

HOUSE BILL NO. 468

INTRODUCED BY K. KERNS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING THE USE OF
5 AIRCRAFT BY ANY STATE AGENCY; CREATING THE PUBLIC-PRIVATE AVIATION FIRE SUPPRESSION
6 ACT; REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO CONTRACT
7 WITH PRIVATE ENTITIES OR INDIVIDUALS FOR CERTAIN SERVICES RELATED TO WILDFIRE
8 SUPPRESSION, DETECTION, AND PREVENTION; REQUIRING THE ECONOMIC AFFAIRS INTERIM
9 COMMITTEE TO PROVIDE OVERSIGHT OF THE IMPLEMENTATION OF THE ACT; REVISING THE STATE'S
10 AIRCRAFT POLICY; AND AMENDING SECTIONS 5-5-223, 67-1-101, 67-1-102, 67-3-101, 67-3-102, 67-3-201,
11 AND 75-1-324, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. **Section 1. Short title.** [Sections 1 through 3] may be cited as the "Public-Private
16 Aviation Fire Suppression Act".

17
18 NEW SECTION. **Section 2. Purpose.** The legislature recognizes that private business is able to provide
19 many services in a more cost-effective and economical manner than government and seeks to encourage the
20 continuation and growth of private aviation businesses that can provide wildfire suppression, detection, and
21 prevention within the state. In addition, the continued economic viability of businesses to provide aviation services
22 in Montana is important to the state.

23
24 NEW SECTION. **Section 3. Contracts to provide aviation fire suppression, detection, and**
25 **prevention services -- requirements.** (1) The department shall contract with private businesses to provide
26 aviation fire suppression, detection, and prevention services in a manner that contributes to public-private
27 cooperation in meeting the state's fire suppression needs in a cost-effective manner.

28 (2) The department shall achieve the following benchmarks for all wildfire suppression, detection, and
29 prevention services provided during the 2012 wildfire season:

30 (a) the department shall contract with private entities or individuals to provide at least 50% of the

1 operational hours for helicopter services; and

2 (b) the department shall contract with private entities or individuals to provide at least 50% of the
3 operational hours for fixed-wing aviation services.

4 (3) The department shall achieve the following benchmarks for all wildfire suppression, detection, and
5 prevention services provided during the 2013 and subsequent wildfire seasons:

6 (a) the department shall contract with private entities or individuals to provide at least 80% of the
7 operational hours for helicopter services; and

8 (b) the department shall contract with private entities or individuals to provide at least 80% of the
9 operational hours for fixed-wing aviation services.

10 (4) When awarding contracts pursuant to this section, the department shall comply with the provisions
11 of Title 18, chapter 4.

12 (5) All aircraft under the operational control of the department after July 1, 2013:

13 (a) are subject to safety standards for operation and maintenance as prescribed by the federal aviation
14 administration for the operations the aircraft perform; and

15 (b) must have a valid standard or special airworthiness certificate issued by the federal aviation
16 administration.

17 (6) The economic affairs interim committee established pursuant to 5-5-223 shall exercise oversight
18 duties for the implementation of this section.

19 (7) As used in this section, the following definitions apply:

20 (a) "Aircraft" has the meaning provided in 67-1-101.

21 (b) "Department" means the department of natural resources and conservation provided for in Title 2,
22 chapter 15, part 33.

23 (c) "Operational control" means that aircraft are owned, leased, or contracted for by the department.

24 (d) "Wildfire season" has the meaning provided in 76-13-102.

25

26 **Section 4.** Section 5-5-223, MCA, is amended to read:

27 **"5-5-223. Economic affairs interim committee.** (1) The economic affairs interim committee has
28 administrative rule review, draft legislation review, program evaluation, and monitoring functions for the following
29 executive branch agencies and the entities attached to agencies for administrative purposes:

30 (†)(a) department of agriculture;

- 1 ~~(2)~~(b) department of commerce;
2 ~~(3)~~(c) department of labor and industry;
3 ~~(4)~~(d) department of livestock;
4 ~~(5)~~(e) office of the state auditor and insurance commissioner; and
5 ~~(6)~~(f) office of economic development.

6 (2) The economic affairs interim committee shall oversee the implementation of [sections 1 through 3]."

