appropriated solely to, and used by the municipality for, the purposes authorized by this act.

**Section 65.13 - Federal and State Monies- Aeronautics Commission as Agent**

Acceptance Authorized, Conditions. Every municipality is authorized to accept, receive, receipt for, disburse and expend federal and state monies and other monies, public or private, made available by grant or loan or both to accomplish, in whole or in part, any of the purposes of this act. All federal monies accepted under this section shall be accepted and expended by the municipality upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state monies accepted under this section shall be accepted and expended by the municipality upon such terms and conditions as are prescribed by the state. Unless otherwise prescribed by the agency from which such monies were received, the chief financial officer of the municipality shall, on its behalf deposit all monies received pursuant to this section and shall keep them, in separate funds designated according to the purposes for which the monies were made available, in trust for such purposes.

**Section 65.14 - Authority for Municipality to Enter Contracts**

A municipality may enter into any contracts or agreements necessary to the execution of the powers granted it, and for the purposes provided by this act.

**Section 65.15 - Joint Operations-Agreement- Joint Board-Joint Fund**

(a) Authorization. For the purposes of this section, unless otherwise qualified, the term "public agency" includes municipality, as defined in this act, an agency of the state government and of the United States, and any municipality, political subdivision and agency of another state, but shall not include institutions of higher education constituting the Oklahoma State System of Higher Education under Section 1, Article 13A, Constitution of the State of Oklahoma; or other institutions coordinated with the State System of Higher Education under Section 4, Article 13A, Constitution of the State of Oklahoma; and the term "governing body" means the governing body of a county or municipality, and the head of the agency if the public agency is other than a county or municipality. All powers, privileges and authority granted to any municipality by this act may be exercised and enjoyed jointly with any public agency of this state, and jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. If not otherwise authorized by law, any agency of the state government when acting jointly with any municipality, may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a municipality.

(b) Agreement. Any two or more public agencies may enter into agreements with each other for joint action pursuant to the provisions of this section. Concurrent action by ordinance, resolution or otherwise or the governing bodies of the participating public agencies shall constitute joint action. Each such agreement shall specify its duration, the proportionate interest which each public agency shall have in the property, facilities and privileges involved, the proportion to be borne by each public agency of preliminary costs and costs of acquisition, establishment, construction, enlargement, improvement, and equipment of the airport or air navigation facility, the proportion of the expenses of maintenance, operation, regulation and protection thereof to be borne by each, and such other terms as are required by the provisions of this section. The agreement may also provide for; amendments thereof, and conditions and methods of termination of the agreement; the disposal of all or any of the property, facilities and privileges jointly owned upon said property, facilities and privileges, or any part thereof, ceasing to be used for the purposes provided by this act, or upon termination of the agreement; the distribution of the proceeds received upon any such disposal, and of any funds or other property jointly owned and undisposed of; the assumption or payment of any indebtedness arising from the joint venture which remains unpaid upon the disposal of all assets or upon a termination of the agreement; and such other provisions as may be necessary or convenient.

(c) Joint Board. Public agencies acting jointly pursuant to this section shall create a joint board which shall consist of members appointed by the governing board of each participating public agency. The number to be appointed, their term and compensation, if any, shall be provided for in the joint agreement. Each such joint board shall organize, select officers for terms to be fixed by the agreement, and adopt and amend from time to time rules for its own procedure. The joint board shall have power to plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police any airport or air navigation facility or airport hazard to be jointly acquired, controlled and operated, and such board may exercise on behalf of its constituent public agencies all the powers of each with respect to such airport, air navigation facility or airport hazard, subject to the limitations of subsection (d) of this section.

(d) Limitations on Joint Board.

(1) Expenditures. The total expenditures to be made by the joint board for any purpose in any fiscal year shall be determined by a budget approved by the governing bodies of its constituent public agencies.

(2) Acquisitions Beyond Sums Allotted. No airport, air navigation facility, airport hazard, or real or personal property, the cost of which is in excess of sums therefor fixed by the joint agreement or allotted in the annual budget, may be acquired by the joint board without the approval of the governing bodies of its constituent public agencies.

(3) Eminent Domain. Eminent domain proceedings under this section may be instituted only by authority of the governing bodies of the constituent public agencies of the joint board. If so authorized, such proceedings shall be instituted in the names of the constituent public agencies jointly, and the property so acquired shall be held by said public agencies as tenants in common until conveyed by them to the joint board.

(4) Disposal of Real Property. The joint board shall not dispose of any airport, air navigation facility or real property under its jurisdiction except with the consent of the governing bodies of its constituent public agencies, provided that the joint board may, without such consent, enter into contracts, leases, or other arrangements contemplated by Section 5 of this act.

(5) Police Regulations. Any resolutions, rules, regulations or orders of the joint board dealing with subjects authorized by Section 8 of this act shall become effective only upon approval of the governing bodies of the constituent public agencies provided that upon such approval, the resolutions, rules, regulations or orders of the joint board shall have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, rules, regulations, or orders of each public agency would have in its own territory or jurisdiction.

(e) Joint Fund. For the purpose of providing a joint board with moneys for the necessary expenditures in carrying out the provisions of this section, a joint fund shall be created and maintained, into which shall be deposited the share of each of the constituent public agencies as provided by the joint agreement. Each of the constituent public agencies shall provide its share of the fund from sources available to each. Any federal, state or other contributions or loans, and the revenues obtained from the joint ownership, control and operation of any airport or air navigation facility under the jurisdiction of the joint board shall be paid into the joint fund, which said joint fund shall be kept and maintained at such place or places as shall be mutually agreed between the constituent agencies. Disbursements from such fund shall be made by order of the board, subject to the limitations prescribed in subsection (d) of this section.

#### ***Section 65.16 - Public, County and Municipal Purpose***

The acquisition of any land or interest therein pursuant to this act, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection and policing of airports and air navigation facilities, including the acquisition or elimination of airport hazards, and the exercise of any other powers herein granted to municipalities and other public agencies, to be severally or jointly exercised, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity; and in the case of any county, are declared to be county functions and purposes as well as public and governmental; and in the case of any municipality other than a county, are declared to be municipal functions and purposes as well as public and governmental. All land and other property and privileges acquired and used by or on behalf of any municipality or other public agency in the manner and for the purposes enumerated in this act shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity, and, in the case of a county or municipality, for county or municipal purposes, respectively.

#### ***Section 65.17 - Tax Exemptions***

Any property in this state acquired by municipality for airport purposes pursuant to the provisions of this act, and any income derived by such municipality from the ownership, operation or control thereof, shall be exempt from taxation to the same extent as other property used for public purposes. Any municipality is authorized to exempt from municipal taxation any property, acquired within its boundaries by a public agency of another state for airport purposes, and any income derived from such property, to the extent that such other state authorizes similar exemptions from taxation to municipalities of this state.

#### ***Section 65.18 - Incidental Powers of Municipalities***

In addition to the general and special powers conferred by this act, every municipality is authorized to exercise such powers as are necessarily incidental to the exercise of such general and special powers.

#### ***Section 65.19 - Airport Zoning Not Limited***

Nothing contained in this act shall be construed to limit any right, power or authority of a municipality to regulate airport hazards by zoning.

#### ***Section 65.20 - Construction***

This act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this state and other states and of the government of the United States having to do with the subject of municipal airports.

#### ***Section 65.21 - Repealed by Laws 1989, operative July 1, 1989***

#### ***Section 65.22 - Municipal Airports Act***

This act may be cited as the "Municipal Airports Act."

#### ***Section 71 - Repealed by Laws 1947***

#### ***Section 72-80 - Repealed by Laws 1947, effective June 22, 1963.***

## **OKLAHOMA AERONAUTICS COMMISSION ACT**

### ***Section 81 - Oklahoma Aeronautics Commission Act***

This act may be cited as the "Oklahoma Aeronautics Commission Act."

### ***Section 82 – Definitions***

As used in the Oklahoma Aeronautics Commission Act, unless the context otherwise requires:

- (a) "Aeronautics" means the science, art, and practice of flight including, but not limited to, transportation by aircraft and matters relating to air commerce; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.
- (b) "Aircraft" means any contrivance now known, or hereafter invented, used, or designed for navigation of or flight in the air or airspace.
- (c) "Airport" means an area of land or water that is used, or intended to be used, for the landing and takeoff of aircraft, and buildings and facilities, if any.
- (d) "Airspace" means that portion of the atmosphere overlying a designated geographical area considered as subject to territorial jurisdiction or international law in respect to its use by aircraft, guided missiles, and rockets.
- (e) "Commission" means the Oklahoma Aeronautics Commission.
- (f) "Director" means the Director of Aeronautics of Oklahoma.
- (g) "State" or "this state" means the State of Oklahoma.
- (h) "Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.
- (i) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state.
- (j) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, and appliances.
- (k) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.
- (l) "Municipality" means any incorporated city, village, or town of this state and any county or political subdivision or district in this state, or any public trust thereof, which is, or may be, authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical navigation facilities.
- (m) "Aeronautical hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport that is otherwise hazardous to the operation and navigation of aircraft.
- (n) "Resources" means services, facilities, funds, equipment, property, personnel, and such other activities as are customarily included within the term.
- (o) "Helipad" means a small, designated area, usually with a prepared surface, on a heliport, airport, landing or takeoff area, apron or ramp, or movement area used for takeoff, landing or parking of helicopters.
- (p) "Heliport" means an area of land, water or structure used or intended to be used for the landing and takeoff of helicopters and includes its buildings and facilities, if any.
- (q) "Commercial service airport" means an airport meeting the current Federal Aviation Administration definition for commercial service airport.
- (r) "Primary commercial service airport" means an airport meeting the current Federal Aviation Administration definition for primary commercial service airport.
- (s) "Reliever airport" means an airport designated by the Federal Aviation Administration as a reliever airport and which provides substantial capacity or instrument training relief to a primary commercial service airport.
- (t) "General aviation airport" means an airport not meeting the criteria for definition as a commercial service or reliever airport.

### ***Section 83 - Purpose of Act-Aeronautical Progress***

It is hereby declared that the purpose of this act is to further the public interest in aeronautical progress:

- (a) by granting to a state agency such powers and imposing upon it such duties that the state may properly perform its functions relative to aeronautics; effectively assist in the development of a statewide system of airports, cooperate with and assist the municipalities of this state and others engaged in aeronautics, and encourage and develop aeronautics in all its phases in this state;
- (b) by providing for the protection of persons and property through the promotion of safety in aeronautics; and
- (c) by providing for cooperation with federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state by assisting in accomplishing the purposes of federal legislation and eliminating costly and unnecessary duplication of functions in the province of federal agencies.

