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BILL ANALYSIS



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House Bill 5257 (Substitute H-1 as passed by the House)
 Sponsor: Representative Michael Nye
 House Committee: Transportation
 Senate Committee: Transportation and Tourism

Date Completed: 5-15-96

CONTENT

The bill would amend the Aeronautics Code to increase the tax levied on aviation fuel as well as the tax refund that applies to certain persons; raise certain fees imposed under the Code; and switch to a calendar year for purposes of the registration and licensure of persons regulated under the Code. In addition, the bill would revise provisions that pertain to the licensing and regulation of aircraft, flight schools, aeronautical facilities, airport managers, and other aspects related to aviation.

Increase Fuel Tax, Refund

The Code currently levies a privilege tax of three cents per gallon on all aircraft fuel sold and used in the State, and provides for a refund of one and one-half cents per gallon to airline operators who prove within six months of purchasing fuel that they were operating interstate on scheduled operations. The bill would increase the tax to six cents per gallon, and would increase the refund provided to airline operators to four and one-half cents per gallon.

Change to Calendar Year

Currently, the Code provides for aircraft registration to run from August 1 of one year to July 31 of the next, and requires the registration fee to be paid prior to August 1 of each year. Under the bill, the registration year would be the same as a calendar year; registrations would expire on January 1, and the fee for a new registration would be due on December 31.

The bill also would adjust licensing and registration provisions that apply to other types of licensees such as airport managers and aeronautical

facilities under the Code to conform with the calendar year.

Increase Licensing, Permit Fees

The bill would increase from \$5 to \$10 the license fee for airport managers and the penalty for each month that an aircraft owner failed to pay the required registration fee. The bill also provides that a temporary field permit would be good for 120 days, rather than the current 15 days. Also, an application for this permit now must be received at least seven days before the requested date of issuance; under the bill, it would have to be received 14 days prior to this date.

Registration Certificate, Aircraft Decal, Assigned Number

The Code currently requires the registration certificate issued by the Aeronautics Commission to be carried "in a conspicuous place" in an aircraft at all times. The bill would remove language requiring conspicuous placement of the certificate. In addition, the Code requires certain "decal plates" to be affixed at various points on the external surface of an aircraft. The bill would delete this requirement and other references to decals, but would retain language requiring each aircraft to "display the number assigned to it by the United States or a foreign country".

The bill would require that an application for registration be made on forms provided by the Commission, and be signed and sworn to by the applicant. The registration would have to be issued subject to the approval of the Commission. The fees would have to be paid to the Commission in the form of cash paid in person or in the form of a check, money order, or bank draft made payable to the State of Michigan.

Inspection

The bill would allow the Commission to cause an aircraft to be inspected at any time to determine its compliance with the registration requirements of the Code. The owner, operating agency, or airman would be required to give the inspector or officer representing the Commission unhindered and uninterrupted access to the aircraft and to the shelter or field where the aircraft was located in order to conduct the inspection.

Airmen

The Code prohibits a person from operating a civil aircraft unless he or she holds a valid and effective airman's certificate of competency issued by the United States or a foreign government. An airman must operate the aircraft only as authorized by the certificate, which the airman must keep in his or her personal possession while operating the aircraft and present for inspection on demand of any passenger or person in authority in connection with the operation of aircraft in this State. The bill would delete these provisions and require instead that a person operating a civil aircraft be in full compliance with the Federal airman certification requirements.

Aeronautical Traffic Rules

The bill would prohibit a person from navigating an aircraft over, landing on, or flying from; or serving, maintaining, or repairing an aircraft or an airport, landing field, or other aeronautical facility, or conducting an aircraft operation from an airport, landing field, or other aeronautical facility in this State except in conformity with the Code. Further, a person could not use a licensed aeronautical facility as a base or terminal for a commercial activity without first securing a written agreement from the airport manager or his or her designated representative and paying the fees and charges prescribed.

An airport manager or his or her designated representative at all times could take such action authorized by law as necessary in the handling, conduct, and management of the public in attendance at the licensed aeronautical facility.

A person dealing, at wholesale or retail, in aviation fuel would have to acquire and dispense the fuel according to Michigan law. A person could not dispense fuels of different octane from the same pump.

A person operating an aircraft would have to conform to standard traffic patterns recommended by Federal air regulations unless 1) local conditions required otherwise, and the traffic pattern had been altered to fit the conditions and approved by the Commission, or 2) meteorological conditions were such that compliance with visual flight rules as prescribed by Federal air regulations was impossible at the prescribed traffic pattern altitudes. The altitudes could be reduced as necessary to, but not lower than, altitudes in accordance with the appropriate Federal air regulations, the Code, and the rules promulgated under the Code.

The bill would require aircraft to conform with properly established local noise abatement procedures.

