

CHAPTER 114.

AERONAUTICS.

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114.01 Definitions. When used in this chapter:

(1) "Aeronautics" means transportation by aircraft; air instructions; the operation, repair or maintenance of aircraft, and the design, operation, repair or maintenance of airports, landing fields, landing strips or other air navigation facilities.

(2) "Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of, or flight in, the air.

(3) "Air instruction" means the imparting of aeronautical information by an aviation instructor or in any air school or flying club.

(4) "Airport" means any area of land, water or both which is used or is made available for the landing and take-off, and which provides facilities for the shelter, supply and repair of aircraft; which, as to size and design, has at least eighteen hundred feet of effective landing length in all directions, with clear approaches, or landing strips not less than five hundred feet wide, permitting landing in at least six directions at all times, with at least one landing strip aligned with the general direction of the prevailing wind, the landing strips not to cross or converge at angles of less than forty degrees, nor any of the landing strips to be less than eighteen hundred feet in effective length, with clear approaches, or two landing strips, one aligned with the general direction of the prevailing wind, permitting at least four-way landing at all times, with clear approaches, the landing strips to be at least five hundred feet wide and at least twenty-five hundred feet in effective length, and not to cross or converge at any angle less than eighty degrees; and which, as to surface, marking, equipment and management meets the minimum requirements established from time to time by the state aeronautic board.

(5) "Air school" means any person engaged in giving, offering to give, or advertising, representing or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics;—in flying, in ground subjects, or in both.

(6) "Aviation instructor" means any individual engaged in giving, or offering to give, instruction in aeronautics; in flying, in ground subjects, or in both;—either with or without compensation or other reward, without advertising such occupation, without calling his facilities "Air School" or an equivalent term, and without employing or using other instructors.

(7) "Civil aircraft" means any aircraft other than a public aircraft.

(8) "Flying club" means any person (other than an individual) who, neither for profit nor reward, owns, leases or uses one or more aircraft for the purposes of instructions, pleasure or both.

(9) "Landing field" means any area of land, water or both, which is used or is made available for the landing and take-off of aircraft; which may or may not provide facilities for the shelter, supply and repair of aircraft; and which, as to size, design, surface marking, equipment and management meets the minimum requirements established from time to time by the state aeronautic board.

(10) "Person" means any individual or any corporation or other association of individuals.

(11) "Public aircraft" means any aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of the United

States, of the District of Columbia, and of any state, territory or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.

(12) "Landing strip" means any area of land, water or both, which is used or is made available for the landing and take-off of aircraft, having at least two hundred feet of land or of water in its width and at least one thousand feet of land or of water in its length, the use of which shall, except in the case of emergency, be only as provided from time to time by the state aeronautic board. [1935 c. 169; 1937 c. 381]

114.015 State aeronautic board; creation; powers. There is hereby created a state aeronautic board, to be known as the "State of Wisconsin Aeronautic Board," consisting of five persons to be appointed by the governor subject to the confirmation of the senate. Members of said board other than ex officio members thereof shall receive a per diem of ten dollars per person for not to exceed fifteen days in any one year spent in the discharge of their official duties. All members of the board shall be reimbursed their actual and necessary travel and hotel expenses incurred in the performance of their duties. The first member shall be appointed for two years and shall be a commercial operator and transport pilot. The second member shall be appointed for four years and shall be a private airplane owner of the state. The third member shall be appointed for six years and shall be an active airport manager of the state. As their respective terms expire their successor shall be appointed in the manner above provided and for a term of six years. The fourth member shall be a member of the state highway commission. The fifth member shall be a member of the state planning board. Such fourth and fifth member shall act as ex officio members. The members of the state aeronautic board shall elect a chairman who shall so serve during the term of his appointment. The state aeronautic board shall have power to adopt reasonable rules and regulations, make such investigations and perform all other acts necessary to administer the provisions of chapter 114. [1937 c. 381]

114.02 Sky sovereignty. Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States.

114.03 Landowner's rights skyward. The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in section 114.04.

114.04 Flying lawful, landing unlawful; limitations; emergency. Flight in aircraft over the lands and waters of this state is lawful, unless at such a low altitude as to interfere with the then existing use to which the land or water, or the space over the land or water, is put by the owner, or unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent, is unlawful, except in the case of a forced landing. For damages caused by a forced landing, however, the owner or lessee of the aircraft or the aeronaut shall be liable, as provided in section 114.05.