***Section 84 - Oklahoma Aeronautics Commission-Members-Qualifications-Director-Rules-Office space***

There is hereby created the Oklahoma Aeronautics Commission, which shall be the successor to the Oklahoma Aviation Commission created by Section 81 et seq. of this title. The Oklahoma Aeronautics Commission shall consist of seven (7) members, who shall be appointed by the Governor and who shall continue in office, as designated by the Governor at the time of appointment, through the last day of the second, third, fourth, fifth, sixth, and seventh calendar years, respectively, following the passage of this act, with the initial seventh member remaining in office until the end of the calendar year 1979. The successors of the members initially appointed shall be appointed for terms of six (6) years in the same manner as the members originally appointed under this act, except that any person appointed to fill a vacancy shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of a successor. One member shall be appointed from each congressional district and any remaining members shall be appointed from the state at large. However, when congressional districts are redrawn each member appointed prior to July 1 of the year in which such modification becomes effective shall complete the current term of office and appointments made after July 1 of the year in which such modification becomes effective shall be based on the redrawn districts. Appointments made after July 1 of the year in which such modification becomes effective shall be from any redrawn districts which are not represented by a board member until such time as each of the modified congressional districts are represented by a board member. No appointments may be made after July 1 of the year in which such modification becomes effective if such appointment would result in more than two members serving from the same modified district. To qualify for appointment to the Commission, an appointee shall have the following minimum qualifications:

- (1) A citizen and bona fide resident of the state;
- (2) Three (3) years' experience in aeronautical activities, such as general aviation, agricultural aviation, airport management, or air carrier operation.

Members of the Commission shall receive no salary but shall be entitled to be reimbursed for necessary travel expenses pursuant to the State Travel Reimbursement Act. The members of the Commission may be removed by the Governor for inefficiency, neglect of duty, or malfeasance in office in the manner provided by law for the removal of officers not subject to impeachment.

B. (1) A Director of Aeronautics shall be appointed by the Commission, who shall serve at the pleasure of the Commission. The Director shall be appointed with due regard to such person's fitness, by aeronautical education and by knowledge of and recent practical experience in aeronautics for the efficient dispatch of the powers and duties duly vested in and imposed upon the Director. The Director shall devote full time to the duties of the office and shall not be actively engaged or employed in any other business, vocation, or employment, nor shall the Director have any pecuniary interest in or any stock in or bonds of any civil aeronautics enterprise. The Director shall be reimbursed for all traveling and other expenses incurred in the discharge of the official duties of the Director, subject to general statutory limitations on such expenses as contained in the State Travel Reimbursement Act.

(2) The Director shall be the executive officer of the Commission and under its supervision shall administer the provisions of this act and rules, regulations, and orders established thereunder and all other laws of the state relative to aeronautics. The Director shall attend all meetings of the Commission, but shall have no vote. The Director shall be in charge of the offices of the Commission and responsible to the Commission for the preparation of reports and the collection and dissemination of data and other public information relating to aeronautics. The Director is hereby empowered to execute all contracts entered into by the Commission.

(3) The Commission may, by written order filed in its office, delegate to the Director any of the powers or duties vested in or imposed upon it by this act. Such delegated powers and duties may be exercised by the Director in the name of the Commission.

(4) The Director shall appoint, subject to the approval of the Commission, such experts, field and office assistants, clerks, and other employees as may be required and authorized for the proper discharge of the functions of the Commission.

C. The Commission shall, within thirty (30) days after its appointment, organize, adopt a seal, and make such rules and regulations for its administration, not inconsistent herewith, nor inconsistent with, or contrary to, any act of the Congress of the United States or regulations promulgated or standards established pursuant thereto, as it may deem expedient and from time to time amend such rules and regulations. At such organizational meeting it shall elect from among its members a chairman, a vice-chairman, and a secretary, to serve for one (1) year, and annually thereafter shall elect such officers, all to serve until their successors are appointed and qualified. The Commission shall schedule meetings at a convenient time and place as they become necessary. Five (5) members shall constitute a quorum, and no action shall be taken by less than a majority of the

Commission. Special meetings may be called as provided by the rules and regulations of the Commission. Regular meetings shall be held at the established offices of the Commission, but, whenever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, the Commission may hold meetings, hearings, or proceedings at any other place designated by it. The Commission shall report in writing to the Governor on or about July 31 of each year. The report shall contain a summary of the proceedings of the Commission during the preceding fiscal year, a detailed and itemized statement of all revenue and of all expenditures made by or in behalf of the Commission, such other information as it may deem necessary or useful, and any additional information which may be requested by the Governor.

D. Suitable office space shall be provided by the Department of Central Services for the Commission in the City of Oklahoma City, and the Commission may incur the necessary expense for office rent, furniture, stationery, printing, incidental expenses, and other necessary expenses needed for the administration of this act.

***Section 84.1 - Repealed by Laws 2001, emergency effective May 14, 2001.***

***Section 84.2 - Oklahoma Aeronautics Commission***

A. Beginning July 1, 2002, the Oklahoma Aeronautics Commission shall cease to be part of or a division of the Department of Transportation and shall be deemed to be a separate and distinct agency, to be known as the Oklahoma Aeronautics Commission, and not under the Merit System of Personnel Administration. The Oklahoma Aeronautics Commission and the Director of Aeronautics shall continue to exercise their statutory powers, duties, and responsibilities. All records, property, equipment, assets, monies, matters pending, and funds of the division shall be transferred to the Oklahoma Aeronautics Commission.

B. 1. The number of full-time-equivalent employees for the Oklahoma Aeronautics Commission shall not be less than ten, nor more than the number of employees currently allowed by law for the Oklahoma Aeronautics Commission division of the Department of Transportation and who transfer to the Oklahoma Aeronautics Commission pursuant to this section. In no event shall the total full-time-equivalent employees of the Oklahoma Aeronautics Commission transferring or electing to remain with the Department of Transportation exceed fourteen full-time-equivalent positions.

2. All full-time-equivalent employee positions for the Oklahoma Aeronautics Commission shall not be under the Merit System of Personnel Administration and shall be considered unclassified service. All employees shall serve at the pleasure of the Director of the Oklahoma Aeronautics Commission.

3. The Oklahoma Aeronautics Commission and the Department of Transportation may enter into an agreement for the transfer of personnel from the Department of Transportation to the Oklahoma Aeronautics Commission. No employee shall be transferred to the Oklahoma Aeronautics Commission except on the freely given written consent of the employee. All classified employees under the Merit System of Personnel Administration who are not transferred to the Oklahoma Aeronautics Commission shall retain the status in the class to which the position occupied by the employee on July 1, 2002, is allocated by the Office of Personnel Management. The salary of such an employee shall not be reduced as a result of such position allocation. All employees who are transferred to the Oklahoma Aeronautics Commission shall not be required to accept a lesser grade or salary than presently received. All employees shall retain leave, sick and annual time earned, and any retirement and longevity benefits which have accrued during their tenure with the Department of Transportation. The transfer of personnel between the state agencies shall be coordinated with the Office of Personnel Management.

C. The Oklahoma Aeronautics Commission shall be authorized to rent, lease, or own the appropriate office space and property in order to conduct its business. The Oklahoma Aeronautics Commission is authorized to accept gifts, bequests, devises, contributions, and grants, public or private, including federal funds or funds from any other source for use in furthering the purpose of the Oklahoma Aeronautics Commission.

D. Funding for the Oklahoma Aeronautics Commission shall be provided for in the appropriation process of the Legislature, in addition to any other funding provided by law. The expenses incurred by the Oklahoma Aeronautics Commission as a result of the transfer required by this section shall be paid by the Oklahoma Aeronautics Commission.

E. The division within the Department of Transportation known as the Oklahoma Aeronautics Commission shall be abolished by the Transportation Commission after the transfer has been completed.

F. The Director of State Finance is directed to coordinate the transfer of assets, funds, allotments, purchase orders, liabilities, outstanding financial obligations or encumbrances provided for in this section. The Department of Central Services shall coordinate the transfer of property and records provided for in this section.

***Section 85 - Commission's Powers and Duties***

(a) The Commission and its Director acting under its authority is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics, and shall seek to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the Commission in the development of aeronautics and aeronautical facilities in this state.

(b) The Commission may organize and administer a voluntary program of air-age education in cooperation with the schools, colleges, and for the general public, and may prepare and conduct voluntary flight clinics for airmen and issue such bulletins and publications as may be required.