7

8 **Section 5.** Section 67-1-101, MCA, is amended to read:

9 **"67-1-101. Definitions.** Unless the context requires otherwise, in this title, the following definitions apply:

10 (1) "Aeronautics" means transportation by aircraft; the operation, construction, repair, or maintenance
11 of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes;
12 the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports,
13 restricted landing areas, or other air navigation facilities; and air instruction.

14 (2) (a) "Aeronautics instructor" means an individual engaged in giving instruction or offering to give
15 instruction in aeronautics, either in flying or ground subjects, or both, for hire or reward, without advertising that
16 occupation, without calling the facilities an "air school" or anything equivalent to an "air school", and without
17 employing or using other instructors.

18 (b) The term does not include an instructor in a public school or university of this state or an institution
19 of higher learning accredited and approved for carrying on collegiate work while engaged in duties as an
20 instructor.

21 (3) "Air carrier" means a person or corporation owning, controlling, operating, or managing aircraft as
22 a scheduled common carrier of passengers or freight for compensation within this state.

23 (4) "Aircraft" means a contrivance used or designed for navigation of or flight in the air.

24 (5) "Aircrew" includes:

25 (a) an individual who engages, as the person in command or as pilot, mechanic, or member of the crew,
26 in the navigation of aircraft while under way;

27 (b) an individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft
28 engines, propellers, or appliances except for an individual employed outside the United States, an individual
29 employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector
30 or mechanic in connection with them, and an individual performing inspection or mechanical duties in connection

1 with aircraft owned or operated by the individual; and

2 (c) an individual who serves in the capacity of aircraft dispatcher or air traffic control tower operator.

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

5 (7) "Air navigation" means the operation or navigation of aircraft in the air space over this state or upon
6 an airport or restricted landing area within this state.

7 (8) "Air navigation facility" means a facility used in, available for use in, or designed for use in aid of air
8 navigation, including airports, restricted landing areas, and structures, mechanisms, lights, beacons, marks,
9 communicating systems, or other instrumentalities or devices used or useful as an aid or constituting an
10 advantage or convenience to the safe taking off, navigation, and landing of aircraft or the safe and efficient
11 operation or maintenance of an airport or restricted area and any combination of these facilities.

12 (9) "Airport" means an area of land or water that is intended or designed for the landing and takeoff of
13 aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft or for receiving or
14 discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport
15 facilities and all appurtenant rights-of-way.

16 (10) "Airport authority" or "authority" means a regional airport authority or municipal airport authority
17 created under chapter 11 and the governing body of a municipality that has determined to exercise the powers
18 of a municipal airport authority under 67-11-102.

19 (11) "Airport hazard" means a structure, object of natural growth, or use of land that obstructs the air
20 space required for the flight of aircraft in landing or taking off at an airport or restricted landing area or is otherwise
21 hazardous to landing or taking off.

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

27 (13) (a) "Air school" means a person engaged in giving or offering to give instruction in aeronautics, either
28 in flying or ground subjects, or both, for or without hire or reward, and advertising or representing to the public
29 that the person gives or offers to give that instruction.

30 (b) The term does not include a public school or university of this state or an institution of higher learning

1 accredited and approved for carrying on collegiate work.

2 (14) "Board" means the board of aeronautics provided for in 2-15-2506.

3 (15) "Bonds" means bonds, notes, interim certificates, debentures, or similar obligations issued by an
4 authority under chapter 11.

5 (16) "Building or structure" means any edifice, structure, or construction of any kind, character, or
6 description and any object of natural growth erected, constructed, grown, located or proposed to be erected,
7 constructed, grown, or located within the airport affected area designated pursuant to 67-7-201, including any
8 edifice, structure, or construction or object within the restricted zones erected, constructed, placed, or located on
9 or over land or water, or both.

10 ~~———— (17) "Civil aircraft" means an aircraft other than a public aircraft.~~

11 ~~(18)~~(17) "Commercial air operator" means any person owning, controlling, operating, or managing aircraft
12 for any commercial purpose for compensation.

13 ~~(19)~~(18) "Department" means the department of transportation provided for in Title 2, chapter 15, part
14 25.

