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SENATE BILL NO. 865

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend and reenact §§ 5.1-1, as it is currently effective and as it shall become effective, and 5.1-5 of the Code of Virginia, relating to aircraft; registration; definition.

Patron—Favola

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 5.1-1, as it is currently effective and as it shall become effective, and 5.1-5 of the Code of Virginia are amended and reenacted as follows:

§ 5.1-1. (Effective until September 1, 2023) Definitions.

When used in this title, unless expressly stated otherwise:

"Aircraft" means any contrivance, *occupied by one or more persons*, now known, or hereafter invented, used, or designed 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 "Fighter or attack jet" means a jet-powered aircraft designed for military (i) combat training or (ii)
61 operational mission execution.

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

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

69 "Public aircraft" means an aircraft used exclusively in the service of any state, or political
70 subdivision thereof, or the federal government. "Public aircraft" includes any fighter or attack jet that is
71 leased or owned by a private entity, provided that the aircraft operations are conducted exclusively for
72 the purpose of military combat training in service to the federal government.

73 **§ 5.1-1. (Effective September 1, 2023) Definitions.**

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

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

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

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

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

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

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

108 "Board" means the Virginia Aviation Board.

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

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

111 "Contract carrier by aircraft" or "contract carrier" means any person not included under the
112 definitions of "common carrier by aircraft" or "restricted common carrier by aircraft" as defined in
113 § 5.1-89 who, under special and individual contracts or agreements, and whether directly or by a lease
114 or any other arrangement, transports passengers or property by aircraft for compensation and in the
115 transportation of passengers does not charge individual fares.

116 "Department" means the Department of Aviation.

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

120 "Landing area" or "landing field" means any locality, whether over land or water, including airports

121 and intermediate landing fields, which is used or intended to be used for the landing and takeoff of
122 aircraft and open to the public for such use, whether or not facilities are provided for the sheltering,
123 servicing, or repair of aircraft or for receiving or discharging passengers or cargo.

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

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

129 **§ 5.1-5. Registration of aircraft.**

130 A. Every resident of the Commonwealth owning a civil aircraft, every nonresident owning a civil
131 aircraft based in the Commonwealth for more than ~~60~~ 90 days during any ~~12-month period~~ calendar
132 year, and every owner of an aerial application aircraft operating within the Commonwealth or of a civil
133 aircraft operated in the Commonwealth as a for-hire intrastate air carrier shall register such aircraft with
134 the Department before such aircraft is operated in the Commonwealth.

135 B. The Department shall provide for the issuance, expiration, suspension, and revocation of aircraft
136 registration in accordance with regulations promulgated by the Board. Such aircraft registration or
137 registration requirement shall be considered the licensure or licensure requirement for purposes of the
138 tax imposed pursuant to Chapter 15 (§ 58.1-1500 et seq.) of Title 58.1. The Department shall furnish
139 any necessary forms pursuant to the issuance of such registration and may assess a fee for such issuance
140 not in excess of \$5 annually. The Department may, in lieu of issuing aircraft registration required by
141 subsection A, issue commercial aircraft registration to air carriers and commercial dealers and issue to
142 noncommercial dealers noncommercial dealer fleet registration, to cover all aircraft owned by such
143 dealers and all aircraft for sale held by dealers on a consignment basis from an aircraft manufacturer.
144 The Department may assess a fee not in excess of \$50 annually for any such noncommercial dealer fleet
145 registrations issued and a fee not in excess of \$100 annually for any such commercial fleet registrations
146 issued. The fee for a commercial single aircraft registration shall not be in excess of \$10 annually.

147 C. *Notwithstanding the provisions of subsection A, no aircraft shall be required to be registered if*
148 *the aircraft is brought into the Commonwealth solely for major maintenance or major repair. An*
149 *aircraft owner shall provide proof that the aircraft is based at an airport in another state, shown by*
150 *evidence of a hangar or tie-down lease for a minimum of 12 months prior to the aircraft being brought*
151 *into the Commonwealth, and proof of the work being performed in the Commonwealth, shown by*
152 *presentation of invoices that describe such work.*