- (c) The Commission shall assist in all aeronautical matters related to civil defense and civil emergency actions in conformance with federal directions and with the Civil Defense Plan of the state.
- (d) The Commission may establish air markers throughout the state.
- (e) The Commission may purchase and install roadside signs directing highway traffic to airports, subject to approval of the State Transportation Commission.
- (f) The Commission shall:
- (1) draft and recommend necessary legislation to advance the interests of the state in aeronautics;
  - (2) represent the state in aeronautical matters before federal agencies and other state agencies; and
  - (3) participate as party plaintiff or defendant or as intervener on behalf of the state or any municipality or citizen thereof in any proceeding which involves the interest of the state in aeronautics.
- (g) (1) The Commission may, insofar as is reasonably possible, make available its engineering and other technical services to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or navigation facilities.
- (2) The Commission may render financial assistance by grant or loan or both to any municipality or municipalities acting jointly in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled, by such municipality or municipalities, out of appropriations or other monies made available by the Legislature for such purposes. Such financial assistance may be furnished in connection with federal or other financial aid for the same purposes.
- (3) The Commission shall be designated as the agent of this state or political subdivision of this state for the purpose of applying for, receiving, administering and disbursing federal funds and other public monies for the benefit of general aviation airports, except reliever airports, as may be available under applicable federal law or other laws. If requested by a political subdivision, the Commission may act as its or their agent in contracting for and supervising such planning, acquisition, construction, improvement, maintenance, or operation; and all political subdivisions are authorized to designate the Commission as their agent for the foregoing purposes. The Commission, as principal on behalf of the state, may enter into any contracts with the United States or with any person, which may be required in connection with a grant or loan of federal monies for municipal airport or air navigation facility purposes. All federal monies accepted under this section shall be accepted and transferred or expended by the Commission upon such terms and conditions as are prescribed by the United States. All monies received by the Commission pursuant to this section shall be deposited in the Oklahoma Aeronautics Commission Fund in the State Treasury and shall be paid out by the Commission in accordance with the terms and conditions of any agreement entered into under the provisions of this section.
- (h) (1) The Commission is authorized on behalf of and in the name of the state, out of appropriations and other monies made available for such purposes, to plan, zone, establish, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police airports and air navigation facilities, either within or without the state, including the construction, installation, equipping, maintenance, and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers. However, the regulatory authority shall not extend to any airman employed by, nor to any aeronautics facility or aircraft under the exclusive possession, operation, or control of, a person holding a certificate of public convenience and necessity issued by any agency of the United States to operate as a common carrier by air of persons and/or property in interstate commerce. For such purposes the Commission may, by purchase, gift, devise, or lease, acquire property, real or personal, or any interest therein including easements in aeronautical hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the state airports or to permit the removal, elimination, obstruction-marking or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards. In like manner the Commission may acquire existing airports and air navigation facilities. However, the Commission shall not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of such municipality. The Commission may, by sale, lease, or otherwise, dispose of any such property, airport, air navigation facility, or portion thereof or interest therein. The disposal, by sale, lease, or otherwise, shall be in accordance with the laws of this state governing the disposition of other property of the state, except that, in the case of disposals to any municipality or state government or the United States for aeronautical purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the Commission may deem in the best interest of the state.
- (2) All airports owned by the state shall be within the primary jurisdiction of the State Aeronautics Commission for purposes of design, development, and operation; provided, that airports owned and operated by the Air National Guard shall be exempt from such provisions during time of a national emergency, and provided further, that any airport owned by the state may be leased by the Commission to a public or private agency, as it may deem fit.
- (3) Nothing contained in this act shall be construed to limit any right, power, or authority of the state or a municipality to regulate airport hazards by zoning.
- (4) The Commission may exercise any powers granted by this section jointly with any municipalities or with the United States.
- (5) a. In operating an airport or air navigation facility owned or controlled by the state, the Commission may enter into contracts, leases, and other arrangements for a term not exceeding twenty-five (25) years with any persons granting the privilege of using or improving such airport or air navigation facility or any portion or facility thereof or space therein for commercial purposes; conferring the privilege of supplying goods, commodities, things, services, or facilities at such airport or air navigation facility; or making available services to be furnished by the Commission or its agents at such airport or air navigation facility.

In each such case the Commission may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class of privileges or services and shall be established with due regard to the property and improvements used and the expenses of operation to the state; provided, that in no case shall the public be deprived of its rightful, equal, and uniform use of the airport, air navigation facility or portion or facility thereof.

b. The Commission may by contract, lease, or other arrangement, upon a consideration fixed by it, grant to any qualified person for a term not to exceed twenty-five (25) years the privilege of operating, as agent of the state or otherwise, any airport owned or controlled by the state; provided, that no such person shall be granted any authority to operate the airport other than as a public airport or to enter into any contracts, leases, or other arrangements in connection with the operation of the airport which the Commission might not have undertaken under subparagraph a of this paragraph.

c. To enforce the payment of any charges for repairs to, or improvements, storage, or care of, any personal property made or furnished by the Commission or its agents in connection with the operation of an airport or air navigation facility owned or operated by the state, the state shall have liens on such property, which shall be enforceable by the Commission as provided by law.

(6) In accepting federal monies under this section, the Commission shall have the same authority to enter into contracts on behalf of the state as is granted to the Commission under subsection (g) of this section with respect to federal monies accepted on behalf of municipalities. All monies received by the Commission pursuant to this section shall be deposited in the Oklahoma Aeronautics Commission Fund in the State Treasury and shall be paid out of the Commission Fund in accordance with the terms and conditions of any agreement entered into under the provisions of this section.

(7) The Commission shall grant no exclusive right for the use of any airport or air navigation facility under its jurisdiction. This shall not be construed to prevent the making of contracts, leases, and other arrangements pursuant to subsection (h) of this section.

(i) The Commission may enter into any contracts necessary to the execution of the powers granted it by this act. All contracts made by the Commission, either as the agent of the state or as the agent of any municipality, shall be made pursuant to the laws of the state governing the making of like contracts. When the planning, acquisition, construction, improvement, maintenance, or operation of any airport or air navigation facility is financed wholly or partially with federal monies, the Commission as agent of the state or of any municipality may let contracts in the manner prescribed by the federal authorities acting under the laws of the United States and any rules or regulations made thereunder.

(j) (1) The Commission, the Director, or any officer or employee of the Commission designated by it shall have the power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of this act and the rules, regulations, and orders of the Commission. Hearings shall be open to the public and shall be held upon such call or notice as the Commission shall deem advisable. Each member of the Commission, the Director, and every officer or employee of the Commission designated by it to hold any inquiry, investigation, or hearing 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 subsection, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county or of the judge thereof, on application of the Commission or its authorized representative, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

(2) In order to facilitate the making of investigations by the Commission in the interest of public safety and promotion of aeronautics the public interest requires, and it is therefore provided, that the reports of investigations or hearings, or any part thereof, 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 the investigation, hearing, or report thereof, except in case of any suit, action, or proceeding, civil or criminal, instituted by or in behalf of the Commission or in the name of the state under the provisions of this act or other laws of the state relating to aeronautics; nor shall any member of the Commission, or the Director, or any officer or employee of the Commission be required to testify to any facts ascertained in, or information gained by reason of, such person's official capacity, or be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. Subject to the foregoing provisions, the Commission may in its discretion make available to appropriate federal, state and municipal agencies information and material developed in the course of its investigations and hearings.

(k) (1) The Commission is authorized to confer with or to hold joint hearings with any agency of the United States in connection with any matter arising under this act or relating to the sound development of aeronautics.

(2) The Commission is authorized to avail itself of the cooperation, services, records, and facilities of the agencies of the United States as fully as may be practicable in the administration and enforcement of this act. The Commission shall furnish to the agencies of the United States its cooperation, services, records, and facilities, insofar as may be practicable.

(3) The Commission shall report to the appropriate agency of the United States all accidents in aeronautics in this state of which it is informed and shall, insofar as is practicable, preserve, protect, and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it until the federal agency institutes an investigation.

(l) The Commission may organize and administer an aerospace education program in cooperation with universities, colleges and schools for the general public. The Commission may also plan and act jointly in a cooperative aviation research or high technology program. As part of these programs, the Commission may issue aviation communication films and publications.

## **OKLAHOMA AERONAUTICS COMMISSION ACT**

### ***Section 85.1 - OKLAHOMA AERONAUTICS COMMISSION AUTHORIZED TO ACCEPT TITLE AND MAINTAIN CERTAIN PROPERTY***

The Oklahoma Aeronautics Commission is hereby authorized on behalf of and in the name of the state, to accept title to property, real or personal, or any interest therein including easements from any authority, county, municipality or political subdivision thereof. The Commission is further authorized to construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police such property, including the construction, installation, equipping, maintenance, and operation of airports, buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers. Any property accepted pursuant to this section shall be in accordance with and subject to [Section 82 et seq. of Title 3](#) of the Oklahoma Statutes.

### ***Section 86 - Public and Governmental Functions and Purposes***

The acquisition of any lands or interest therein pursuant to this act, the planning, acquisition, establishment, construction, improvement, maintenance, equipment, and operation of airports and air navigation facilities, whether by the state separately or jointly with any municipality or municipalities, and the exercise of any other powers herein granted to the Commission are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the state in the manner and for the purposes enumerated in this act shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

### ***Section 87 - Authorization to Use the Facilities, Services and Resources of Other Agencies-Cooperation with Commission***

In carrying out the provisions of this act the Commission may use the facilities, services, and resources of other agencies of the state and of the municipalities of the state, and all other such agencies of the state and municipalities are hereby specifically authorized to cooperate with the Commission by use of their respective equipment, facilities, services, and resources in the furtherance of the purposes of this act and in the furtherance of the plans and programs of the Commission.

### ***Section 88 - Provisions Not Mandatory-Matching of Funds***

No provision of this act is mandatory upon any city or town in Oklahoma, or the governing body thereof, in the acquisition, improvement, construction, operation, or maintenance of any municipally owned airport or air navigation facility; nor shall any provision of this act prevent or take away from any city or town governing board the authority to deal directly with any agency of the federal government in the matching of any funds made available by the federal government for acquisition, improvement, construction, operation, or maintenance of any such municipally owned airport or air navigation facility.

### ***Section 89 - Powers and Duties Transferred***

The powers and duties of the Oklahoma Planning and Resources Board relating to aviation as prescribed by 3 O.S. 1961 Section 25 [\[3-25\]](#), are hereby transferred to and vested in the Oklahoma Aeronautics Commission.

### ***Section 90 - Construction of Airports and Runways-Requirements- Use of Federal Funds***

In order to assure a safe and adequate system of airports within this state:

1. In every county wherein there is no active airport, the Oklahoma Aeronautics Commission is authorized to construct within such county or a municipality located therein or upon land owned by the federal government but under the active control of the state, county or a municipality located within such county a runway of not less than two thousand six hundred (2,600) feet in length and to repair, maintain and hardsurface such runway.
2. In each county wherein there already exists an active airport owned by such county or a municipality located therein or upon land owned by the federal government but under the active control of the state, county or a municipality located within such county, but there does not exist within such county a hardsurfaced runway of at least two thousand six hundred (2,600) feet in length, the Oklahoma Aeronautics Commission may construct upon such lands as those described in paragraph 1 of this section a runway of not less than two thousand six hundred (2,600) feet and may repair, maintain and hardsurface such runway, or may, where sufficient land is available for such purpose, expand such existing airport to a length of two thousand six hundred (2,600) feet and may thereupon repair, maintain and hardsurface the entire runway.
3. During the fiscal year in which federal funds are available under the Federal Airport Program for development or improvement of a state, county or city owned or controlled airport, the Oklahoma Aeronautics Commission shall be prohibited from performing any construction or major repair work upon such airstrip unless and until such federal funds have been available for such purpose.
4. The Oklahoma Aeronautics Commission, in any county where no airport containing two thousand six hundred (2,600) feet or more runway exists, is authorized to accept gifts of land to be used for a county airport and of money to be used to acquire an airport.
5. The Oklahoma Aeronautics Commission is further authorized to accept federal grants for construction, repair, maintenance and other purposes not inconsistent with the provisions of this section and to utilize machinery and material for the purpose of matching available federal funds and grants.

