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HOUSE BILL NO. 2149

Offered January 11, 2017

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A BILL to amend and reenact §§ 5.1-1, 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.

Patron—Knight

Referred to Committee on Science and Technology

Be it enacted by the General Assembly of Virginia:

1. That §§ 5.1-1, 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. Definitions.

When used in this title, unless expressly stated otherwise:

"Aircraft" means any contrivance now known, or hereafter invented, used, or designed for *human occupation and used for* navigation of or flight in the air, including a balloon or other contrivance designed for maneuvering in airspace at an altitude greater than 24 inches above ground or water level, except that any contrivance now or hereafter invented of fixed or flexible wing design, operating without the assistance of any motor, engine, or other mechanical propulsive device, which is designed to utilize the feet and legs of the operator or operators as the sole means of initiating and sustaining forward motion during the launch and of providing the point of contact with the ground upon landing and commonly called a "hang glider" shall not be included within this definition.

"Aircraft based in this Commonwealth" means an aircraft that is either (i) domiciled in a county, city, or town in the Commonwealth or (ii) parked in a county, city, or town in the Commonwealth when not in flight for the period of time specified in § 5.1-5.

"Airman" means any individual, including the person in command and any pilot, mechanic, or member of the crew, who engages in the navigation of aircraft while under way within Virginia airspace; any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft, aircraft engines, propellers, or accessories; and any individual who serves in the capacity of aircraft dispatcher.

"Air navigation facility" means any airport ground or air navigation facility, other than one owned and operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, buildings, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices, and any combination of any or all of such facilities, used or useful as an aid, or constituting any advantage or convenience, to the safe taking off, navigation, and landing of aircraft; in the safe and efficient operation or maintenance of an airport; in the safe, efficient and convenient handling or processing of aviation passengers, mail or cargo; or in the servicing or maintenance of aircraft or ground equipment.

"Airport" means any area of land or water which is used, or intended for public use, for the landing and takeoff of aircraft, and any appurtenant areas that are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, easements and together with all airport buildings and facilities located thereon.

"Airport hazard" means any structure, object or natural growth, or use of land that obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

"Airspace" means all that space above the land and waters within the boundary of the Commonwealth.

"Board" means the Virginia Aviation Board.

"Civil aircraft" means any aircraft other than a public aircraft.

"Commercial aircraft" means any civil aircraft used in flight activity for compensation or for hire.

"Contract carrier by aircraft" or "contract carrier" means any person not included under the definitions of "common carrier by aircraft" or "restricted common carrier by aircraft" as defined in § 5.1-89 who, under special and individual contracts or agreements, and whether directly or by a lease or any other arrangement, transports passengers or property by aircraft for compensation and in the transportation of passengers does not charge individual fares.

"Department" means the Department of Aviation.

"Drop zone" means any locality whether over land or water that is used, or intended for use, for the landing and recovery of sky divers or parachutists using a parachute or other contrivance designed for

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59 sport jumping.

60 "Landing area" or "landing field" means any locality, whether over land or water, including airports
61 and intermediate landing fields, which is used or intended to be used for the landing and takeoff of
62 aircraft and open to the public for such use, whether or not facilities are provided for the sheltering,
63 servicing, or repair of aircraft or for receiving or discharging passengers or cargo.

64 "Person" means any individual, corporation, government, political subdivision of the Commonwealth,
65 or governmental subdivision or agency, business trust, estate, trust, partnership, two or more of any of
66 the foregoing having a joint or common interest, or any other legal or commercial entity.

67 "Public aircraft" means an aircraft used exclusively in the service of any state, or political
68 subdivision thereof, or the federal government.

69 **§ 5.1-1.6. Further powers and duties of Department; State Corporation Commission to**
70 **administer Chapter 9.**

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

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

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

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

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

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

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

83 **§ 5.1-2.2. Powers and duties of Board.**

84 The Board shall exercise the following powers and duties:

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

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

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

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

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

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

101 **§ 5.1-5. Registration of aircraft.**

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

108 ~~(b)~~ B. The Department shall provide for the issuance, expiration, suspension, and revocation of
109 licenses of aircraft ~~registration~~ in accordance with regulations promulgated by the Board. The
110 Department shall furnish any necessary forms pursuant to the issuance of such ~~licenses, registration~~ and
111 may assess a fee for such issuance not in excess of ~~five dollars~~ \$5 annually. The Department may, in
112 lieu of issuing aircraft ~~licenses registration~~ required by subsection ~~(a) of this section~~ A, issue
113 commercial aircraft ~~licenses registration~~ to air carriers and commercial dealers, and issue to
114 noncommercial dealers noncommercial dealer fleet ~~licenses registration~~, to cover all aircraft owned by
115 such dealers and all aircraft for sale held by dealers on a consignment basis from an aircraft
116 manufacturer. The Department may assess a fee not in excess of \$50 annually for any such
117 noncommercial dealer fleet licenses issued and a fee not in excess of \$100 annually for any such
118 commercial fleet licenses issued. The fee for a commercial single aircraft ~~license registration~~ shall not
119 be in excess of ~~ten dollars~~ \$10 annually.

120 **§ 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

182 delivered to the Department shall be placed by it in the custody of the State Treasurer and shall be
183 subject to execution to satisfy any judgment within the limits on amounts required by this chapter for
184 personal injury and property damage liability insurance.

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

192 **§ 5.1-113. Duration of certificates, registrations, etc.; suspension, revocation, or amendment;**
193 **penalties.**

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

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

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

215 **§ 5.1-150. Licenses, registrations, taxes, etc., not affected.**

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