

IC 8-21

ARTICLE 21. AERONAUTICS

IC 8-21-1

Chapter 1. Department of Transportation; Aviation Law

IC 8-21-1-1

Definitions

Sec. 1. (a) The definitions in this section apply throughout this article.

(b) "Aeronautics" means:

- (1) transportation by aircraft;
- (2) the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes;
- (3) the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, landing fields, or other air navigation facilities; and
- (4) air instruction.

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

(d) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision of a government, including the government of any state but not including any government owned aircraft engaged in carrying persons or property for commercial purposes.

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

(f) "Airport" means any location either on land or water which is used for the landing and taking off of aircraft.

(g) "Department" refers to the Indiana department of transportation.

(h) "Landing field" means any airport which provides neither facilities nor services other than an area designated for the landing and taking off of aircraft.

(i) "Air navigation facility" means any facility other than one owned or controlled by the federal government, used in, available for use in, or designed for use in aid of air navigation, including:

- (1) airports;
- (2) landing fields;
- (3) any structures, mechanisms, lights, beacons, marks, 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 or landing field; and
- (4) any combination of any or all of such facilities.

(j) "Air navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport or landing field within this state.

(k) "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air navigation, and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, is considered to be engaged in the operation of aircraft within the meaning of the Indiana statutes.

(l) "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 (excepting individuals employed outside the United States, any individual employed outside the United States, any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, and any individual performing inspection or mechanical duties in connection with aircraft owned or operated by the individual) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances and any individual who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

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

(n) "Air school" means any person engaged in giving, or offering to give, instruction in aeronautics, either in flying or ground subjects, or both, for or without hire or reward, and advertising, representing, or professing to give or offer to give such instruction.

(o) "Aeronautics instructor" means an individual engaged in giving instruction, or offering to give instruction, in aeronautics, either in flying or ground subjects, or both, for hire or reward, without advertising such occupation, without calling the individual's facilities an air school or anything equivalent thereto, and without employing or using other instructors.

(p) "Flying club" means any person other than an individual, which, neither for profit nor reward, owns, leases, or uses one (1) or more aircraft for the purpose of instruction or pleasure, or both.

(q) "Person" means any individual, firm, partnership, corporation, company, limited liability company, association, joint stock association, or body politic. The term includes any trustee, receiver, assignee, or other similar representative.

(r) "State airway" means a route in the navigable air space over and above the lands or water of Indiana designated by the department as a route suitable for air navigation.

(s) "Navigable air space" means air space above the minimum altitudes of flight prescribed by Indiana laws or by rules of the department consistent with Indiana laws.

(t) "Municipality" means any county, city, or town of Indiana and any other political subdivision, public corporation, authority, or district in Indiana which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports and

other air navigation facilities.

(u) "Airport protection privileges" means easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of airports or landing fields, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of the airports and landing fields and the safe and efficient operation of airports and landing fields.

(v) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or landing field or is otherwise hazardous to such landing or taking off.

(w) "CAB-certificated air carrier" means an air carrier which is operating under a valid certificate of public convenience and necessity issued by the Civil Aeronautics Board under Public Law 85-726, Title VI, Aug. 23, 1958, 72 Stat. 754, 49 U.S.C. 1371 as amended.

(Formerly: Acts 1945, c.360, s.1; Acts 1963, c.229, s.1; Acts 1975, P.L.93, SEC.1.) As amended by Acts 1980, P.L.74, SEC.308; P.L.3-1989, SEC.69; P.L.18-1990, SEC.154; P.L.8-1993, SEC.147.

IC 8-21-1-2

Purpose

Sec. 2. It is hereby declared that the purpose of this chapter is to further the public interest and aeronautical progress by providing for the protection and increase of safety in aeronautics; by cooperating in effecting a uniformity of the laws relating to the development and regulation of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a state agency such powers and impose upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, may assist in the building of a statewise system of airports, may cooperate with and assist the political subdivisions of this state and others engaged in aeronautics, and may encourage and develop aeronautics; by establishing uniform regulations, consistent with federal regulations and those of other states, in order that those engaged in aeronautics of every character may so engage with the least possible restriction, consistent with the safety and the rights of others; and by providing for cooperation with the 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 properly in the province of federal agencies.

(Formerly: Acts 1945, c.360, s.2; Acts 1975, P.L.93, SEC.2.)