### ***Section 91 - Oklahoma Aeronautics Commission Revolving Fund***

There is hereby created in the State Treasury a revolving fund for the Oklahoma Aeronautics Commission to be designated as the Oklahoma Aeronautics Commission Revolving Fund. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of a monthly allocation by the Oklahoma Tax Commission of Three Thousand Dollars (\$3,000.00) from the motor fuel excise tax levied and collected pursuant to the provisions of Title 68 of the Oklahoma Statutes, such amount being a part of the estimated amount of tax paid on gasoline consumed by engines to propel aircraft in Oklahoma, sale of surplus property, fees and receipts collected pursuant to the Oklahoma Open Records Act, donations, gifts, bequests, contribution, devices, interagency reimbursements, federal funds unless otherwise provided by federal law or regulation, sale of leases and aircraft registration fees and taxes, or any other source. All monies accruing to said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Aeronautics Commission for airport construction and rehabilitation programs and general operations of the agency. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

### ***Section 92 - Oil, Gas, Mining And Agricultural Leases Of State Lands-Promulgation Of Rules***

The Oklahoma Aeronautics Commission is hereby authorized and empowered to offer for sale, sell and execute oil and gas leases, and other mineral and mining leases, and agricultural leases on any of the lands of the State of Oklahoma under the control and supervision of said Commission, provided, the development of said land for the purpose leased will not unduly interfere with the aeronautical purpose for which said land is being used by the state. Said Commission is hereby given authority to adopt and promulgate such additional rules and regulations, not inconsistent herewith, as it may deem necessary and for the best interest of the state in facilitating the sale of said leases. It shall be the duty of the Director of the Oklahoma Aeronautics Commission to execute said leases for and in behalf of said Commission, and said Director shall be liable on his official bond for failure to faithfully discharge his duties hereunder. The sales of all oil, gas and mineral leases shall be made upon the basis of a retained royalty of not less than one-eighth (1/8) of all oil, gas, casinghead gas, and other minerals produced from the lands covered by said leases and such additional cash bonus as may be procured. Provided, however, if the state owns less than one hundred percent (100%) of the oil, gas, casinghead gas and other minerals covered by any such lease, the royalty retained shall not be less than one-eighth (1/8) of the mineral interest so owned. All oil, gas, mineral and agricultural leases shall be sold only after advertisement for a period of three (3) weeks in a legal newspaper published and of general circulation in the county in which said lands are located. Said sale shall be made to the highest and best bidder and all bids shall be in sealed envelopes and opened and considered at the same time.

### ***Section 93 - Disposition of Monies***

All money derived from the sale of said leases, and from any royalties subsequently accruing, shall be deposited in the State Treasury and credited to the Oklahoma Aeronautics Commission Revolving Fund, and said money may be expended in the same manner and for the purposes as other money in said fund is authorized to be expended.

## **AIRPORT ZONING ACT**

### ***Section 100 - Airport Zoning Act***

This act shall be known and may be cited as the "Airport Zoning Act".

### ***Section 101 - Definitions***

As used in this act, unless the context otherwise requires:

- (1) "Airport" means an area of land or water that is used or intended to be used for the landing and taking off of aircraft including its buildings and facilities, if any.
- (2) "Airport hazard" means any structure, object of natural growth or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.
- (3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this act.
- (4) "Political subdivision" means any municipality, city, town, village, or county.
- (5) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- (6) "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.
- (7) "Tree" means any object of natural growth.

### ***Section 102 - Findings and Declarations of Legislature-Airport Hazards as Public Nuisance***

It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein.

Accordingly, it is hereby declared: (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (b) that it is therefore necessary in the interest of the public health, public

safety, and general welfare that the creation or establishment of airport hazards be prevented. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions and the Commission may raise and expend public funds and acquire land or property interests therein.

***Section 102.1 - Permit for the Erection, Alteration, or Modification of Structures-Requirements-Considerations***

A. In order to prevent the erection of structures dangerous to air navigation, subject to the provisions of subsections B, C and D of this section, each person shall secure from the local airport zoning authority, or in the absence of a local airport zoning authority, the Oklahoma Aeronautics Commission, a permit for the erection, alteration, or modification of any structure the result of which would exceed the federal obstruction standards as contained in 14 CFR, Part 77. Permits from the local airport zoning authority will be required only within an airport hazard area where federal standards are exceeded and if the proposed construction is within:

1. A 10-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport open for public use which has a published instrument approach procedure;
2. A 6-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport open for public use which has no published instrument approach procedure and has runways in excess of three thousand two hundred (3,200) feet in length; or
3. A 2.5-nautical mile radius of the geographical center of a publicly owned or operated airport, a military airport, or an airport open for public use which has no published instrument approach and has runways three thousand two hundred (3,200) feet or less in length.

B. Affected airports will be considered as having those facilities which are programmed in the Federal Aviation Administration's Regional Aviation System Plan and will be so protected.

C. Permit requirements of subsection A of this section shall not apply to projects which received construction permits from the Federal Communications Commission for structures exceeding federal obstruction standards prior to May 20, 1975; nor shall it apply to previously approved structures now existing, or any necessary replacement or repairs to such existing structures, so long as the height and location is unchanged.

D. In determining whether to issue or deny a permit, the local airport zoning authority shall consider:

1. The nature of the terrain and height of existing structures;
2. Public and private interests and investments;
3. The character of flying operations and planned developments of airports;
4. Federal airways as designated by the Federal Aviation Administration that lie within the radii described in paragraphs 1 through 3 of subsection A of this section;
5. Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport;
6. Technological advances;
7. The safety of persons on the ground and in the air; and
8. Land use density.

E. In order to promote the health, safety and welfare of the public and to protect persons and property by promoting safety in aeronautics, the Oklahoma Aeronautics Commission may review any structure erected, altered, or modified since January 1, 1996, in which no permit was secured from the local airport zoning authority because of the absence of a local airport authority. The Oklahoma Aeronautics Commission shall determine whether such structures meet the requirements set forth in this section. If the structures do not meet the requirements as set forth in this section, the Oklahoma Aeronautics Commission may request the owners of such structure to make any necessary modifications to protect the health, safety and welfare of the public, including, but not limited to, altering, marking, mapping, or identifying such structure. The Oklahoma Aeronautics Commission may assist the owner of such structure in any manner deemed feasible by the Oklahoma Aeronautics Commission.

***Section 102.2 - Zoning Regulations to Require Permit or Variance***

It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein.

Accordingly, it is hereby declared: (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions and the Commission may raise and expend public funds and acquire land or property interests therein.

***Section 103 - Power to Adopt Airport Zoning Regulations to Prevent Airport Hazards***

(1) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area within its territorial limits shall adopt, administer, and enforce, under the police power and in the manner and upon the

conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

(2) Where an airport is owned or controlled by a political subdivision and any airport hazard area appertaining to such airport is located outside the territorial limits of the political subdivision, the political subdivision owning or controlling the airport and the political subdivision within which the airport hazard area is located may, by ordinance or resolution duly adopted, create a Joint Airport Zoning Board, which Board shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by subsection (1) of this section in the political subdivision within which such area is located. Each Joint Board shall have as members two representatives appointed by each political subdivision participating in its creation and in addition a chairman elected by a majority of the members so appointed. The chairman shall be elected from the appointed membership of the Board for a term of two (2) years.

(3) Where the airport hazard area appertaining to any airport is located within the territorial limits of two or more political subdivisions, such political subdivisions together with the political subdivision, if any, owning or controlling said airport may, by ordinance or resolution duly adopted, create a Joint Zoning Board, which Board shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by subsection (1) of this section in the political subdivision within which such area is located. Each such Joint Board shall have as members one member appointed by each political subdivision participating in its creation and an additional member appointed by each political subdivision having a total population in excess of thirty-six thousand (36,000). The chairman shall be elected by a majority of the members so appointed. The chairman shall be elected from the appointed membership of the Board for a term of two (2) years. The Joint Board shall have the power to make its own rules governing its meetings and procedure and any zoning regulation shall be effective upon adoption by a majority of its members and shall thereupon be filed with the county clerk, without charge, of each county in which the airport hazard area is located. The resolution shall then be presented for adoption to each of the political subdivisions participating in the Joint Airport Zoning Board. The failure of a political subdivision to participate in the creation of the Joint Airport Zoning Board shall not restrict the authority of the Joint Airport Zoning Board to make and enforce zoning regulations over the entire airport hazard area.

#### ***Section 104 - Zoning Regulations-Incorporation Conflict***

(1) Incorporation. In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof, may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection therewith.

(2) Conflict. In the event of conflict between any airport zoning regulations adopted under this act and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision or the Commission, the more stringent limitation or requirement shall govern and prevail.

#### ***Section 105 - Zoning Regulations-Procedure for Adoption-Airport Zoning Commission***

(1) Notice and Hearing. No airport zoning regulations shall be adopted, amended, or changed under this act except by action of the governing body of the political subdivision in question, or the Joint Board provided for in subsection (2) of Section 103 of this title [\[3-103\]](#), after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days' notice of the hearing shall be published in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which is located the airport hazard area to be zoned.

(2) Airport Zoning Commission. Prior to the initial zoning of any airport hazard area under this act, the political subdivision or Joint Airport Zoning Board which is to adopt the regulations shall appoint a Commission, to be known as the Airport Zoning Commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the governing body of the political subdivision or the Joint Airport Zoning Board shall not hold its public hearings or take other action until it has received the final report of the Commission. Where a city planning commission or comprehensive zoning commission already exists, it may be appointed as the Airport Zoning Commission.

#### ***Section 106 - Reasonableness of Regulations-Nonconforming Uses***

(1) Reasonableness. All airport zoning regulations adopted under this act shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this act. In determining what regulations it may adopt, each political subdivision and Joint Airport Zoning Board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

(2) Nonconforming Uses. No airport zoning regulations adopted under this act shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in Section 7(3).

### ***Section 107 - Permits-Variances-Hazard Marking and Lighting-Copies***

(1) Permits. Any airport zoning regulations adopted under this act may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or repaired. In any event, however, all such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change or repair. No permit shall be required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of such existing structures. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made. Except as provided herein, all applications for permits shall be granted.

(2) Variances. Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use property in violation of airport zoning regulations adopted under this act, may apply to the Board of Adjustment for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and this act. However, any variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purpose of this act.

(3) Hazard Marking and Lighting. In granting any permit or variance under this section, the administrative agency or Board of Adjustment may, if it deems such action advisable to effectuate the purpose of this act and reasonable in the circumstances, so condition the permit or variance as to require the owner of the structure or tree in question, at the owner's expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

(4) Copies of any request for a permit or variance shall be forwarded by the political subdivision or Joint Airport Zoning Board to the Commission within five (5) days of filing.