15 ~~(20)~~(19) "Flying club" means a person other than an individual that, neither for profit nor reward, owns,
16 leases, or uses one or more aircraft for the purpose of instruction or pleasure, or both.

17 ~~(21)~~(20) "Governing body" means, except as provided in 67-7-103, a city commission, town council, or
18 county commission and the boards, departments, and divisions of those entities, by whatever name they are
19 known, that have charge of finances and management of a municipality or a county.

20 ~~(22)~~(21) "Height of buildings and structures" means, for the purposes of Title 67, chapter 7, the vertical
21 distance measured from the ground or surface level of the airport on the side adjacent to the building or structure
22 to the level of the highest point of the building or structure.

23 ~~(23)~~(22) "Municipal airport authority" or "municipal authority" means a municipal airport authority created
24 under 67-11-102.

25 ~~(24)~~(23) "Municipality" means a county, city, village, or town of this state and any other political
26 subdivision, public corporation, authority, or district in this state authorized by law to acquire, establish, construct,
27 maintain, improve, and operate airports and other air navigation facilities.

28 ~~(25)~~(24) "Navigable air space" means air space above the minimum altitudes of flight prescribed by the
29 laws of this state or by regulations of the department.

30 ~~(26)~~(25) "NPIAS airport" means an airport that is included in the federal aviation administration's national

1 plan of integrated airport systems.

2 ~~(27)~~(26) "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air
3 navigation and includes the navigation or piloting of aircraft. A person who causes or authorizes the operation
4 of aircraft, whether with or without the right of legal control, in the capacity of owner, lessee, or otherwise, of the
5 aircraft, operates the aircraft.

6 ~~(28)~~(27) "Person" means an individual, firm, partnership, private, municipal, or public corporation,
7 company, association, joint-stock association, or body politic and includes a trustee, receiver, assignee, or other
8 similar representative.

9 ~~(29)~~(28) "Political subdivision" has the same meaning as municipality.

10 ~~————(30) "Public aircraft" means an aircraft used exclusively in the service of any government or of a political~~
11 ~~subdivision of a government, including the government of a state, territory, or possession of the United States,~~
12 ~~or the District of Columbia, but not including a government-owned aircraft engaged in carrying persons or property~~
13 ~~for commercial purposes.~~

14 ~~(31)~~(29) "Real property" means lands, structures, buildings, and interests in land, including lands under
15 water and riparian rights, and all things and rights usually included within the term real property, including not only
16 fee simple absolute but also all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and
17 all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real
18 property.

19 ~~(32)~~(30) "Regional airport authority" or "regional authority" means a regional airport authority created
20 under 67-11-103.

21 ~~(33)~~(31) "Restricted landing area" means an area of land or water, or both, that is used or is made
22 available for the landing and takeoff of aircraft, the use of which must, except in case of emergency, be only as
23 provided by the department.

24 ~~(34)~~(32) "State airway" means a route in the navigable air space over and above the lands or waters of
25 this state, designated by the department as a route suitable for air navigation.

26 ~~(35)~~(33) "Structure" means any object constructed or installed by a person, including but not limited to
27 buildings, towers, smokestacks, and overhead transmission lines.

28 ~~(36)~~(34) "Tree" means any object of natural growth.

29 ~~(37)~~(35) "YDNL" means the 365-day average, in decibels, day-night average sound level as provided in
30 14 CFR 150.7."

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2 **Section 6.** Section 67-1-102, MCA, is amended to read:

3 **"67-1-102. Policy.** It is hereby declared that the purpose of this title is to further the public interest and
4 aeronautical progress by:

5 (1) providing for the protection and promotion of safety in aeronautics;

6 (2) cooperating in effecting a uniformity of the laws relating to the development and regulation of
7 aeronautics in the several states;

8 (3) ~~revising existing statutes relative to the development and regulation of aeronautics so as to grant to~~
9 ~~a state agency such~~ granting powers and ~~impose upon it such~~ imposing duties ~~that to the state so that it may~~
10 properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and
11 property within ~~such~~ the state's jurisdiction, may assist in the promotion of a statewide system of airports, may
12 cooperate with and assist the political subdivisions of this state and others engaged in aeronautics, and may
13 encourage and develop aeronautics;

