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WEST VIRGINIA  
STATE AERONAUTICS COMMISSION

KANAWHA AIRPORT  
CHARLESTON, WEST VIRGINIA, 25311

February 8, 1965

COMMISSIONERS

C V SWISHER  
CLARKSBURG  
OSCAR TATE, JR.  
WHITE SULPHUR SPRINGS  
DAVE WILLIAMS  
ST. ALBANS  
RAY C. EPPERLY  
VIENNA  
BURL SAWYERS  
CHARLESTON

*obsolete*  
*valid March 8, 1965 to*  
*Dec 27, 1982 when refiled*  
*in accordance with 29A-2-5*

Honorable Joe F. Burdett  
Secretary of State  
State Capitol Building  
Charleston, West Virginia

Dear Mr. Burdett:

Please find enclosed two (2) copies of West Virginia Laws and Regulations Governing Aeronautics in compliance with Chapter 5, Article 2, Section 3, West Virginia Code.

With kindest personal regards and best wishes, I remain,

Sincerely,

Everett L. Parrish, Director

ELP/gjw

encls. (2)

FILED IN THE OFFICE OF  
JOE F. BURDETT  
SECRETARY OF STATE  
THIS DATE 2/8/65

WEST VIRGINIA

FILED IN THE OFFICE OF  
JOE F. BURDETT  
SECRETARY OF STATE  
THIS DATE 5/8/65

LAWS

AND

REGULATIONS GOVERNING  
AERONAUTICS

WEST VIRGINIA STATE AERONAUTICS COMMISSION  
KANAWHA AIRPORT  
CHARLESTON, W. VA.

HULETT C. SMITH, GOVERNOR

COMMISSION MEMBERS

C. V. SWISHER  
CLARKSBURG

RAY G. EPPERLY  
PT. PLEASANT

DAVID P. WILLIAMS  
ST. ALBANS

C. O. TATE, JR.  
WHITE SULPHUR SPRINGS

BURL SAWYERS  
CHARLESTON

EVERETT L. PARRISH, DIRECTOR

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AERONAUTIC LAWS  
STATE OF WEST VIRGINIA  
STATE AERONAUTICS COMMISSION ACT

Be it enacted by the Legislature of West Virginia,  
Regular Session 1947:

That article two-a, chapter twenty-nine, and sections one, five-a, and seven to thirteen, inclusive, article eleven, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that a new article to be designated article two-a, chapter twenty-nine be enacted, to read as follows:

WEST VIRGINIA AERONAUTIC LAWS  
STATE AERONAUTICS COMMISSION

Chapter 29-2A

Series I

1964

Subject: Matters relating to the laws of aeronautics in the State of West Virginia.

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Section 1. Definitions. As used in the statutes of West Virginia, unless the context otherwise requires:

(a) "Aeronautics" means the art and science of flight, including, but not limited to, transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or other air navigation facilities and instruction in flying or ground subjects pertaining thereto.

(b) "Aeronautics instructor" means any individual who, for hire or reward, engages in giving instruction, or offers to give instruction in aeronautics, either in flying or ground subjects, or both. It does not include any instructor in any public school, college or university of this state, or any other institution of higher learning duly accredited and approved for carrying on collegiate work, while engaged in the performance of his duties as such instructor.

(c) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(d) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher, or air-traffic control-tower operator. It does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him.

(e) "Air navigation" or "avigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport within this state.

(f) "Air navigation facility" means any facility other than one owned or controlled by the federal government, used in, available for use in, or designed for use in aid of air navigation, including airports, and any structures, mechanisms, lights, beacons, markers, communication system, or other instrumentalities or devices used or useful as an aid or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(g) "Airport" means any area of land or water which is used, or



or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

(h) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or is otherwise hazardous to such landing or taking off.

(i) "Air school" means any person who engages in giving, or offering to give, instruction in aeronautics, either in flying or ground subjects, or both, for or without hire or reward. It does not include any public school, college, or university of this state, or any other institution of higher learning duly accredited and approved for carrying on collegiate work.

(j) "Commission" means The West Virginia State Aeronautics Commission.

(k) "Director" means the Director of Aeronautics of this state.

(l) "Municipality" means any county, city, town, village, or other political subdivision of this state. "Municipal" means pertaining to a municipality as herein defined.

(m) "Operation of aircraft" or "operate aircraft" means the use, navigation or piloting of aircraft in the airspace over this state or upon the ground within this state.

(n) "Person" means any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar

representative thereof.