### ***Section 108 - Appeal to Board of Adjustment***

(1) Any person aggrieved, or taxpayer affected, by any decision of an administrative agency made in its administration of airport zoning regulations adopted under this act, or any governing body of a political subdivision, or any Joint Airport Zoning Board, who is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of such governing body or board, may appeal to the Board of Adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

(2) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the agency from which the appeal is taken and with the Board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed, unless the agency from which the appeal is taken certifies to the Board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the Board on notice to the agency from which the appeal is taken and on due cause shown.

(4) The Board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest including the Commission, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The Board may, in conformity with the provisions of this act, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

### ***Section 109 - Airport Zoning Regulations-Administration and Enforcement***

All airport zoning regulations adopted by the political subdivision or the Joint Airport Zoning Board shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the Joint Airport Zoning Board adopting the regulations, if satisfactory to that political subdivision, but in no case shall such administrative agency be or include any member of the Board of Adjustment. The duties of any administrative agency designated pursuant to this act shall include that of hearing and deciding all permits under Section 7(1), but such agency shall not have or exercise any of the powers herein delegated to the Board of Adjustment.

### ***Section 110 - Board of Adjustment***

(1) All airport zoning regulations adopted under this act shall provide for a Board of Adjustment to have and exercise the following powers:

- (a) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations, as provided in Section 8.
- (b) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such Board may be required to pass under such regulations.
- (c) To hear and decide specific variances under Section 7(2).
- (2) Where a Zoning Board of Appeals or Adjustment already exists, it may be appointed as the Board of Adjustments. Otherwise, the Board of Adjustment shall consist of five (5) members, each to be appointed for a term of three (3) years, by the authority adopting the regulations and to be removable by the appointing authority for cause, upon written charges and after public hearing.
- (3) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.
- (4) The Board shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be subject to the Open Meeting Act. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board and shall be a public record.

### ***Section 111 - Judicial Review***

- (1) Any person aggrieved, or taxpayer affected, by any decision of a Board of Adjustment, or any governing body of a political subdivision or any Joint Airport Zoning Board who is of the opinion that a decision of a Board of Adjustment is illegal, may present to the district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the decision is filed in the office of the Board.
- (2) Upon presentation of such petition, the court may review such decision of the Board. The allowance of an appeal shall not stay proceedings upon the decision appealed from, but the court may, on application, and with notice to the Board and on due cause shown, grant a restraining order.
- (3) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the court. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (4) The court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the Board of Adjustment. The findings of fact of the Board, if supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to a decision of the Board shall be considered by the court unless such objection shall have been urged before the Board, or, if it was not so urged, unless there were reasonable ground for failure to do so.
- (5) Costs shall not be allowed against the Board of Adjustment unless it appears to the court that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed from.
- (6) In any case in which airport zoning regulations adopted under this act, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the Constitution of this state or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land.

### ***Section 112 - Penalty for Violation-Enforcement-Remedies***

Each violation of this act or of any regulations, orders, or rulings promulgated by the political subdivision, Joint Airport Zoning Board, or Commission pursuant to this act, shall constitute a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00) or imprisonment for not more than one (1) year in the county jail, or by both such fine and imprisonment. In addition, the political subdivision or agency adopting zoning regulations under this act may institute in any court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this act, or of airport zoning regulations adopted under this act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this act and of the regulations adopted and orders and rulings made pursuant thereto.

### ***Section 113 - Authorization to Acquire Air Rights or Aviation Easement***

In any case in which:

- (1) It is desired to remove, lower, or otherwise terminate a nonconforming structure or use; or (2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this act; or (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport

zoning regulations, the political subdivision within which the property or nonconforming use is located or the agency or political subdivision owning the airport or served by it may acquire, by purchase, grant, or condemnation in the manner provided by the law under which the agency or political subdivisions are authorized to acquire real property for public purposes, such as air right, aviation easement, or other estate or interest in the property of nonconforming structure or use in question as may be necessary to effectuate the purpose of this act.

**Section 114 - Repealed by Laws 1989, operative July 1, 1989**

**Section 115 - Recodified by Laws 1986, effective November 1, 1986**

**Section 116 - Technical Assistance in Preparation of Zoning Code-Filing**

The Oklahoma Aeronautics Commission may provide technical assistance to any political subdivision requesting assistance in the preparation of an airport zoning code. A copy of all local airport zoning codes, rules, and regulations, and amendments and proposed and granted variances thereto, shall be filed with the Oklahoma Aeronautics Commission.

**Section 131-149 - Repealed by Laws 1963, effective June 22, 1963**

**Section 201 - Liability Insurance for State Aircraft-Limits**

Any department, agency or commission which is authorized to own or operate aircraft is hereby authorized to carry insurance on such aircraft and pay the premium therefor out of funds appropriated for the operation of such subdivision of government for the following kinds and within the limits indicated:

- (a) bodily injury liability, One Hundred Thousand Dollars (\$100,000.00) each person, Three Hundred Thousand Dollars (\$300,000.00) each accident;
- (b) property damage liability, One Hundred Thousand Dollars (\$100,000.00) each accident;
- (c) medical expense, Ten Thousand Dollars (\$10,000.00).

Such insurance shall be on standard policy forms approved by the State Insurance Commissioner and with companies authorized to do business in Oklahoma.

**Section 205 - Aircraft Rental-Notice of Insurance Coverage-Contents-Violation**

A. Every person who, in the ordinary course of his business, rents an aircraft to another person, shall deliver to that person a written notice stating the nature and extent of insurance coverage provided, if any, for the renter against loss of or damage to the hull of the aircraft, or against liability arising out of the ownership, maintenance or use of the aircraft. Such notice shall contain the name of the person giving the notice, and shall be in substantially the following form:

**NOTICE OF INSURANCE COVERAGE**

As a renter of aircraft, you are hereby notified that:

- (1) You (are) (are not) (strike phrase not applicable) insured under a policy or policies of insurance provided by the undersigned and providing liability coverage to renters of aircraft. If coverage is provided, it is in the amount of \$ \_\_\_\_\_.

Said liability insurance is subject to a deductible amount of \$ \_\_\_\_\_.

- (2) You (are) (are not) (strike phrase not applicable) insured for hull damage to the aircraft. If hull insurance is provided, it is in the amount of \$ \_\_\_\_\_.

Such hull damage insurance is subject to a deductible amount of \$ \_\_\_\_\_.

- (3) Although insurance may be provided for liability and/or hull coverage, the undersigned's insurance carrier has full rights to subrogate against you for any payments it may be required to make on account of any damage or loss arising out of your operation of the aircraft. It is suggested that you carry insurance to protect you to partially or fully cover this possibility.

\_\_\_\_\_  
(Signature of Person or Officer of Company

Renting Aircraft)

Dated \_\_\_\_\_, 19 \_\_\_\_

(Month) (Day) (Year)

B. The notice delivered pursuant to subsection A of this section shall constitute a material part of any rental agreement, and each renter shall give written acknowledgment of receipt of such notice.

Delivery of said notice to a renter shall cover all future rentals, unless the insurance coverage set forth in the original notice has been reduced or eliminated.

C. Any person convicted of violating any provision of this section shall be guilty of a misdemeanor punishable by a fine of not more than Fifty Dollars (\$50.00).

**Section 251 - Legislative Policy**

A. It is hereby declared that it is the policy of the Legislature to make registration procedures for aircraft similar to those for automobiles, with the authority to accomplish the same vested fully in the Oklahoma Tax Commission separately from the Oklahoma Aeronautics Commission, the jurisdiction of the two Commissions, their directors and officers being separate.

B. It shall be the duty of the Oklahoma Tax Commission to promulgate any additional rules and regulations and designate forms and procedures for the implementation of this act.

### ***Section 252 - Definition of Aircraft***

Notwithstanding any other definition thereof in any other statute, the term "aircraft" as used herein shall, for license and registration purposes, include any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air or airspace, manufactured by mass production or individually constructed or assembled, which are subject to registration with the Federal Aviation Administration.

### ***Section 253 – Exemptions***

The following aircraft are exempt from provisions of Section [251](#) et seq. of this title:

1. Aircraft manufactured under a Federal Aviation Administration approved type certificate which are owned and in the physical possession of the manufacturers as provided in subsection D of Section [254](#) of this title;
2. Aircraft owned by charitable organizations and used solely for the furtherance of charitable purposes;
3. Aircraft belonging to nonresidents of this state and registered in another state;
4. Aircraft of the federal government, any agency thereof, any territory or possession thereof, any state government or agency or political subdivision thereof, any aircraft of the Civil Air Patrol used solely in transaction of official business by a unit of the Civil Air Patrol;
5. Aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft; and
6. Aircraft not currently licensed or holding a current airworthiness certificate by the Federal Aviation Administration.

### ***Section 254 - Certified Application for Registration of Aircraft***

A. Except as otherwise provided in this act, every owner or person in charge of an aircraft which shall be operated on or from any airport of any type in this state shall for each such aircraft cause to be filed by mail or otherwise with the Oklahoma Tax Commission a certified application for registration of same, on a form to be furnished for that purpose, containing:

1. A description of each aircraft to be registered including the name of the manufacturer, aircraft registration number, type and gross weight; and
2. The name and address of the owner of such aircraft and the county where aircraft is based. The legal basis for determining the county where the aircraft is based shall be the location and/or address on the Federal Aviation Administration Certificate of Registration for the aircraft.

B. Registration requirements shall not apply to aircraft based or operated in the state for less than thirty (30) days.

C. 1. All dealers in the sale of aircraft shall be exempt from registration requirements upon purchase of a license from the Oklahoma Tax Commission pursuant to Section 2 of this act. This exemption shall not apply to dealers' personal aircraft. The payment of the license fee as set forth in Section 2 of this act shall be treated as a payment in lieu of any ad valorem tax upon the value of aircraft owned by the dealer.

2. Dealers' "sales aircraft" shall be exempt from payment of ad valorem tax and registration fees and taxes as provided in Section [256](#) of this title upon certification to the Oklahoma Tax Commission that each particular aircraft is used for delivery and demonstration purposes only.

D. All manufacturers of aircraft shall be exempt from registration requirements upon purchase of an "exemption license" from the Oklahoma Tax Commission, cost of which shall be Two Hundred Fifty Dollars (\$250.00). The payment of the fee prescribed by this subsection shall be treated as a payment in lieu of any ad valorem tax upon the value of aircraft owned by the manufacturer.