14 (4) establishing uniform regulations, consistent with federal regulations and those of other states, in order
15 that those engaged in aeronautics of every character may so engage with the least possible restriction, consistent
16 with the safety and the rights of others; ~~and~~

17 (5) promoting strong and diverse private aeronautical enterprises that can serve the aeronautical needs
18 of this state and improve the economic well-being of the citizens of Montana; and

19 ~~(5)(6)~~ (6) providing for cooperation with the federal authorities in the development of a national system of
20 civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state
21 by assisting in accomplishing the purposes of federal legislation and eliminating costly and unnecessary
22 duplication of functions."
23

24 **Section 7.** Section 67-3-101, MCA, is amended to read:

25 **"67-3-101. Regulation and licensing -- general provisions.** In order to promote the general public
26 interest and safety and to carry out the purposes of this title, the department may:

27 (1) require the annual registration of federal licenses, permits, or certificates of ~~civil~~ aircraft engaged in
28 air navigation within this state, of aircrews engaged in aeronautics within this state, and of aeronautics instructors
29 giving instruction in flying subjects and may issue certificates of registration. The certificates of registration
30 constitute licenses of the aircraft, aircrews, and instructors for operations within this state to the extent permitted

1 by the federal licenses, certificates, or permits so registered. The department may charge a fee for the registration
 2 of each federal license, certificate, or permit not exceeding \$10. It may accept as evidence of the holding of a
 3 federal license, certificate, or permit the verified application of the owner of the aircraft, a member of the aircrew,
 4 or the instructor. The application ~~shall~~ must contain information ~~which~~ that the department may by rule or order
 5 prescribe.

6 (2) register aircraft repair shops, aircraft, aircraft parts and sales dealers, and other persons operating
 7 in aviation and license aircraft repair shops, aircraft, aircraft parts and sales dealers, and other persons operating
 8 in aviation, air schools, and aeronautics instructors giving instruction in ground subjects, in accordance with rules
 9 ~~to be~~ adopted by the department, and may annually renew these licenses. It may charge for the original licensing
 10 of aircraft repair shops, aircraft, aircraft parts and sales dealers, and other persons operating in aviation, air
 11 schools, and aeronautics instructors not more than \$10 and for the renewal of a license not more than \$10.

12 (3) upon notification by the federal aviation administration that it has revoked the license or certificate
 13 of an aircraft, aircrew member, air school, or aeronautics instructor, temporarily or permanently revoke the license
 14 or certificate of registration issued for that aircraft, aircrew member, air school, or aeronautics instructor, giving
 15 reasons for the action."
 16

17 **Section 8.** Section 67-3-102, MCA, is amended to read:

18 **"67-3-102. Exceptions.** The provisions of 67-3-101(2) and (3) do not apply to:

19 (1) an aircraft that has been licensed by a foreign country with which the United States has a reciprocal
 20 agreement covering the operations of that licensed aircraft;

21 (2) an aircraft that is owned by a nonresident of this state who is lawfully entitled to operate the aircraft
 22 in the state of residence;

23 (3) an aircraft engaged principally in commercial flying constituting an act of interstate or foreign
 24 commerce;

25 (4) an aircrew operating military ~~or public~~ aircraft or an aircraft licensed by a foreign country with which
 26 the United States has a reciprocal agreement covering the operation of that licensed aircraft;

27 (5) a person operating model aircraft or a person piloting an aircraft that is equipped with fully functioning
 28 dual controls when a licensed instructor is in full charge of one set of the controls and the flight is solely for
 29 instruction or for the demonstration of the aircraft to a prospective purchaser;

30 (6) a nonresident operating aircraft in this state who is lawfully entitled to operate aircraft in the state of

1 residence;

2 (7) an aircrew while operating or taking part in the operation of an aircraft engaged principally in
3 commercial flying constituting an act of interstate or foreign commerce."

4

5 **Section 9.** Section 67-3-201, MCA, is amended to read:

6 **"67-3-201. Aircraft registration and licensing required.** (1) Except as provided in 67-3-102 and in
7 subsection (6) of this section, a person may not operate or cause or authorize to be operated ~~a civil~~ an aircraft
8 within this state unless the aircraft has an appropriate effective registration, license, certificate, or permit issued
9 or approved by the United States government that has been registered with the department and the registration
10 with the department is in force.

