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SENATE BILL NO. 1052

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Roads and Internal Navigation
on February 14, 1995)

(Patron Prior to Substitute—Senator Quayle)

A BILL to amend and reenact § 5.1-7 of the Code of Virginia, to amend the Code of Virginia by adding in Title 5.1 a Chapter numbered 8.2, consisting of sections numbered 5.1-88.7 through 5.1-88.10, and to repeal § 5.1-8 of the Code of Virginia, relating to licensing and operating airports and landing areas, financial responsibility of certain airport owners and operators, and permits for operation and expansion of commercial airports or landing fields.

Be it enacted by the General Assembly of Virginia:

1. That § 5.1-7 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 5.1 a Chapter numbered 8.2, consisting of sections numbered 5.1-88.7 through 5.1-88.10 as follows:

§ 5.1-7. Licensing of airports and landing areas.

Except as provided in § 5.1-7.2, every person, before operating an airport or landing area or adding or extending a runway, shall first secure from the Department a license. The application therefor shall be made on the form prescribed and furnished by the Department and shall be accompanied by a fee not exceeding \$100.

Such license shall be issued for a period not to exceed seven years, and shall be renewed every seven years. Before issuing such license, the Department shall require the holder of such license to furnish proof of financial responsibility prescribed in Chapter 8.2 of this title.

It shall be unlawful for any person to operate any airport or landing area which is open to the general public for the landing or departure of any aircraft until a license therefor shall be issued by the Department.

Before issuing such license for the establishment of a new airport, the Department shall investigate the location of such airport or landing area with the relation to its proximity to and its runway orientation in relation to any other airport or landing area and shall provide for the safety of civil aircraft alighting thereon or departing therefrom. If the proposed airport or landing area shall be so situated as to endanger aircraft using the same or any other airport or landing area in close proximity, and if proper provisions have not been made in all other respects for the safety of aircraft alighting thereon or departing therefrom, the license shall not be granted. To be licensed, an airport required to be licensed under § 5.1-7.2 must meet this criterion and any applicable requirement provided for in regulation promulgated under this section, but no others.

The Board may, by regulation, adopt any other requirements for licensure that are related to the safety of civil aircraft using such airport or landing area. Any airport having a license issued prior to October 1, 1995, and not meeting one or more minimum standards as defined in Part 3 of the Virginia Aviation Regulations, shall be exempt from having to comply with those noncomplying standards for as long as the airport remains an active public use facility. Should such airport cease to be open to the public for one year, and subsequently reopen, it shall be required to comply with all applicable minimum standards for licensure.

In addition to the above safety requirements, before a license is initially issued, the Department shall consider the reviews and comments of appropriate state agencies coordinated by the Department of Environmental Quality, and shall cause a public hearing to be held concerning the economic, social and environmental effects of the location or runway orientation of the airport or landing area if the facility is listed in the Virginia Air Transportation System Plan; however, such coordinated review by the Department of Environmental Quality shall not exceed ninety days after the Department has requested review by the Department of Environmental Quality. The public hearing required by the section shall be conducted by the Department of Environmental Quality in the jurisdiction in which the airport or landing areas is located, after publication of notice of the hearing in a newspaper of general circulation in such jurisdiction at least ten days in advance of such hearing.

Any license issued shall describe the number of runways, the length and orientation of each runway and/or, if appropriate, the landing area.

If a runway is to be extended or new runways are to be added, a revised license shall be applied for from the Department. If the airport or landing area is listed in the Virginia Air Transportation System Plan, the Department shall consider the reviews and comments of appropriate state agencies, coordinated by the Department of Environmental Quality, and shall cause a public hearing to be held concerning the economic, social and environmental effects of such changes to the license.

Whenever a public hearing is called for herein, if there has been a public hearing associated with

the development of any environmental documents to comply with the receipt of federal funds, the Department and the Department of Environmental Quality may rely on such document or hearing in carrying out their respective duties set out in this section.

If an airport or landing area cannot meet the requirements for licensure that have been adopted by the Department, or having met those requirements cannot maintain compliance, the Department may issue conditional licenses to allow time for the airport or landing areas to take steps to meet those requirements or may revoke any license issued, if requirements for licensure are not met or cannot be met.

Any party aggrieved by the granting or refusal to grant any such license shall have a right of appeal to the circuit court of the jurisdiction where the airport or landing area is to be located, which appeal shall be filed in accordance with the Administrative Process Act, Chapter 1.1:1 of Title 9 of the Code of Virginia.

All airports or landing areas that hold licenses or permits shall be issued new licenses, without charge, on or before October 1, 1995, describing the number, length and orientation of the runway or runways or, if appropriate, the landing area, which shall be valid for up to seven years. The length of the new license term may be staggered so that all licenses will not become renewable at the same time. If any airport landing area does not meet the current requirements for licensure, a new license may be issued.

CHAPTER 8.2.

Financial Responsibility of Owners of Airports and Landing Areas

Required to be Licensed.

§ 5.1-88.7. Proof of financial responsibility to be furnished for licensed airports or landing areas.

No airport or landing area shall be licensed by the Department unless and until the applicant thereof furnishes proof of financial responsibility at least in the amounts required by this chapter.

§ 5.1-88.8. What constitutes proof of financial responsibility.

The following shall constitute proof of financial responsibility as required by §5.1-88.7:

1. The issuance, by an insurance company licensed to write such insurance in the Commonwealth, of a policy of bodily injury and property damage liability insurance or a policy or policies written pursuant to Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2, which provides coverage with respect to each airport or landing area in the amount of one million dollars covering bodily injury and property damage liability in any one accident; or

2. The delivery to the Department of one million dollars cash or in securities such as fiduciaries may invest in as provided by §§ 26-40.01 through 26-44. 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.

§ 5.1-88.9. Certain sections of Code incorporated by reference; definitions.

The provisions of § 46.1-424, §§46.2-447 through 46.2-452, §§ 46.2-456 through 46.2-458, and §§ 46.2-461, and 46.2-463 shall apply to all policies of insurance or other evidence of financial responsibility hereunder except that whenever the word "Commissioner" appears in any of said sections it shall be taken to mean the Director of the Department of aviation; and whenever the word "Department" or "Department of Motor Vehicles" appears, it shall also be taken to mean the Department of Aviation and "vehicle" or "motor vehicle" shall be taken to mean "aircraft."

§ 5.1-88.10. Cancellation of insurance.

No policy of insurance issued pursuant to this chapter may be canceled or terminated, except for nonpayment of premiums, until at least thirty days after notice of cancellation or termination of said policy of insurance has been filed in the Office of the Department, except that a subsequent policy procured and certified to the Department shall on the effective date thereof terminate the insurance previously in effect with respect to any airport designated in both policies. If a policy is canceled for nonpayment of premiums, notice of cancellation shall be filed in the Office of the Department.

2. That § 5.1-8 of the Code of Virginia is repealed.

3. That the provisions of this act shall become effective on October 1, 1995