The bill would prohibit a person from flying an aircraft acrobatically over a licensed aeronautical facility except upon the written authority of the airport manager, and then only if the site were closed to traffic.

Airmen, before departing from a licensed aeronautical facility, would have to make satisfactory arrangements for the payment of storage, repair, and supply charges.

The owner, operator, or pilot of an aircraft, or a person to whom he or she had given permission to use the aircraft, would be directly responsible for its safe operation.

If an aircraft were involved in this State in an accident that caused injury or death, the owner or person in control of the aircraft immediately would have to report the accident to the nearest State Police post.

A person could not operate an aircraft in a careless or reckless manner that would endanger, or be likely to endanger, the life or property of another. Other than at a licensed or approved landing area, a person could not fly an aircraft less than 25 feet above the ground at the field boundary or closer than 25 feet to any object or structure while landing or taking off.

A person could not fly an aircraft within 500 feet of another aircraft, except by prearrangement of each aircraft's pilot in command.

The bill specifies that an aircraft owner, pilot, or authorized agent would be responsible for the

prompt disposal of a wrecked aircraft and its parts to avoid interference with aircraft operations, unless specifically directed by the airport manager, Commission, State Police, or appropriate Federal agency to delay removal pending investigation.

Participants in an accident at or near a licensed aeronautical facility would have to report to the airport manager or responsible authorities as soon after an accident as possible, furnishing their names and addresses, and rendering required reports.

Reports of investigations or hearings, or any part of investigations or hearings, could not be admitted in evidence or used for any purpose pertaining to a matter referred to in an investigation, hearing, or report, except in case of criminal or other proceedings in behalf of the Commission.

An officer or employee of the Commission or the State Transportation Department could not be required to testify as an expert witness in an action involving an aircraft.

An aircraft could not land, except in an emergency, on private property, other than upon recognized landing areas, unless express permission were secured from the owner or lessee.

A person could not land an aircraft on a public highway except in an emergency. A person could not operate an aircraft on a public highway unless traffic were controlled by all enforcement officials. Lighter-than-air and emergency evacuation aircraft could take off from and land on any public highway with prearranged traffic control.

Except when necessary for takeoff or landing, an aircraft could not be flown at the following locations:

- Over any congested area of a city or village at an altitude below that which, if a power unit failed, would permit an emergency landing without undue hazard to persons or property on the surface, and in no case less than 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet from the aircraft.
- Over any other area at an altitude of less than 500 feet above the surface, except over open water or sparsely populated areas, in which case the aircraft could not

be operated less than 500 feet from any person, vessel, vehicle, or structure.

A helicopter could be flown at altitudes less than the minimums prescribed in the bill, if the operation were conducted without hazard to persons or property on the surface.

Flight Schools

The Code currently requires all aviation instructors to have an appropriate and effective certificate or permit issued by the United States civil aeronautics authority or other similar Federal authority, authorizing him or her to engage in the particular class of aviation instruction in which he or she is engaged. The certificate or permit must be registered with the Department of Aeronautics and be in full force and effect. Public schools and universities of this State or any institution of higher learning duly accredited and approved for carrying on collegiate work and any instructors in such public schools, universities, or institutions of higher learning are exempt from the provisions.

The bill would delete these provisions and specify that upon receipt of an application and a \$25 license fee by a flight school, the Commission would have to review the qualifications of the applicant. Unless surrendered, suspended, or revoked prior to this date, a flight school license would expire one year from date of issuance or upon the sale or transfer by the owner of property, equipment, or franchise of the flight school. The annual flight school license renewal fee would be \$10 and would be payable from the original date of issuance. An applicant would have to file an initial application and pay the initial application fee if a license were not renewed before expiration.

A change in the name of the flight school, without change in ownership, would not cause a current license to expire if the owner of the flight school notified the Commission in writing within 15 days of the change. Upon receipt of notification, the Commission would have to issue a license under the new name, with the same expiration date as the license previously issued, with no additional fee required.

A flight school operating facilities at more than one aeronautical facility would have to secure a license for each location. A flight school license would have to be conspicuously posted in the principal office of the flight school where it could be readily

observed. At all times a flight school would have to conduct itself in accordance with all applicable Federal, State, and local laws and statutes.

A flight school would have to be operated from an airport properly licensed by the Commission. A flight school operator would have to secure from the airport manager a written agreement to operate commercially from the airport at which the flight school was based.

Each flight school student would have to be advised in writing at the time of enrollment of the type and amount of insurance coverage provided for each aircraft used by the flight school. A flight school would have to provide a suitable space of permanent nature, properly heated, lighted, and ventilated to accommodate flight school students and to house adequate equipment necessary to conduct business matters properly and to prepare and preserve business records. These facilities would have to be at the licensed airport site.