E. Registrants not having purchased registration certificates in January will be penalized at the rate of twenty cents (\$0.20) per day in February and doubled on the first day of March.

## **CHAPTER 138, ARTICLE 2**

### ***Section 254.1 - Sale of New or Used Aircrafts***

A. It shall be unlawful for any person to engage in the business of selling, or to serve in the capacity of, or act as a dealer of new or used aircraft in this state without first obtaining a license as provided in this section. Any person having more than one location where such business is carried on or conducted shall be required to obtain and hold a current license for each such location.

B. Dealer licenses issued pursuant to this section shall be issued only to persons that prove to the satisfaction of the Oklahoma Tax Commission that they are clearly recognizable as bona fide dealers. Proof of bona fide dealer status shall include, but not be limited to, the following:

1. Sales of three or more aircraft every eighteen (18) months, unless the applicant can show unusual circumstances justifying lesser sales;

2. Consistent identification of the business as a dealer establishment in advertising, signs, telephone book listings, and other similar means. The dealership shall be clearly identifiable as such by any person who visits or deals with the business; and  
3. A picture, upon application for a new license, of the business location which includes the office and business sign.  
C. Applications for licenses required to be obtained pursuant to this section shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Tax Commission. The form shall contain such information as the Tax Commission deems necessary to enable it to fully determine the qualifications and eligibility of the applicant to receive the license requested. The Tax Commission shall require in such application information relating to:

1. Whether the applicant has an established place of business and is primarily engaged in the pursuit or business of selling aircraft;
2. Whether the applicant is able to properly conduct the business for which the license has been requested; and
3. Such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

All applications for licenses shall be accompanied by the appropriate fees in accordance with the provisions of this section. In the event any application is denied and the license requested is not issued, the entire license fee shall be returned to the applicant.

D. All licenses issued pursuant to this section shall expire on December 31 of the second year following the date of issue. All licenses shall be nontransferable. All applications for renewal of a license shall be submitted by November 1 of the year of renewal, and such license shall be issued by January 1. If applications have not been made for renewal of licenses by December 31, it shall be illegal for any person to sell or to serve in the capacity or act as a dealer. If after December 31 the license has not been renewed, then such licensee shall be required to apply for a license as a new applicant.

E. The license fee to be charged and received by the Tax Commission for the license issued pursuant to this section shall be Two Hundred Fifty Dollars (\$250.00). There shall be no fee for renewal of a license unless the licensee is required pursuant to this section to apply for a license as a new applicant.

F. The Tax Commission may deny an application for a license, or revoke or suspend a license, or impose a fine not to exceed Five Hundred Dollars (\$500 . 00) against a dealer for each day that any provision of this section is violated, or for any of the following reasons:

1. On satisfactory proof of unfitness of the applicant in any application for a license pursuant to this section;
2. For any material misstatement made by an applicant in any application for a license pursuant to this section;
3. A change of condition after a license is granted resulting in failure to maintain the qualifications for a license;
4. Being a dealer who:

- a. uses false or misleading advertising in connection with the business as a dealer,
- b. has committed any unlawful act which resulted in the revocation of any similar license in another state,
- c. has failed or refused to perform any written agreement with any retail buyer involving the sale of an aircraft,
- d. has been convicted of a crime involving moral turpitude,
- e. has committed a fraudulent act in selling, purchasing, or otherwise dealing in aircraft, or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of an aircraft, or
- f. has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license; or

5. Being a dealer who does not have an established place of business.

The Tax Commission may also assess any excise tax, including penalty and interest, against any dealer determined by the Tax Commission to be in violation of this section for any aircraft sold or purchased while such dealer was in violation of this section.

G. The Tax Commission may deny any application for a license, or suspend or revoke a license issued or impose a fine, only after appropriate notice and a hearing as set forth by rule of the Tax Commission.

H. Any person holding a dealer license on July 1, 2000, issued pursuant to shall be entitled to retain such license until December 31, 2000. At such time, the dealer shall apply for a new license in accordance with the provisions of this section.

### ***Section 255 - Index-License Number-Certificates of Registration-Filing-Fees***

A. Upon receipt of an application for the registration of an aircraft, as herein provided, the Oklahoma Tax Commission shall file such application and register such aircraft with the name and address of the owner, manufacturer or dealer, as the case may be, together with facts stated in such application, in a book or index to be kept for the purpose, under the distinctive number assigned to such aircraft, which book or index shall be open for the inspection of the public during business hours.

B. Upon the filing of such application and the payment of the fee herein provided for, the Oklahoma Tax Commission shall assign to that aircraft the distinctive license number used by the federal government to identify that aircraft, and issue and deliver to the owner certificates of registration number to be posted in a conspicuous place at the discretion of the owner of such aircraft. Such certificates shall display the outline of the State of Oklahoma imprinted thereupon. Such certificates shall be subject to inspection by the Oklahoma Tax Commission.

C. In the event of loss, mutilation or destruction of a certificate of registration, the owner of a registered aircraft may obtain from the Oklahoma Tax Commission a duplicate thereof upon filing with the Oklahoma Tax Commission an affidavit showing the facts and upon the payment of a service charge of One Dollar (\$1.00) for each duplicate.

D. Such registration shall be renewed annually, as in the registration of automobiles, and in the same manner and upon payment of the same fee as provided for the original aircraft registration.

- E. The sale of registration certificates for aircraft shall be by the Oklahoma Tax Commission and its agents. Provided, that monies to be paid for processing or services for the sale of registration certificates shall be deducted from the fees provided by the scheduled rates.
- F. Registration of aircraft may be transferred upon payment of a fee of Ten Dollars (\$10.00).

## **CHAPTER 258, ARTICLE 6**

### ***Section 256 - Registration Fee for Aircraft in Process of Manufacture-Personal Property Used or Consumed-Report-Penalty and Violation***

A. Registration fees and taxes on aircraft shall be paid to and collected by the Oklahoma Tax Commission and its agents in the same manner as registration fees and taxes are paid and collected on automobiles.

The registration and reregistration of aircraft shall be subject to the following schedule and rates:

1. Single-engine piston aircraft shall be taxed according to the following Schedule "A":

#### **SCHEDULE "A"**

##### **WEIGHT IN POUNDS FEE**

Less than 1,750	\$20.00
1,751 through 2,500	\$35.00
2,501 through 3,500	\$55.00
3,501 through 4,500	\$75.00
4,501 through 5,500	\$95.00
5,501 through 6,500	\$115.00
6,501 through 8,500	\$135.00
8,501 through 10,000	\$185.00
10,001 through 13,000	\$230.00
13,001 through 17,000	\$265.00
17,001 through 20,000	\$300.00
20,001 through 25,000	\$375.00
25,001 through 30,000	\$500.00
30,001 through 40,000	\$625.00
40,001 through 50,000	\$750.00
50,001 through 75,000	\$1,000.00
75,001 through 100,000	\$1,250.00
100,001 and over	\$1,500.00

2. Rotary-wing aircraft shall be taxed at two times the Schedule "A" fee, based on the same weight classifications.

3. Multiengine piston aircraft shall be taxed at three times the Schedule "A" fee, based on the same weight classifications.

4. Turbo-prop aircraft shall be taxed at six times the Schedule "A" fee, based on the same weight classifications.

5. Turbo-jet aircraft shall be taxed at ten times the Schedule "A" fee, based on the same weight classifications.

6. Antique aircraft as defined by the Federal Aviation Administration, sailplanes, balloons, and home-built aircraft shall be subject to a flat-rate fee of Ten Dollars (\$10.00).

7. The fees of this subsection, except those in paragraph 6 of this subsection, shall be reduced at a rate of ten percent (10%) each year following the date of manufacture until the fee is equal to fifty percent (50%) of the original fee, which shall then be the fee for each year thereafter.

8. Every aircraft owner shall have the right to appeal the assessment of the fee as provided for in this subsection, and the Oklahoma Tax Commission shall appraise the aircraft and its avionics as personal property at the fair market value thereof, and shall apply a twelve-percent assessment rate which shall be levied at the appropriate county millage rate.

B. Aircraft purchased after January 1 of each year and subject to registration as provided for in this section shall be registered and taxed on a prorated basis. Registration fees and taxes shall be in lieu of all aircraft ad valorem taxes. All such monies collected shall be paid to the Oklahoma Tax Commission and disbursed as follows:

1. Three percent (3%) of all such funds shall be paid to the State Treasurer for deposit to the credit of the General Revenue Fund of the State Treasury; and

2. Ninety-seven percent (97%) of said registration fees and taxes shall be deposited in the Oklahoma Aeronautics Commission Revolving Fund.

### ***Section 257 - Promulgation of Rules and Regulations***

Authority is hereby given to the Oklahoma Tax Commission and the Department of Public Safety to promulgate rules and regulations for the purpose of regulating and enforcing this act.

### ***Section 258 - Operation of Unregistered Aircraft-False Information Regarding Ownership of Aircraft-Violation-Application-Penalty***

A. It is unlawful for any person in this state to operate an aircraft that is not registered with the Federal Aviation Administration Office of Aircraft Registry or with a foreign country which has ratified and is subject to the Convention on the

International Recognition of Rights in Aircraft, 4 U.S.T. 1830. Provided however, no person charged with violating this subsection shall be convicted of the charge if he or she produces in court or the office of the arresting officer proof of registration that was valid at the time of arrest.

B. It is a violation of this section for any person or corporate entity to knowingly supply false information to any governmental entity in regard to ownership of an aircraft in or operated in this state.

C. It is a violation of this section for any person to give a wrong description in any application for the registration of any aircraft in this state for the purpose of concealing or hiding the identity of such aircraft.

D. This section does not apply to any aircraft registration or information supplied by a governmental entity in the course and scope of performing its lawful duties.

E. A conviction for a violation of this section shall be a felony.

***Section 259 - Destruction or Alteration of Registration Numbers on Aircraft-Manufacturer's Identification Number Plate or Decal-Violation-Penalties***

A. Any person or persons who shall destroy, remove, cover, alter or deface, or cause to be destroyed, removed, covered, altered or defaced, the United States registration number assigned by the Federal Aviation Administration or manufacturer's serial number of any aircraft in this state, without first giving notice of such act to the Federal Aviation Administration, upon such form as the Federal Aviation Administration may prescribe, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than five (5) years.

B. A person who removes a manufacturer's identification number plate or decal from an aircraft or affixes to an aircraft a manufacturer's identification number plate or decal not authorized by law for use on said aircraft with intent to conceal or misrepresent the identity of the aircraft or its owner shall, upon conviction, be guilty of a felony.