114.05 Damages by aircraft. The owner of every aircraft which is operated over the lands or waters of this state is absolutely liable for injuries or damage to persons or property on the land or water beneath, caused by the ascent, descent or flight of the aircraft, or the dropping or falling of any object therefrom, whether such owner was negligent or not, unless the injury is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property injured. If the aircraft is leased at the time of the injury to person or property, both owner and lessee shall be liable, and they may be sued jointly, or either or both of them may be sued separately. An aeronaut who is not the owner or lessee shall be liable only for the consequences of his own negligence. The injured person, or owner or bailee of the injured property, shall have a lien on the aircraft causing the injury or damage to the extent of the injury or damage caused by the aircraft or objects falling from it.

114.06 Inter-aircraft liability. The liability of the owner of one aircraft, to the owner of another aircraft, or to aeronauts or passengers on either aircraft, for damage caused by collision on land or in the air shall be determined by the rules of law applicable to torts on land.

114.07 Criminal jurisdiction. All crimes, torts and other wrongs committed by or against an aeronaut or passenger while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort, crime or other wrong by or against the owner of such aircraft, shall be determined by the laws of this state.

114.08 Contracts made in flight. All contractual and other legal relations entered into by aeronauts or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath.

114.09 Stunting, dropping matter. Any aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering within this state, shall engage in

trick or acrobatic flying, or in any acrobatic feat, or shall, except while in landing or taking off, fly at such a low level as to endanger the persons on the surface beneath, or drop any object except loose water or loose sand ballast, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for the first offense by a fine of not less than ten dollars nor more than one hundred dollars, and for a second or subsequent offense by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

114.10 Killing birds or animals. Any aeronaut or passenger, who, while in flight within this state, shall intentionally kill or attempt to kill any birds or animals shall be guilty of a misdemeanor and punishable by a fine of not more than one hundred dollars or by imprisonment for not more than ninety days, or both.

114.11 Local airports. The local legislative body of any county, city, village or town in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain and operate airports or landing fields for the use of airplanes and other aircraft either within or without the limits of such cities, villages and towns, but in the case of counties within the limits thereof, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such county, city, village or town, and may regulate the same, provided, such regulation shall not be in conflict with such rules and regulations as may be made by the federal government and the state aeronautic board. The legislative authority of each and every municipality owning an airport or landing field in the state of Wisconsin shall cause said municipality to be marked for aeronautical purposes, and maintain such marking, subject to and in accordance with law and such rules and regulations as may from time to time be made by the federal government and state aeronautic board. [1937 c. 381]

114.12 Condemnation of lands for airports. Any lands acquired, owned, controlled or occupied by such counties, cities, villages and towns for the purposes enumerated in section 114.11 hereof shall and are hereby declared to be acquired, owned, controlled and occupied for a public purpose, and as a matter of public necessity, and such cities, villages, towns or counties shall have the right to acquire property for such purpose or purposes under the power of eminent domain as and for a public necessity.

114.13 Purchase of land for airports. Private property needed by a county, city, village or town for an airport or landing field shall be acquired by purchase if the city, village, town or county is able to agree with the owners on the terms thereof, and otherwise by condemnation, in the manner provided by the law under which the city, village, town or county is authorized to acquire real property for public purposes, other than street purposes. The purchase price or award for real property acquired for an airport or landing field may be paid for by appropriation of moneys available therefor, or wholly or partly from the proceeds of the sale of bonds of the city, village, town or county, as the local legislative body of such city, village, town or county shall determine, subject however to the adoption of a proposition therefor at a municipal election, if the adoption of such a proposition is a prerequisite to the issuance of bonds of such municipality for public purposes generally.

114.14 Equipment, control of airport; expense; regulations. The local legislative body of a city, village, town or county which has established an airport or landing field, and acquired, leased or set apart real property for such purpose, may construct, improve, equip, maintain and operate the same, or may vest jurisdiction for the construction, improvement, equipment, maintenance and operation thereof in any suitable officer, board or body of such city, village, town or county. The expenses of such construction, improvement, equipment, maintenance and operation shall be a city, village, town or county charge as the case may be. The local legislative body of a city, village, town or county may adopt regulations, and establish fees or charges for the use of such airport or landing field, or may authorize an officer, board or body of such village, city, town or county having jurisdiction to adopt such regulations and establish such fees or charges, subject however to the approval of such local legislative body before they shall take effect.

