

VIRGINIA ACTS OF ASSEMBLY -- 2017 RECONVENED SESSION

CHAPTER 793

An Act to amend and reenact §§ 5.1-1.6, 5.1-2.2, 5.1-5, 5.1-9.2, 5.1-9.5, 5.1-9.8, 5.1-14, 5.1-88.1, 5.1-88.2, 5.1-113, and 5.1-150 of the Code of Virginia, relating to registration of aircraft.

[H 2149]

Approved April 5, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 5.1-1.6, 5.1-2.2, 5.1-5, 5.1-9.2, 5.1-9.5, 5.1-9.8, 5.1-14, 5.1-88.1, 5.1-88.2, 5.1-113, and 5.1-150 of the Code of Virginia are amended and reenacted as follows:

§ 5.1-1.6. Further powers and duties of Department; State Corporation Commission to administer Chapter 9.

A. The Department shall have the following powers and duties:

1. Administer the provisions of Chapters 1 (§ 5.1-1 et seq.), 3 (§ 5.1-31 et seq.), 5 (§ 5.1-51 et seq.) and 8.1 (§ 5.1-88.1 et seq.) ~~of this title~~;

2. Plan for the development of a state aviation system;

3. Promote aviation in the Commonwealth in the interest of the public, including representing the interests of the Commonwealth before all tribunals, agencies or offices, federal, state and local, in any matter tending to affect any phase of Virginia aviation;

4. ~~License Register~~ aircraft, and license airports and landing areas; and

5. Provide assistance to cities, towns, counties and other governmental subdivisions for the planning, development, construction and operation of airports, landing fields and other aviation facilities.

B. The State Corporation Commission shall continue to administer Chapter 9 (§ 5.1-89 et seq.) ~~of this title~~.

§ 5.1-2.2. Powers and duties of Board.

The Board shall exercise the following powers and duties:

1. Provide a means of citizen access to the Department;

2. Provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities;

3. Monitor the policies and activities of the Department and have the right of access to departmental information;

4. Advise the Governor and the Director on matters relating to the Commonwealth's aviation policies and programs;

5. Promulgate such rules and regulations relating to airports, landing fields and other aviation facilities, aircraft, ~~air traffic, construction and inspection of aircraft, qualifications and licensing of airmen, stunt flying,~~ and such other kindred matters and things as may be proper and necessary to promote and develop safe aviation practices and operations; and

6. Develop on behalf of the Department recommendations for distribution of funds to localities by the State Corporation Commission for aviation development through the end of the 1978-80 biennium, after which time the Board shall be responsible for the allocation on behalf of the Department of all such funds as provided in this act, which funds shall be distributed by the Department in accordance with such allocation.

§ 5.1-5. Registration of aircraft.

~~(a)~~ A. Every resident of ~~this the~~ Commonwealth owning a civil aircraft, every nonresident owning a civil aircraft based in ~~this the~~ Commonwealth ~~over sixty for more than 60 days during any twelve-month~~ 12-month period, and every owner of an aerial application aircraft operating within ~~this the~~ Commonwealth or of a civil aircraft operated in ~~this the~~ Commonwealth as a for-hire intrastate air carrier shall register such aircraft with the Department before ~~the same such aircraft~~ is operated in ~~this the~~ Commonwealth; ~~obtain from the Department an aircraft license for such aircraft.~~

~~(b)~~ B. The Department shall provide for the issuance, expiration, suspension, and revocation of licenses of aircraft registration in accordance with regulations promulgated by the Board. *Such aircraft registration or registration requirement shall be considered the licensure or licensure requirement for purposes of the tax imposed pursuant to Chapter 15 (§ 58.1-1500 et seq.) of Title 58.1.* The Department shall furnish any necessary forms pursuant to the issuance of such licenses, registration and may assess a fee for such issuance not in excess of ~~five dollars~~ \$5 annually. The Department may, in lieu of issuing aircraft licenses registration required by subsection ~~(a) of this section~~ A, issue commercial aircraft licenses registration to air carriers and commercial dealers, and issue to noncommercial dealers noncommercial dealer fleet licenses registration, to cover all aircraft owned by such dealers and all aircraft for sale held by dealers on a consignment basis from an aircraft manufacturer. The Department may assess a fee not in excess of \$50 annually for any such noncommercial dealer fleet licenses

registrations issued and a fee not in excess of \$100 annually for any such commercial fleet ~~licenses~~ *registrations* issued. The fee for a commercial single aircraft ~~license~~ *registration* shall not be in excess of ~~ten dollars~~ \$10 annually.