C. A person who buys, receives, possesses, sells or disposes of an aircraft, knowing that the identification number of the aircraft has been removed or falsified, shall, upon conviction, be guilty of a misdemeanor.

D. A person who buys, receives, possesses, sells or disposes of an aircraft, with knowledge that the identification number of the aircraft has been removed or falsified and with intent to conceal or misrepresent the identity of the aircraft, shall, upon conviction, be guilty of a felony.

E. As used in this section:

1. "Identification number" includes an identifying number or serial number placed on an aircraft by its manufacturer or by authority of the Federal Aviation Administration or in accordance with the laws of another country;

2. "Remove" includes deface, cover and destroy; and

3. "Falsify" includes alter and forge.

F. An identification number may be placed on an aircraft by its manufacturer in the regular course of business or placed or restored on an aircraft by authority of the Federal Aviation Administration without violating this section; an identification number so placed or restored is not falsified.

***Section 271 - Airman's Certificate and Medical Certificate Kept in Holder's Personal Possession While Operating Aircraft***

A. Any person or persons who shall destroy, remove, cover, alter or deface, or cause to be destroyed, removed, covered, altered or defaced, the United States registration number assigned by the Federal Aviation Administration or manufacturer's serial number of any aircraft in this state, without first giving notice of such act to the Federal Aviation Administration, upon such form as the Federal Aviation Administration may prescribe, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for a term of not less than one (1) year nor more than five (5) years.

B. A person who removes a manufacturer's identification number plate or decal from an aircraft or affixes to an aircraft a manufacturer's identification number plate or decal not authorized by law for use on said aircraft with intent to conceal or misrepresent the identity of the aircraft or its owner shall, upon conviction, be guilty of a felony.

C. A person who buys, receives, possesses, sells or disposes of an aircraft, knowing that the identification number of the aircraft has been removed or falsified, shall, upon conviction, be guilty of a misdemeanor.

D. A person who buys, receives, possesses, sells or disposes of an aircraft, with knowledge that the identification number of the aircraft has been removed or falsified and with intent to conceal or misrepresent the identity of the aircraft, shall, upon conviction, be guilty of a felony.

E. As used in this section:

1. "Identification number" includes an identifying number or serial number placed on an aircraft by its manufacturer or by authority of the Federal Aviation Administration or in accordance with the laws of another country;

2. "Remove" includes deface, cover and destroy; and

3. "Falsify" includes alter and forge.

F. An identification number may be placed on an aircraft by its manufacturer in the regular course of business or placed or restored on an aircraft by authority of the Federal Aviation Administration without violating this section; an identification number so placed or restored is not falsified.

***Section 281 - Unlawful Installation of Fuel Tank, Bladder Drum, etc. Not Conforming to Regulations-Copy of Approval Form to be Carried on Aircraft-Application***

A. It is unlawful for any person, firm, corporation, or association to install or equip on any aircraft, or install in the wings or fuselage of the aircraft, any fuel tank, bladder, drum, or other container which will hold fuel if such fuel tank, bladder, drum, or other container does not conform to federal aviation regulations or has not been approved by the Federal Aviation Administration by inspection or special permit. Any person convicted of violating this subsection shall be guilty of a felony.

B. It is unlawful for any person to knowingly possess any aircraft which has been equipped with, or had installed in its wings or fuselage, any fuel tank, bladder, drum, or other container which will hold fuel if such fuel tank, bladder, drum, or other container does not conform to federal aviation regulations or has not been approved by the Federal Aviation Administration by inspection or special permit. Any person convicted of violating this subsection shall be guilty of a felony.

C. A copy of the Federal Aviation Administration Approval Form 337 or special permit pertaining to such installations shall be carried on board the aircraft at all times. Any person convicted of violating this subsection shall be guilty of a misdemeanor. No person charged with violating this subsection shall be convicted of the charge if he or she produces in court or the office of the arresting officer a copy of the required documentation either valid at the time of arrest or acquired within thirty (30) days after the arrest.

D. The provisions of this section shall apply to any pipes, hoses, or auxiliary pumps which when present in the aircraft could be used to introduce fuel into the primary fuel system of the aircraft from such tanks, bladders, drums, or containers.

***Section 301 - Operation of Aircraft Under the Influence of Any Intoxicant-Definitions-Violation and Penalties-Treatment for Substance Abuse***

A. It is unlawful and punishable as provided in subsection D of this section for any person to operate an aircraft within this state who:

1. Has a blood or breath alcohol concentration, as defined in Section [305](#) of this title, of four-hundredths (0.04) or more within two (2) hours after the arrest of such person; or

2. Is under the influence of any intoxicant.

B. The fact that any person charged with a violation of this section is or has been lawfully entitled to use an intoxicant shall not constitute a defense against any charge of violating this section.

C. As used in Sections [301](#) through [308](#) of this title:

1. "Intoxicant" means:

a. any beverage containing alcohol,

b. any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, [Section 2-101 et seq. of Title 63](#) of the Oklahoma Statutes,

c. any substance which is capable of being ingested, inhaled, injected or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions of the human body, and

d. any combination of alcohol, controlled dangerous substances, and substances capable of being ingested, inhaled, injected or absorbed into the human body and capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions of the human body; and

2. "Operate" means manipulating any of the levers, the starting mechanism, the brakes or other mechanism or device of an aircraft, setting in motion any aircraft, or piloting any aircraft.

D. Every person who is convicted of a violation of the provisions of this section shall be deemed guilty of a misdemeanor for the first offense and shall be punished by imprisonment in jail for not less than ten (10) days nor more than one (1) year, and a fine of not more than One Thousand Dollars (\$1,000.00). Any person who within ten (10) years after a previous conviction of a violation of this section is convicted of a second or subsequent offense pursuant to the provisions of this section or has a prior conviction within ten (10) years prior to the conviction pursuant to the provisions of this section, in a municipal criminal court of record for the violation of a municipal ordinance prohibiting the offense provided for in subsection A of this section shall be guilty of a felony and shall be sentenced to the custody of the Department of Corrections for not less than one (1) year and not to exceed five (5) years, and a fine of not to exceed Two Thousand Five Hundred Dollars (\$2,500.00); provided, such fine shall be in addition to other punishment provided by law and shall not be imposed in lieu of other punishment. When a sentence of incarceration is imposed, the person shall be processed through the Lexington Assessment and Reception Center or at a pace determined by the Director of the Department of Corrections. If the person is evaluated to be receptive to treatment and not deemed by the Department of Corrections to be a security risk, the person shall be assigned to the Department of Mental Health and Substance Abuse Services for substance abuse treatment. The inmate shall be required to reimburse the Department of Mental Health and Substance Abuse Services for all or part of the actual cost incurred for treatment of the inmate while the inmate was assigned to the Department of Mental Health and Substance Abuse Services, if at the time the sentence of incarceration was imposed, the court determined that the convicted person has the ability to pay for all or part of the cost of treatment. The court shall determine the amount of reimbursement the convicted person shall pay. While assigned to such a Department of Mental Health and Substance Abuse Services treatment program the inmate shall comply with the rules and regulations as agreed upon by the Department of Mental Health and Substance Abuse Services and the Department of Corrections. Any infraction of said rules may result in the inmate's reassignment to a correctional facility of the Department of Corrections. Upon successful completion of the treatment program the person shall be properly reassigned by the Department of Corrections for the completion of the sentence imposed by the court. Prior to discharge from the treatment facility, the

treatment facility shall forward to the Department of Corrections a report and discharge summary including arrangements and recommendations for further disposition and follow-up treatment. If the person is evaluated not to be receptive to treatment or is evaluated to be a security risk, the inmate shall be assigned to a state correctional facility according to normal Department of Corrections classification procedures. In the event a felony conviction does not result in a sentence of incarceration as provided for in this subsection, the person shall be required to serve not less than ten (10) days of community service, or to undergo inpatient rehabilitation or treatment in a public or private facility with at least minimum security for a period of not less than forty-eight (48) consecutive hours, notwithstanding the provisions of Sections [991a](#), [991a-2](#) and [996.3](#) of Title 22 of the Oklahoma Statutes.

E. Any person who is found guilty of a violation of the provisions of this section may be referred, prior to sentencing, to an alcoholism evaluation facility designated by the Department of Mental Health and Substance Abuse Services for the purpose of evaluating the receptivity to treatment and prognosis of the person. The court shall order the person to reimburse the facility for the evaluation in an amount not to exceed Seventy-five Dollars (\$75.00). The facility shall, within seventy-two (72) hours, submit a written report to the court for the purpose of assisting the court in its final sentencing determination.

### ***Section 302 - Implied Consent to Blood or Breath Tests to Determine Alcohol Concentration***

A. Any person who operates an aircraft within this state shall be deemed to have given consent to a test or tests of such person's blood or breath, for the purpose of determining the alcohol concentration as defined in Section 5 of this act, and such person's blood, saliva or urine for determining the presence and concentration of any other intoxicant therein as defined in Section 1 of this act, if arrested for any offense arising out of acts alleged to have been committed while the person was operating an aircraft within this state while the person was under the influence of an intoxicant. The test shall be administered by or at the direction of a law enforcement officer after having arrested such person and having reasonable grounds to believe that such person was operating an aircraft within this state while under the influence of an intoxicant.

B. The law enforcement agency by which the arresting officer is employed may designate, in accordance with the rules and regulations of the Board of Tests for Alcohol and Drug Influence, hereinafter referred to as the Board, whether blood or breath is to be tested for the alcohol concentration thereof, and whether blood, saliva or urine is to be tested for the presence and concentration of any other intoxicant therein. In the event the law enforcement agency does not designate the test to be administered, breath shall be the substance tested for alcohol concentration. Blood may also be tested to determine the alcohol concentration thereof in the event that breath cannot be tested to determine the alcohol concentration thereof because of the lack of an approved device or qualified person to administer a breath test or because such breath test for any other reason cannot be administered in accordance with the rules and regulations of the Board. In the event the law enforcement agency does not designate the test to be administered, blood, saliva or urine shall be the substance tested for the presence and concentration of any other intoxicant or the combination of alcohol and any other intoxicant therein.

C. In the event the person is incapable of submitting to and successfully completing, by reason of illness or injury or other physical disability, the test to be administered, an alternate test may be administered in accordance with the rules and regulations of the Board.

D. Any person who is unconscious or otherwise incapable of refusing to submit to a test of such person's blood or breath to determine the alcohol concentration thereof, or to a test of such person's blood, saliva or urine to determine the presence and concentration of any other intoxicant therein, shall be deemed not to have withdrawn the consent provided by subsection A of this section, and such test may be administered as provided herein.