IC 8-21-1-3

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-4

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-5

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-6

Repealed

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-7

Federal aid; crediting

Sec. 7. All sums received from the government of the United States and any agency or department thereof as federal aid for aviation purposes except sums received by municipalities under IC 8-21-8-1(c)(2) shall be credited to the department by the auditor of state and shall be used in accordance with federal laws and regulations and the laws of this state.

(Formerly: Acts 1945, c.360, s.7; Acts 1975, P.L.93, SEC.7.) As amended by Acts 1980, P.L.74, SEC.309.

IC 8-21-1-8

Powers and duties

Sec. 8. (a) The department shall encourage, foster, and assist in the development of aeronautics in this state and shall encourage the establishment of airports, landing fields, and other navigation facilities.

(b) The department shall cooperate with and assist the federal government, the political subdivisions of this state, and others engaged in aeronautics or the advancement of aeronautics and shall seek to coordinate the aeronautical activities of these bodies.

(c) All rules prescribed by the department concerning aeronautics shall be kept in conformity with, and limited to as nearly as may be, the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder.

(d) The department shall develop and continuously update a proposed state airports system plan which will best serve the interests of the state and its political subdivisions. Such state airports system plan shall be coordinated with the national airport plan prepared by the federal agency fostering civil aviation.

(e) The department may publish and revise from time to time a state airways system plan, and maps, directories, or other materials deemed necessary may be sold by the department at a price which shall be fixed by the department. All money accruing from the sale of any such publication:

(1) shall be paid into the state treasury;

- (2) shall be credited to the department; and
- (3) is hereby appropriated to such department to be used for future publications by the department, without reversion to the general fund of the state at the end of any fiscal year. However, any time the balance in said fund exceeds ten thousand dollars (\$10,000), such excess shall revert to the general fund of the state.

(f) The department may offer the engineering or other technical advice of the department, without charge, to any municipality or person desiring them in connection with the construction, maintenance, or operation or proposed construction, maintenance, or operation of an airport or landing field.

(g) The department may recommend necessary legislation to advance the interests of the state in aeronautics and represent the state in aeronautical matters before federal agencies and other state agencies.

(h) The department shall have the power to approve or disapprove all purchases made by any municipality of any land to be used by said municipality for the establishment of any airport or landing field, and the establishment by any municipality of any airport or landing field.

(i) The department may participate as party plaintiff or defendant, or as intervener on behalf of the state or any municipality or citizen thereof in any controversy having to do with any claimed encroachment by the federal government or any foreign state upon any state or individual rights pertaining to aeronautics.

(j) Municipalities are authorized to cooperate with the department in the development of aeronautics and aeronautical facilities and services of other agencies of the state to the utmost extent possible, and such agencies are authorized and directed to make available such facilities and services.

(k) The department, or any employee designated by it, shall have the power to hold investigations, and hearings concerning matters covered by this chapter and orders and rules of the department, in accordance with IC 4-21.5. All hearings so conducted shall be open to the public. 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 said investigation, hearing, or report thereof, except in case of criminal or other proceedings instituted in behalf of the department or this state under the provisions of this chapter and other laws of this state.

(l) The department may render advice in the acquisition, development, operation, or maintenance of airports owned, controlled, or operated, or to be owned, controlled, or operated, by municipalities in this state.

(m) The department may not grant any exclusive right for the use of any airway, airport, landing field, or other air navigation facility under its jurisdiction. This subsection shall not prevent the making of leases in accordance with other provisions of this chapter.

(n) Gifts or grants of money for aeronautical purposes may be received by the state and shall be deposited in an aviation fund. Disbursal of such funds shall be for aeronautical purposes only or for the purpose for which they were given or granted. Gifts or grants of property for aeronautical purposes may be received by the state and shall be used for the purpose given or granted. Gifts or grants of money or property for aeronautical purposes must be administered in the same manner as other gifts and grants received by the state are administered.

(o) The department may adopt rules under IC 4-22-2 and subject to IC 8-9.5-2.6(7) for the control of aircraft accident sites in Indiana. Until representatives of appropriate federal agencies arrive on the site of an aircraft accident, state and local law enforcement agencies and accident investigation agencies shall comply with any rules adopted by the department under this section.

(p) The department may, with written approval of the budget agency, purchase and operate aircraft forfeited under IC 34-24-1 (or IC 34-4-30.1 before its repeal). When the department acquires an aircraft, it shall pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, and advertising and court costs.