§ 5.1-9.2. Contract carriers; permit and registration required.

No person shall operate or engage in the business of a contract carrier by aircraft intrastate in the airspace of this Commonwealth unless such person has secured from the Department a permit authorizing him to conduct such operation or to engage in such business and has ~~licensed~~ *registered* under § 5.1-5 all aircraft used in this Commonwealth.

§ 5.1-9.5. Contract carriers; bonds, insurance or certificate of insurance required prior to issuance of registration or permit; securities deposited in lieu thereof.

A. No ~~license~~ *registration* or permit shall be issued by the Department to any contract carrier by aircraft until and after such contract carrier has filed with the Department an insurance policy, a bond underwritten by an insurer, or certificate of insurance in lieu thereof, which certificate shall certify that such policy or bond covers the liability of such contract carrier in accordance with the provisions of this statute.

B. Such policy, bond or certificate of insurance shall be issued or underwritten only by an insurer approved or authorized to do business in Virginia, or by one who is eligible as a surplus lines insurer pursuant to Chapter 48 (§ 38.2-4805.1 et seq.) of Title 38.2, and shall be in amounts not less than the following minimum limits: liability for bodily injury to or death of any one person, passenger or other, aboard the aircraft; \$75,000, liability for each occurrence in any one aircraft of at least an amount equal to the sum produced by multiplying \$75,000 by seventy-five percent of the total number of passenger seats installed in the aircraft; and liability for loss or damage to cargo owned by others than the insured of at least \$10,000 for each occurrence. However, the holder of a ~~license~~ *registration* or permit issued by the Department shall not be required to file any cargo insurance, bond, or bonds for cargo liability for the hauling of property transported under contract.

C. In no event shall the limits required herein for contract carriers be less than those prescribed for like carriers by the Civil Aeronautics Board or the Federal Aviation Administration or their successors.

D. In lieu of such policy, underwritten bond or certificate of insurance, a contract carrier may, with the consent of the Department, submit bonds, in an amount approved by the Department, of the United States of America, the Commonwealth of Virginia, or of any municipality of this Commonwealth as security for its bond. Such federal, state, or municipal bonds shall be deposited with the State Treasurer, and shall not be reduced in amount, pledged as security, or otherwise encumbered for any other purpose during the life of such ~~license~~ *registration* or permit, except with the prior written approval of the Department.

§ 5.1-9.8. Same; effect of failure to give or maintain adequate security.

Failure of any contract carrier holding a ~~license~~ *registration* or permit issued by and under the authority of the Department to comply with any of the provisions of §§ 5.1-9.5 through 5.1-9.7 shall be a Class 1 misdemeanor and punishable as such.

§ 5.1-14. Operation of unregistered aircraft.

Any person who operates or causes to be operated any civil aircraft within the airspace over, above or upon the lands or waters of this Commonwealth, which aircraft has not been and is not at the time of such operation properly certificated under and in accordance with existing federal law and ~~licensed~~ *registered* under and in accordance with the existing laws of this Commonwealth and rules and regulations promulgated in pursuance thereof, shall be guilty of a misdemeanor.

§ 5.1-88.1. Proof of financial responsibility to be furnished for each aircraft.

No aircraft, as defined in § 5.1-1 except a public aircraft or a balloon shall be ~~licensed~~ *registered* by the Department unless and until the applicant thereof furnishes proof of financial responsibility in the amounts required by this chapter for each aircraft for which a ~~license~~ *registration* is applied for.