E. In addition to any test designated by the arresting officer, the arrested person may also designate any additional test to be administered to determine the concentration of alcohol, any other intoxicant or the combination of alcohol and any other intoxicant. The cost of such additional test shall be at the expense of the arrested person.

A sufficient quantity of any specimen obtained at the designation of the arrested person shall be available to the law enforcement agency employing the arresting officer. Such specimens shall be treated in accordance with the same rules and regulations applicable to the specimens obtained by an arresting officer.

### ***Section 303 - Persons Who May Withdraw Blood or Collect Specimens to Determine Alcohol Content-Liability-Independent Analysis-Costs-Admissibility as Evidence-Report***

A. Only a licensed medical doctor, licensed osteopathic physician, licensed chiropractic physician, registered nurse, licensed practical nurse, physician's assistant, certified by the State Board of Medical Licensure and Supervision, an employee of a hospital or other health care facility authorized by the hospital or health care facility to withdraw blood, or other qualified person authorized by the Board of Tests for Alcohol and Drug Influence acting at the request of a law enforcement officer may withdraw blood for purpose of having a determination made of its concentration of alcohol or other intoxicant. Only qualified persons authorized by the Board may collect breath, saliva or urine, or administer tests of breath under the provisions of Sections [301](#) through [308](#) of this title.

B. No person specified in subsection A of this section, no employer of such a person, and no hospital or other health care facility where blood is withdrawn, shall incur any civil or criminal liability as a result of the proper withdrawal of blood when acting at the request of a law enforcement officer pursuant to the provisions of Section [302](#) or [304](#) of this title, if the withdrawal of blood is performed in a reasonable manner according to generally accepted clinical practice. If the person specified in subsection A of this section is presented with a written statement by the person whose blood is to be withdrawn or a duly authorized peace officer that the person whose blood is to be withdrawn has agreed to the withdrawal of blood or an order from

a court of competent jurisdiction that blood be withdrawn, the person authorized to withdraw the blood and the hospital or other health care facility where the withdrawal occurs may rely on such a statement or order as evidence that the person has consented to or has been required to submit to the clinical procedure and shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to perform the procedure, the employer of such person, and the hospital or other health care facility shall not be liable in any action alleging lack of consent or lack of informed consent. No person specified in subsection A of this section shall incur any civil or criminal liability as a result of the proper collection of breath, saliva or urine when acting at the request of a law enforcement officer under the provisions of Section [302](#) or [304](#) of this title or when acting pursuant to court order.

C. The blood, breath, saliva or urine specimens obtained shall be tested by the appropriate test as determined by the Board to determine the alcohol concentration thereof, or the presence and concentration of any other intoxicant which might have affected the ability of the person tested to operate an aircraft safely.

D. When blood is withdrawn or saliva or urine is collected for the appropriate test as determined by the Board of its alcohol or other intoxicant concentration, at the request of a law enforcement officer, a sufficient quantity of the same specimen shall be obtained to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess blood, saliva or urine specimen shall be retained by a laboratory approved by the Board, in accordance with the rules and regulations of the Board, for sixty (60) days from the date of collection. At any time within that period, the tested person or his or her attorney may direct that such blood, saliva or urine specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional blood, saliva or urine specimen prior to the completion of the independent analysis, except the analyst performing the independent analysis and agents of the analyst.

E. When a test of breath is performed for the purpose of determining the alcohol concentration thereof, except when such test is performed by means of an automated analyzer as designated by the Board, a sufficient quantity of breath, or of the alcohol content of a fixed or measured quantity of breath, shall be obtained, in accordance with the rules and regulations of the Board, to enable the tested person, at his or her own option and expense, to have an independent analysis made of such specimen. The excess specimen of breath, or of its alcohol content, shall be retained by the law enforcement agency employing the arresting officer, in accordance with the rules and regulations of the Board, for sixty (60) days from the date of collection. At any time within that period, the tested person, or his or her attorney, may direct that such specimen be sent or delivered to a laboratory of his or her own choosing and approved by the Board for an independent analysis. Neither the tested person, nor any agent of such person, shall have access to the additional specimen of breath, or of its alcohol content, prior to the completion of the independent analysis thereof, except the analyst performing the independent analysis and agents of the analyst.

F. The costs of collecting blood, breath, saliva or urine specimens for the purpose of determining the alcohol or other intoxicant thereof, by or at the direction of a law enforcement officer, shall be borne by the law enforcement agency employing such officer. The cost of collecting, retaining and sending or delivering to an independent laboratory the excess specimens of blood, breath, saliva or urine for independent analysis at the option of the tested person shall also be borne by such law enforcement agency. The cost of the independent analysis of such specimen of blood, breath, saliva or urine shall be borne by the tested person at whose option such analysis is performed. The tested person, or his or her agent, shall make all necessary arrangements for the performance of such independent analysis other than the forwarding or delivery of such specimen.

G. Tests pursuant to the provisions of Sections [301](#) through [308](#) of this title, whether administered by or at the direction of a law enforcement officer or administered independently, at the option of the tested person, on the excess specimen of such person's blood, breath, saliva or urine, to be considered valid and admissible in evidence under the provisions of this section and Section [305](#) of this title, shall have been administered or performed in accordance with the rules and regulations of the Board.

H. Any person who has been arrested for any offense arising out of acts alleged to have been committed while the person was under the influence of an intoxicant and was operating an aircraft, who is not requested by a law enforcement officer to submit to a test shall be entitled to have an independent test of his or her blood, breath, saliva or urine which is appropriate as determined by the Board for the purpose of determining its alcohol concentration or of any other intoxicant therein, performed by a person of his or her own choosing who is qualified as stipulated in this section. The arrested person shall bear the responsibility for making all necessary arrangements for the administration of such independent test and for the independent analysis of any specimens obtained, and bear all costs thereof. The failure or inability of the arrested person to obtain an independent test shall not preclude the admission of other competent evidence bearing upon the question of whether such person was under the influence of an intoxicant.

I. A written report of the results of the test administered by or at the direction of the law enforcement officer shall be made available to the tested person, or his or her attorney, to the law enforcement agency employing the arresting officer, the district attorney of the county in which the alleged violation of Section [301](#) of this title occurred, and to the Federal Aviation Administration Flight Standards District Office having jurisdiction over the county in which the alleged violation of Section [301](#) of this title occurred. The results of the tests provided for in this title shall be admissible in civil actions.

#### ***Section 304 - Refusal to Submit to Intoxication Test***

A. If a conscious person under arrest refuses to submit to testing of his or her blood or breath for the purpose of determining the alcohol concentration thereof, or to a test of his or her blood, saliva or urine for the purpose of determining the concentration of any intoxicant, none shall be given, unless the investigating officer has probable cause to believe that the

person under arrest, while intoxicated, has operated an aircraft in such a manner as to have caused the death or serious physical injury of any other person or persons. In such event, such test otherwise authorized by law may be made in the same manner as if a search warrant had been issued for such test or tests. The sample shall be taken in a medically acceptable manner at a hospital or other suitable health care facility.

B. Any refusal by a conscious person to submit to testing shall be reported to the Federal Aviation Administration Flight Standards District Office having jurisdiction over the county in which the alleged violation of Section 1 of this act occurred.

***Section 305 - Evidence of Intoxication While Operating Aircraft-Admissibility-Definitions***

A. Upon the trial of any criminal action or proceeding arising out of acts alleged to have been committed by any person while operating an aircraft while the person was under the influence of an intoxicant, evidence of the alcohol concentration in the blood or breath of the person as shown by analysis of the blood or breath of the person performed in accordance with the provisions of Sections 2 and 4 of this act or evidence of the presence and concentration of any other intoxicant as shown by analysis of such person's blood, breath, saliva, or urine specimens in accordance with the provisions of Sections 2 and 4 of this act is admissible. Evidence that the person has refused to submit to either of said analyses is also admissible.

B. For the purpose of Sections 1 through 8 of this act:

1. Evidence that there was an alcohol concentration of less than four-hundredths (0.04) is prima facie evidence that the person was not under the influence of alcohol;

2. Evidence that there was an alcohol concentration of four-hundredths (0.04) or more shall be admitted as prima facie evidence that the person was under the influence of alcohol.

C. As used in Sections 1 through 8 of this act, alcohol concentration shall mean grams of alcohol per one hundred (100) milliliters of blood if the blood was tested, or grams of alcohol per two hundred ten (210) liters of breath if the breath was tested.

D. To be admissible in a criminal action or proceeding, evidence of alcohol concentration shall first be qualified by establishing that such test was administered to the person within two (2) hours after the arrest of the person.

***Section 306 - Report of Conviction of Violation to Agency***

If a person is convicted of a violation of Section 1 of this act or of a local ordinance substantially corresponding to Section 1 of this act, a report of the conviction shall be forwarded by the court in which the conviction occurred to the Federal Aviation Administration Flight Standards District Office having jurisdiction over the county in which the violation occurred.

***Section 307 - Permitting Aircraft to be Operated by Person Under the Influence-Penalty***

The owner or operator of an aircraft or the person in charge or in control of an aircraft shall not knowingly permit the aircraft to be operated within this state by a person who is under the influence of any intoxicant. A person who is convicted of violating this section shall be guilty of a misdemeanor, punishable by imprisonment for not more than six (6) months, or a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or both such fine and incarceration.

***Section 308 - Other Evidence Not Limited***

The provisions of Sections 1 through 7 of this act do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of an intoxicant.

***Section 321 - Possession of Aircraft Without Owner's Consent-Injury to Aircraft-Manipulation of Levers, Brakes, etc.-Penalties***

A. A person not entitled to possession of an aircraft who, without the consent of the owner and with intent to deprive the owner, temporarily or otherwise, of the aircraft or its possession, takes, uses or flies the aircraft, upon conviction, shall be guilty of a felony.

B. A person who, with intent and without right to do so, injures or tampers with any aircraft or in any other manner damages any part or portion of said aircraft or any accessories, appurtenances or attachments thereto, upon conviction, shall be guilty of a misdemeanor.

C. A person who, without right to do so and with intent to commit a crime, climbs into or upon an aircraft whether it is in motion or at rest, manipulates any of the levers, starting mechanism, brakes or other mechanism or device of an aircraft while the same is at rest and unattended, or sets in motion any aircraft while the same is at rest and unattended, upon conviction, shall be guilty of a misdemeanor.