Each aircraft to be used for purposes of flight instruction at a flight school would have to comply with all of the following:

- Possess a valid airworthiness certificate issued by the Federal Aviation Administration (FAA).
- Be properly registered with the Commission.
- Have the equipment and performance characteristics appropriate to the curriculum, and the airport to be used.

All aircraft used in any flight school operation would have to be operated in accordance with FAA maintenance regulations and standards. A school would have to keep adequate records to show that all required items of maintenance had been performed. A school also would have to display the maintenance status of each aircraft, including discrepancies, in a manner adequate to determine compliance.

A flight school would have to have a flight instructor available to dispatch and supervise each student pilot solo flight. A flight school would have to have a written curriculum including lesson plans adequate to qualify the student to complete the particular course for the certificate or rating sought. A flight school also would have to provide adequate instruction to qualify a student completing its courses for the appropriate FAA examination covering the grade of certificate or rating sought. In addition, a flight school would have to include lessons pertaining to Michigan

laws relating to aviation and the Code. A flight school would have to make available current texts and reference material pertaining to the certificate or rating sought.

A flight school would have to maintain training records adequate to show each student's progress and level of completion relative to the course of instruction in which the student was enrolled. These records would have to be made available for inspection by any authorized representative of the Commission. A copy of the airport and flight school regulations would have to be made available to the students enrolled in the school for information and guidance.

A flight school would have to designate a practice area. A flight school or its representatives and instructors could not make false claims of any kind pertaining to either flight training or employment following flight training. Only a licensed flight school could advertise flight instruction.

A flight school accepting prepayment of \$1,000 or more would have to file with the Commission a corporate surety bond payable to the State of Michigan in the sum of \$5,000 conditioned on the faithful performance of all contracts and agreements with students made by the flight school, or its agent. The surety of any bond could cancel the bond upon giving 60 days' notice in writing to the Commission and the flight school. If a bond were canceled, the surety would be relieved of liability for any breach of conditions occurring after the effective date of cancellation.

The requirements for a flight school specified in the bill would be the conditions of the license. Failure to comply with any of these requirements would be ground for revocation of a flight school's license.

A person who violated these provisions would be guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not less than \$100 or more than \$500, or both, together with costs of the prosecution.

Public Use Facilities

The bill specifies that upon receipt of an application for a public use landing area, the Commission would have to have the proposed landing area inspected. If the proposed or complete facility were found to meet the minimum requirements for site approval, the Commission would have to issue a license of approval.

The bill also would require licensed public use facilities to be included on the Michigan aeronautical charts and in other aviation publications made available to the public.

A facility intended for the use of aircraft could not be established without prior Commission approval within five nautical miles of a licensed public use facility. A facility could not be licensed or approved if it required aircraft to be airborne under a bridge or power line during the approach to or takeoff from a landing area, or if it required aircraft to fly in a manner that could endanger persons or property. The Commission could refuse to issue a license or approval if the location of a proposed landing area were at or near a licensed landfill, a game refuge, a fishery, or other refuge designated by the Department of Natural Resources. The official name of an aeronautical facility, as designated in a license issued by the Commission, could not be changed unless a written request were made by the airport owner or by resolution of the governing body of the airport authorizing the name change.

Aeronautical Facilities

The bill would provide for the licensing of aeronautical facilities as basic utility airports, general utility airports, air carrier airports, seaplane bases, heliports, and hospital heliports, and specifies in detail the types of runways, landing areas, and other facilities that the airports and heliports would have to maintain and the types of pilot aids that they would have to have, if any.

Airport Managers

The bill would require the owner or operator of a licensed aeronautical facility in the State to appoint an airport manager. The manager would have to be given, by resolution of the appointing political subdivision, adequate power and authority to exercise control over the aeronautical facility for the enforcement of Federal, State, and local rules and regulations pertaining to the landing area and its use.

An airport manager or his or her designee would have to pass an exam, developed by the Commission, that tested his or her knowledge of the Code and the rules promulgated under it before receiving a license. The airport manager would be required to do all of the following:

- Assist appropriate authorities in enforcing the Code and the rules.

- Determine that all licensed aeronautical facility requirements for the class under which the site was licensed were maintained.
- Determine and take appropriate action to assure that all locally based commercial activities operating on the licensed aeronautical facility had appropriate licenses and registrations as issued by the appropriate State and Federal agencies.
- Post local rules, traffic patterns, and noise abatement procedures, if any.
- File notice with the proper Federal agency indicating any change in the aeronautical facility condition.
- Note and advise the Commission of a proposed construction or zoning change adjacent to or near the licensed aeronautical facility that would affect air navigation safety or use.
- Advise sponsors of new and proposed construction of Federal regulations pertaining to objects affecting navigable airspace.