§ 5.1-88.2. What constitutes proof of financial responsibility.

A. The following shall constitute proof of financial responsibility as required by § 5.1-88.1:

1. The issuance, by an insurance company licensed to write such insurance in this Commonwealth, of a policy or policies of bodily injury and property damage liability insurance, or a policy or policies written pursuant to Chapter 48 (§ 38.2-4805.1 et seq.) of Title 38.2 that provide coverage with respect to each such aircraft in the amount of \$50,000 because of bodily injury to or death of one person in any one accident, including passenger liability, and \$100,000 because of bodily injury to or death of two or more persons in any one accident, including passenger liability, and to a limit of \$25,000 because of injury to or destruction of property of others in any one accident; or a single limit policy in the sum of \$250,000, covering bodily injury and property damage liability in any one accident, including passenger liability of \$50,000 per passenger seat; or

2. The execution of a bond by the ~~licensee~~ *registrant* and by a surety company authorized to transact business in this Commonwealth conditioned for payment in amounts and under the same circumstances as would be required in a policy of bodily injury liability and property damage liability insurance, as required by the provisions of subdivision A 1 ~~of this section~~; or

3. The delivery to the Department of \$250,000 in cash or an irrevocable letter of credit in the

amount of \$250,000 from a depository institution as defined in § 2.2-4701. Such money or securities so delivered to the Department shall be placed by it in the custody of the State Treasurer and shall be subject to execution to satisfy any judgment within the limits on amounts required by this chapter for personal injury and property damage liability insurance.

B. Notwithstanding the provisions of subsection A of this section, for an aircraft commonly known as an "ultralight," as the same is now and may hereafter be defined by the Federal Aviation Administration, the proof of financial responsibility required by § 5.1-88.1 may be satisfied by the issuance as to that aircraft of a single limit insurance policy in the sum of \$100,000 covering bodily injury and property damage liability in any one accident, that is issued by an insurance company licensed to write such insurance in this Commonwealth or written pursuant to Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2.

§ 5.1-113. Duration of certificates, registrations, etc.; suspension, revocation, or amendment; penalties.

Certificates, permits, *registrations*, and licenses issued under the provisions of this chapter shall be effective from the dates specified therein and shall remain in effect until terminated as herein provided. The Commission may at any time, by its order duly entered after hearing held after notice to the holder of any such certificate, permit, *registration*, or license and an opportunity to such holder to be heard at which it shall be proved that such holder has willfully made any misrepresentation of a material fact in obtaining such certificate, permit, *registration*, or license, or has willfully violated or refused to observe the laws of this Commonwealth touching such certificate, permit, *registration*, or license, or any of the terms of his certificate, permit, *registration*, or license, or any of the Commission's proper orders, rules, or regulations, impose a penalty not exceeding \$1,000, which may be collected by the process of the Commission as provided by law; or the Commission may suspend, revoke, alter, or amend any such certificate, permit, *registration*, or license for any of the causes set forth above. But no such certificate, permit, *registration*, or license shall be revoked, altered, or amended (except upon application of the holder thereof) unless the holder thereof shall willfully fail to comply, within a reasonable time to be fixed by the Commission, with the lawful order of the Commission or with the lawful rule or regulation of the Commission, or with the term, condition, or limitation of such certificate, permit, *registration*, or license, found by the Commission to have been violated by such holder.

Proceedings for the imposition of any penalty provided for in this section may be commenced upon the complaint of any person or upon the Commission's own initiative.

From any order of the Commission suspending, revoking, altering or amending any certificate, permit, *registration*, or license, the holder thereof shall have the right of appeal to the Supreme Court of Virginia, as a matter of right, as in other cases of appeals from the Commission.

§ 5.1-150. Licenses, registrations, taxes, etc., not affected.

Nothing in this chapter shall be construed to relieve any person from the payment of any licenses, *registration* fees, taxes, or levies now or hereafter imposed by law.