(Formerly: Acts 1945, c.360, s.8; Acts 1951, c.300, s.1; Acts 1975, P.L.93, SEC.8.) As amended by Acts 1979, P.L.98, SEC.1; Acts 1979, P.L.99, SEC.1; Acts 1980, P.L.74, SEC.310; Acts 1981, P.L.11, SEC.67; Acts 1982, P.L.62, SEC.12; P.L.7-1987, SEC.13; P.L.18-1990, SEC.155; P.L.1-1998, SEC.90.

IC 8-21-1-9

Cooperation with United States; accepting federal aid; deposit of money

Sec. 9. (a) The department is authorized to cooperate with the government of the United States, and any agency or department thereof, in the acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities in this state, and to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal moneys upon such airports and other navigation facilities.

(b) The department may accept, receive, and receipt for federal money and other moneys, either public or private, for and in behalf of any municipality or person, for the acquisition, construction, improvement, maintenance, and operation of airports and other navigation facilities, where such work is to be done by such municipalities or persons aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder.

(c) All moneys accepted for disbursement by the department in accordance with the provisions of this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated

according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. The department is authorized, whether acting for this state or as the agent of any of its municipalities, or when requested by the United States government or any agency or department thereof, to disburse such moneys for the designated purposes, but this shall not preclude any other authorized method of disbursement.

(Formerly: Acts 1945, c.360, s.9; Acts 1975, P.L.93, SEC.9.) As amended by P.L.16-1983, SEC.8.

IC 8-21-1-10

Approval of proposed and established airport sites

Sec. 10. (a) The department may issue certificates of approval to both proposed airport sites and established airports.

(b) Any municipality or person desiring to acquire, establish, construct or lease any airport or landing field in this state for the use of airplanes or other aircraft shall, prior to the acquisition of the site or prior to the construction or establishment of the proposed airport, make application to the department for approval of such site. The department shall, with reasonable dispatch, grant approval of a site if it is satisfied:

- (1) that the site is adequate for the airport or landing field proposed;
- (2) that such proposed airport, if constructed or established, will conform to the minimum standards of safety as may be established or prescribed by the department;
- (3) that safe air traffic patterns could be worked out for such proposed airport and for all existing airports and approved airport sites in its vicinity; and
- (4) that an airport master plan or airport layout plan for the airport is filed with the department.

An approval of each site may be granted subject to any reasonable conditions which the department may deem necessary to effectuate the purposes of this chapter and which remain in effect, unless sooner revoked by the department, until a certificate of approval of an airport located on the approved site has been issued pursuant to its rules and regulations.

(c) The department shall issue a certificate of approval to any established airport which conforms to minimum standards of safety as may from time to time be prescribed by the department.

(d) The department may revoke a certificate of approval when:

- (1) there has been an abandonment of the site as an airport site; or
- (2) there has been a failure within the time prescribed, or if no time was prescribed, within a reasonable time to develop the site as an airport; or
- (3) there has been a failure to maintain compliance with the conditions of the approval certificate; or
- (4) because of change of physical or legal conditions or circumstances the site is no longer usable for aeronautical

purposes for which the approval was granted.

(e) This section does not apply to airports owned or operated by the United States. The department may, from time to time, to the extent necessary, exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or regulation promulgated under this section or from any requirement of such a rule or regulation, if it finds that the application of such rule, regulation or requirement would be an undue burden on such class and is not required in the interest of public safety.

(f) To carry out the provisions of this chapter, the department may inspect and examine at reasonable hours any of the premises of an airport or landing area within this state.

(g) The department shall annually issue Certificates of Approval to:

(1) airports which do not serve a CAB-certificated air carrier and which the department determines, by means of an annual on-site inspection, to be in compliance with its rules and regulations; and

(2) airports which serve a CAB-certificated air carrier and which have a valid Airport Operating Certificate as issued by the Federal Aviation Administration. However, if federal authorities abandon or relinquish on-site inspection of this class of airports, the department shall issue a Certificate of Approval subject to the inspection and compliance requirement in paragraph (1) of this subsection.

(h) The department shall classify all airports, landing fields and other air navigation facilities within the state, such classification to be in accord as nearly as practicable with those of the Federal Aviation Administration. It shall issue and publish an annual directory of such air navigation facilities.

(Formerly: Acts 1945, c.360, s.10; Acts 1951, c.300, s.2; Acts 1975, P.L.93, SEC.10.) As amended by Acts 1977, P.L.114, SEC.1; Acts 1980, P.L.74, SEC.311.