Flying Club

The bill would define a flying club as a nonprofit entity organized for the express purpose of providing its members with aircraft for their personal use and enjoyment. The ownership of the aircraft would be vested in the club's name or owned in equal shares by all of its members. Property rights of club members would be equal, and any part of net earnings of a flying club that were distributed to members would have to be in equal shares to all members. A club could not derive greater revenue from the use of aircraft than the amount necessary for its actual operation, maintenance, and replacement or upgrade of its aircraft. A club's aircraft could not be used by members for rental purposes or by anyone for charter or lease.

State Ownership of Airports

The Code currently permits the State to own and operate an "airport at Lansing" (currently known as the Capital City Airport). The bill would delete this language and, instead, would permit the State to own and operate multiple airports.

Reciprocal Agreements with Ohio and Indiana

Currently, the Code specifies that the governing body of a political subdivision in Wisconsin, whose laws permit, may acquire, establish, construct,

enlarge, own, control, lease, equip, improve, maintain, and operate various types of aeronautical facilities in Michigan if Michigan is similarly allowed to own and operate aeronautical facilities in Wisconsin. The Wisconsin subdivisions are subject to all laws, rules, and regulations of Michigan applicable to its political subdivisions in such aeronautical projects, but subject to Wisconsin's laws in all matters relating to the financing of such projects. Under the bill, identical provisions would apply to political subdivisions in the states of Ohio and Indiana.

Commission Powers

The Code currently grants the Commission general supervision over aeronautics in the State and, among other things, authorizes it to provide for the licensing of aircraft manufacturers. The bill specifies that the Commission would have exclusive authority to approve the operation of airports, landing fields, and other aeronautical facilities within the State in order to assure uniform regulation of aeronautics.

Currently, the Code grants the Commission the power to establish programs of grant assistance and participation with political subdivisions and agencies of the State as the Commission determines are necessary to carry out the Code. The bill would specify, instead, that in order to implement the Code, the Commission could establish programs of state financial assistance in the form of grants, leases, loans, and purchases, or a combination of grants, leases, loans, and purchases, for assisting political subdivisions or other persons.

The bill would delete the provision that allows the Commission to provide for the licensing of aircraft manufacturers.

Suspension, Revocation of License

The bill specifies that the Commission or its authorized representative, after considering the facts of a case and holding a hearing, could suspend or permanently revoke, or both, the license, certificate, or letter of authority of a person who did any of the following:

- Knowingly forged, counterfeited, altered, or falsely made a certificate authorized to be issued under the Code or the rules promulgated under it, or used or attempted to use any certificate.

- Knowingly made a false statement in an application for a license or registration or in a report required by the Commission.
- Violated a condition or provision of a license or letter of authority issued by the Commission.
- Failed to render reports requested by, and within the time limits prescribed by, the Commission.
- Failed to maintain the minimum standards determined by the Commission.
- Committed an act on the part of a flight school by a flight instructor or representative that was contrary to public safety or to the proper training of students enrolled in a flight school.
- Failed to comply, in whole or part, with any rule promulgated by the Commission.
- Failed to abate a hazard certified by the Commission.

Penalty Provisions

Currently, someone who violates the Code generally is guilty of a misdemeanor. Under the bill, a person who violated the Code would be responsible for a civil infraction and would have to pay a civil fine of up to \$500. Also, a person who hunted or killed any wild waterfowl or other birds or animals from an aircraft would be responsible for a civil infraction and maximum fine of \$500, and would be prohibited from obtaining or possessing a hunting license for one year.

The Code makes it a misdemeanor to operate aircraft recklessly and to tamper with, remove, or destroy markings at airports, landing fields, and aeronautical facilities. The bill would add that the misdemeanor would be punishable by imprisonment for up to 90 days, a fine of up to \$500, community service of up to 30 days, or any combination of these penalties.

The Code specifies that it is a misdemeanor to trespass on aeronautical facility property or to allow domestic animals or fowl to run at large on aeronautical facility property. The bill would continue to prohibit trespassing and allowing animals or fowl on airport property but would not designate a violation of these prohibitions as a misdemeanor.

The Code also specifies that illegal possession of an aircraft constitutes a felony punishable by imprisonment for up to five years. The bill would add additional penalty options of a maximum fine

of \$2,000, community service for up to six months, or any combination of the imprisonment, fine, and community service penalties.

Repeal

The bill would repeal sections of the Code governing airspace reservations, decal plates, certificates of public convenience and necessity, landing areas for emergency public use, Capital City Airport revenue bonds, aviation instructors, aviation schools, inspection of aircraft, annual registration for aeronautical facilities, and certificates of competency.

MCL 259.2 et al.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill would result in increased revenue to the State Aeronautics Fund. In FY 1994-95, the State Aviation Fuel tax generated \$7.7 million, which represents 80.0% of the total State Aeronautic Fund revenue.

The increase in the Aviation Fuel tax would generate between \$3.0 million and \$3.5 million and the other increases in the bill would result in a minimal revenue increase.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.