114.15 Appropriation, taxation for airports. The local authorities of a city, village, town or county to which this chapter is applicable having power to appropriate money therein may annually appropriate and cause to be raised by taxation in such city, village, town or county, a sum sufficient to carry out the provisions of this chapter.

114.151 Union airports. All powers conferred upon any county, city, village or town by sections 114.11 to 114.15, relating to the acquisition, establishment, construction, ownership, control, lease, equipment, improvement, maintenance, operation and regulation of airports or landing fields may be exercised by any two or more municipalities in the establishment, acquisition, equipment and operation of joint airports or landing fields.

114.16 Pilots; federal license or permit. It shall be unlawful for any person to pilot within this state any civil aircraft, unless such person is the holder of a currently effective pilot's license or student's permit issued by the government of the United States; but this restriction shall not apply to any person operating any aircraft licensed by a

foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft. [1937 c. 381]

114.17 Mechanic's license, issue, presentation. Any person repairing, adjusting, inspecting or overhauling aircraft or aircraft engines within this state shall be in possession of a mechanic's license issued to him by the department of commerce of the United States, which must be presented for inspection upon demand of any passenger, peace officer of this state, or any official, manager or person in charge of any airport or landing field in this state.

114.18 Aircraft; airworthiness; federal license. It shall be unlawful for any person to operate, pilot or navigate, or cause or authorize to be operated, piloted or navigated within this state any civil aircraft, unless such aircraft has a currently effective license issued by the government of the United States or has been duly identified by the government of the United States and approved by the State Aeronautic Board, performance requirements of identified aircraft to be the same as required of licensed ships; but this restriction shall not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft, or to a nonpassenger-carrying flight solely for inspection or test purposes authorized by the United States to be made without such license. [1937 c. 381]

114.19 Display of licenses. The certificate of the license or permit respectively required of a pilot or a student shall be kept in the personal possession of the licensee or permittee when he is operating an aircraft within this state. The certificate of the license required for an aircraft shall be carried in the aircraft at all times and shall be conspicuously posted therein in clear view of passengers. Such certificate of pilot's license, student's permit or aircraft license shall be presented for inspection upon the demand of any passenger, any peace officer of this state, any authorized official or employe of the state aeronautic board, or any official, manager or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any other person. In any criminal prosecution under any of the provisions of this chapter, a defendant who relies upon a license or permit of any kind shall have the burden of proving that he is properly licensed or is the possessor of a proper license or permit. The fact of nonissuance of such license or permit may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that he has made diligent search in the records of his office and that from the records it appears that no such license or permit was issued.

114.20 Powers, rules, regulations and orders. (1) Except as otherwise specifically provided in this chapter the state aeronautic board shall have supervision of establishing minimum standards of safety over aeronautics within the state, including the maintenance, operation and use of airports, landing fields, landing strips, air markings, air beacons and other air navigation facilities, and the establishment, operation, management and equipment of all air schools, flying clubs and other persons giving air instruction.

(2) The state aeronautic board shall adopt and promulgate rules and regulations establishing minimum standards for safety with which all air navigation facilities, air schools and flying clubs shall comply, and shall adopt and enforce rules, regulations and orders to safeguard from accident and to protect the safety of persons operating or using aircraft and persons and property on the ground and to develop and promote aeronautics within this state. In order to avoid the danger of accident incident to confusion arising from conflicting rules, regulations and orders governing aeronautics, the rules, regulations and orders of the state aeronautic board shall be kept in conformity as nearly as may be, with the federal legislation, rules, regulations and orders on aeronautics, and shall not be inconsistent with paramount federal legislation, rules, regulations and orders on the subject.

(3) Every general rule, regulation and order of the state aeronautic board shall be posted for public inspection in the main office of such board at least fifteen days before it shall become effective, and shall be given such further publicity, by advertisement in a newspaper or otherwise, as the state aeronautic board shall deem advisable.

(4) Every order applying only to a particular person or persons named therein shall be mailed by registered mail with return receipt to, or served upon, such person or persons.

(5) Every rule, regulation and order, general or otherwise, adopted by the state aeronautic board shall be kept on file with the state aeronautic board. [1937 c. 381]

Note: The federal air commerce act (49 USCA, sec. 171 et seq.) and the air-traffic rules promulgated by the department of commerce are applicable to airplanes in interstate navigation. Sheboygan Airways, Inc. v. Industrial Commission, 209 W 352, 245 NW 178.