11 (2) Aircraft customarily kept in this state must be registered on or before March 1 of each year with the
12 department, which shall charge a fee for registration according to the fee schedule in 67-3-206. The registration
13 must be renewed annually on or before March 1 of each year.

14 (3) Section 67-3-202 and subsections (2) and (4) through (6) of this section do not apply to:

15 (a) aircraft owned and operated by the federal government, the state, or any political subdivision of the
16 state;

17 (b) aircraft owned and held by an aircraft dealer solely for the purpose of resale;

18 (c) aircraft operated by an airline company and regularly scheduled for the primary purpose of carrying
19 persons or property for hire in interstate or international transportation; or

20 (d) dismantled or otherwise nonflyable aircraft.

21 (4) An aircraft must be registered in a particular county of the state. This county must be the county of
22 the owner's principal residence if the owner is a natural person or the owner's principal place of doing business
23 in the state if the owner is not a natural person. However, if the owner declares by affidavit that the aircraft is
24 customarily kept at a landing facility in another county within the state, the owner may register the aircraft as
25 property within the other county.

26 (5) Aircraft not registered in the state but entering the state to engage in commercial operations must
27 be registered prior to commencing operation.

28 (6) Owners of ultralight aircraft for which no appropriate effective license, certificate, or permit is issued
29 by the United States government shall pay the fee required in 67-3-206 and file with the department an
30 appropriate registration recognized and approved by the United States government."

- 1
- 2 **Section 10.** Section 75-1-324, MCA, is amended to read:
- 3 **"75-1-324. Duties of environmental quality council.** The environmental quality council shall:
- 4 (1) gather timely and authoritative information concerning the conditions and trends in the quality of the
- 5 environment, both current and prospective, analyze and interpret the information for the purpose of determining
- 6 whether the conditions and trends are interfering or are likely to interfere with the achievement of the policy set
- 7 forth in 75-1-103, and compile and submit to the governor and the legislature studies relating to the conditions
- 8 and trends;
- 9 (2) review and appraise the various programs and activities of the state agencies, in the light of the policy
- 10 set forth in 75-1-103, for the purpose of determining the extent to which the programs and activities are
- 11 contributing to the achievement of the policy and make recommendations to the governor and the legislature with
- 12 respect to the policy;
- 13 (3) develop and recommend to the governor and the legislature state policies to foster and promote the
- 14 improvement of environmental quality to meet the conservation, social, economic, health, and other requirements
- 15 and goals of the state;
- 16 (4) conduct investigations, studies, surveys, research, and analyses relating to ecological systems and
- 17 environmental quality;
- 18 (5) document and define changes in the natural environment, including the plant and animal systems,
- 19 and accumulate necessary data and other information for a continuing analysis of these changes or trends and
- 20 an interpretation of their underlying causes;
- 21 (6) make and furnish studies, reports on studies, and recommendations with respect to matters of policy
- 22 and legislation as the legislature requests;
- 23 (7) analyze legislative proposals in clearly environmental areas and in other fields in which legislation
- 24 might have environmental consequences and assist in preparation of reports for use by legislative committees,
- 25 administrative agencies, and the public;
- 26 (8) consult with and assist legislators who are preparing environmental legislation to clarify any
- 27 deficiencies or potential conflicts with an overall ecologic plan;
- 28 (9) review and evaluate operating programs in the environmental field in the several agencies to identify
- 29 actual or potential conflicts, both among the activities and with a general ecologic perspective, and suggest
- 30 legislation to remedy the situations; and

1 (10) perform the administrative rule review, draft legislation review, program evaluation, and monitoring
2 functions of an interim committee for the following executive branch agencies and the entities attached to the
3 agencies for administrative purposes:

4 (a) department of environmental quality;

5 (b) department of fish, wildlife, and parks; and

6 (c) department of natural resources and conservation, except as provided in [section 3]."

7
8 **NEW SECTION. Section 11. Codification instruction.** [Sections 1 through 3] are intended to be
9 codified as an integral part of Title 76, chapter 13, and the provisions of Title 76, chapter 13, apply to [sections
10 1 through 3].

11 - END -