IC 8-21-1-10.1

Exemptions

Sec. 10.1. (a) For purposes of this section and section 10.2 of this chapter, a "lighter-than-air aircraft" means a gas or hot air filled free balloon, with or without airborne heaters or engines, or any other type of balloon designed to transport persons or goods.

(b) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites which are used for agricultural application if the applicator:

(1) is licensed as a pesticide operator by the state chemist and has met the requirements of IC 15-16-5-48; and

(2) has received permission to use the land for agricultural aviation purposes from the owner or lessee of the land.

(c) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport

sites do not apply to provisional landing sites for helicopters if the operator of the helicopter:

- (1) meets Federal Aviation Administration qualifications for operation of the specific aircraft;
- (2) determines that air routes to and from the site are acceptable to the aircraft's limitations and that proposed routes in congested areas provide for emergency landings in the event that an autorotation descent is necessary;
- (3) follows all Federal Aviation Administration regulations covering landing on and departing from the site; and
- (4) has received permission to use the site from the owner or lessee of the site.

(d) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites which are used for lighter-than-air aircraft. However, no person may operate a lighter-than-air aircraft from any landing site unless the pilot is in compliance with:

- (1) all applicable federal air regulations; and
- (2) all rules and regulations adopted by the department which relate to the operation of a lighter-than-air aircraft.

As added by Acts 1979, P.L.100, SEC.1. Amended by Acts 1980, P.L.74, SEC.312; Acts 1982, P.L.62, SEC.13; P.L.2-2008, SEC.26.

IC 8-21-1-10.2

Violation of IC 8-21-1-10.1 as Class B infraction

Sec. 10.2. (a) Any person not meeting the qualifications of section 10.1 of this chapter who uses a provisional aircraft landing site, which has not been issued a certificate of approval from the department, for agricultural application or helicopter operations commits a Class B infraction.

(b) Any person who operates a lighter-than-air aircraft in violation of section 10.1 of this chapter commits a Class B infraction.

As added by Acts 1979, P.L.100, SEC.2. Amended by Acts 1980, P.L.74, SEC.313.

IC 8-21-1-10.5

Airport approval certificates; number of flights

Sec. 10.5. (a) As used in this section, "hospital" means a facility licensed under IC 16-21.

(b) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites apply to a landing site operated by a hospital or fire department only if the hospital or fire department regularly receives or dispatches an average of more than one (1) helicopter during seven (7) consecutive days.

(c) The average number of helicopter flights under subsection (b) shall be determined and reviewed on an annual basis.

As added by P.L.105-1993, SEC.1. Amended by P.L.1-1994, SEC.37.

IC 8-21-1-11**Repealed**

(Repealed by Acts 1982, P.L.1, SEC.71.)

IC 8-21-1-12**Obstructing airport inspection**

Sec. 12. A person who recklessly prevents or obstructs the department from inspecting an airport as authorized by this chapter commits a Class B misdemeanor.

(Formerly: Acts 1945, c.360, s.12; Acts 1975, P.L.93, SEC.12.) As amended by Acts 1978, P.L.2, SEC.858; Acts 1980, P.L.74, SEC.315.

IC 8-21-1-13**Repealed**

(Repealed by Acts 1980, P.L.74, SEC.434.)

IC 8-21-1-14**Public use airport development; utilization of airport facilities; use of airport development funds; duties of sponsor**

Sec. 14. (a) The department shall encourage the development of public use airports (as defined in 49 U.S.C. 47102).

(b) The department shall encourage the utilization and preservation of necessary airport facilities that are included in the National Airport and Airways System Plan and the state airports system plan and that:

- (1) have been developed and maintained by private enterprise;
- (2) meet the requirements of section 10 of this chapter concerning certification of airports; and
- (3) have been established and are used by the public as a municipal purpose airport as described under IC 6-1.1-10-15.

(c) The department may participate and cooperate with the Federal Aviation Agency and with the sponsor (as defined in IC 8-21-8-1) and owner of a public use airport (as defined in 49 U.S.C. 47102) by using airport development funds administered by the department.

(d) The sponsor of any approved airport development project must:

- (1) provide the sponsor's share of funds for the project; and
- (2) meet any other requirements for participation and operation of the airport.

(e) IC 8-21-8-1 applies to this section.

As added by P.L.128-1987, SEC.1. Amended by P.L.1-1999, SEC.21.