114.21 Investigations and hearings. The state aeronautic board shall have the power to conduct investigations, inquiries and hearings concerning matters covered by

the provisions of this chapter and accidents or injuries incident to the operation of aircraft occurring within this state. The state aeronautic board shall have the power to administer oaths and affirmations, certify to all official acts, issue subpoenas, compel the attendance and testimony of witnesses and the production of papers, books and documents. If any person shall fail to comply with any subpoena or order issued under authority of this chapter, the state aeronautic board may invoke the aid of any circuit court in this state. The court may thereupon order such person to comply with the requirements of the subpoena or order of the state aeronautic board or to give evidence upon the matter in question. Any failure to obey the order of the court shall be punishable by the court as a contempt thereof. [1937 c. 381]

114.22 Admissibility in evidence. 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 such investigations or hearings or in any report thereof, except in case of criminal or other proceedings instituted by or in behalf of the state aeronautic board under the provisions of this chapter. [1937 c. 381]

114.23 Enforcement, co-operation. It shall be the duty of the state aeronautic board and every county and municipal officer charged with the enforcement of state and municipal laws, to enforce, and assist in the enforcement of, this chapter. The state aeronautic board is further authorized to enforce provisions of this chapter by injunction in the circuit courts of this state. Other departments and political subdivisions of this state are authorized to co-operate with the state aeronautic board in the development of aeronautics within this state. [1937 c. 381]

114.24 Registration, fees. (1) An airport, landing field, air school, flying club, air beacon, or other air navigation facility shall not be used or operated, unless it is duly registered by the state aeronautic board. Within sixty days after the effective date of this section any person who owns or operates an airport, landing field, landing strip, air school, flying club, air beacon or other air navigation facility shall so register with the state aeronautic board for such air navigation facility.

(2) Except in case of emergency, an aircraft shall not land upon, or take off from, any area in this state other than an airport, landing field or landing strip, but a license shall not be required of, and the rules, orders and regulations promulgated under the authority of this chapter shall not apply to, an airport, landing field, landing strip, air beacon or other air navigation facility owned or operated by the government of the United States.

(3) The state aeronautic board is hereby authorized to make the following charges for the issuance of the following types of registration:

- (a) For each annual airport registration, two dollars.
- (b) For each annual landing field registration, two dollars.
- (c) For each annual air school registration, five dollars.
- (d) For each annual airplane registration, two dollars.
- (e) Fees shall not be charged for flying club, or air beacon licenses.
- (f) For approving identified aircraft, ten dollars. [1937 c. 381]

Note: Under (3) state aeronautic board of Wisconsin, but it may not require registration of airplanes engaged in interstate commerce by both residents and nonresidents of Wisconsin. 27 Atty. Gen. 414.

114.25 Regulations; examination of premises. In any case where the state aeronautic board shall, pursuant to this chapter, issue any order requiring or prohibiting certain things to be done, it shall set forth its reasons therefor and shall state the requirements to be met before such approval will be given or such rule, regulation or order will be modified or changed. In any case where the state aeronautic board deems such action necessary or proper, it may order the closing of any airport, landing field or landing strip, or the cessation of operations of any air school, flying club, air beacon or other air navigation facility, until the requirements laid down by the state aeronautic board shall have been fulfilled. To carry out the provisions of this chapter, the state aeronautic board and any officers, state or municipal, charged with the duty of enforcing this chapter, may inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where such airports, landing fields, landing strips, air schools, flying clubs, air beacons or other air navigation facilities are operated. [1937 c. 381]

114.26 Appeal from order. Any person against whom an order has been entered may within ten days after the service thereof appeal to the circuit court of the county in which the order was made or the property affected by the order is located, for the purpose of having the reasonableness or lawfulness of the order inquired into and determined. [1937 c. 381]

114.27 Penalty. Any person failing to comply with the requirements, or violating any of the provisions of this chapter, or the rules, regulations or orders adopted by the state aeronautic board, shall be guilty of a misdemeanor and punishable by a fine of not more than five hundred dollars, or by imprisonment for not more than ninety days, or both. [1937 c. 381]

114.28 Severability. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are declared to be severable. [1937 c. 381]