(o) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the commission as a route suitable for air navigation.

(p) The singular of any of the above defined terms shall include the plural and the plural the singular.

Section 2. Creation and Membership. There is hereby created an aeronautics commission, to be known as "The West Virginia State Aeronautics Commission," to consist of five members to be appointed by the governor, by and with the advice and consent of the Senate. One of such members shall be the state road commissioner ex officio, whose term as such member shall continue for the period that he holds the office of state road commissioner. The other four members of the commission shall be appointed by the governor, each to serve a term beginning the first day of July, one thousand nine hundred forty-seven, one to serve for a term of one year, one to serve for a term of two years, one to serve for a term of three years, and one to serve for a term of four years. The successors of the members (other than the state road commissioner) initially appointed as provided herein, shall be appointed for terms of four years each in the same manner as the members originally appointed under this article, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. No more than three

members of the commission shall be members of the same political party. All members of the commission shall be citizens and residents of this state. The members of the commission who shall be appointed by the governor as provided by this section shall be selected with due regard to their fitness by reason of their aeronautical knowledge and practical experience in the field of aeronautics. In making such appointments, the governor shall, so far as may be possible and practicable, select the several members from different geographical sections of the state.

No member shall receive any salary for his services, but each shall be reimbursed for actual and necessary expenses incurred by him in the performance of his duties.

Section 3. Powers and Duties of the Commission. The commission shall assume, carry on and succeed to all the duties, powers, rights, obligations, and liabilities heretofore belonging to, exercised by, or assumed by the state board of aeronautics, pursuant to statutory authority heretofore existing and as changed or modified by the provisions of this article. The commission shall have general supervision and control over all airports used for commercial purposes, all state and municipal airports, all air schools, and over all phases of aeronautics within this state. It may enter into any contracts necessary to the execution of the powers granted to it by this article. It is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and air navigation facilities. It shall cooperate with and assist the federal government, the municipalities of this state, and other persons in the development of aeronautics, and shall

act to coordinate the aeronautical activities of these bodies and persons. Municipalities are authorized to cooperate with the commission in the development of aeronautics and aeronautics facilities in this state. The commission is hereby given the power and authority to make such rules and regulations as it may deem necessary and advisable for the public safety, governing the designing, laying out, locating, building, equipping, and operating of all airports, the establishment and operation of all air schools, and the conduct of all other phases of aeronautics. The commission is given the power and authority to make different ratings for airports and to prescribe the proper uses for which the different classes of ratings are given. The commission is given the power and authority to make rules and regulations governing the personnel and operation of all air schools, for the purpose of protecting the health and safety of students therein and insuring, so far as may be, the public safety through the proper training and instruction of student aviators and mechanics. It shall adopt and enforce the provisions of the federal air commerce act, now in effect or as hereafter amended, so as to make applicable as far as possible the provisions of that act to the State of West Virginia, but the commission, shall not make or promulgate any rules, regulations or orders applicable to persons engaged in interstate air commerce, in contravention of or inconsistent with the laws of the United States, or the rules, regulations, or orders of the civil aeronautics board, the civil aeronautics administration, or other competent agency of the United States: PROVIDED, HOWEVER, That nothing in this article shall be construed to deprive the public service commission of West Virginia of the power to regulate air transportation for compensation.

The commission shall keep on file with the secretary of state, and at the principal office of the commission, a copy of all its rules and regulations and orders having general effect, for public inspection. It shall provide for the publication and general distribution of all its orders, rules, regulations and procedures having general effect. Copies of any such orders, rules, or regulations shall be delivered to any person interested, free of charge, upon request. The publication and distribution of any such order, rule, or regulation as provided herein, shall be sufficient notice to the public of the provisions, requirements, and effect thereof.

Section 4. Organization of Commission, Meetings, Reports, Offices. The commission shall adopt a seal, and shall make, and may from time to time amend, such rules and regulations for the administration of the powers granted to it by this article as are not inconsistent therewith and as the commission may deem expedient. The commission shall organize by electing from among its members a chairman who shall serve as such for a period of two years. Such chairman shall have the power to sign documents, execute contracts, and otherwise act for and in the name of the commission in all matters within the lawful powers of the commission and duly authorized by a majority of its members.

The commission shall determine the number, date, and place of its regular meetings, but at least one such meeting shall be held annually at the commission's established offices in the City of Charleston. Whenever the convenience of the public or of interested persons may be promoted or delay or expense may be prevented, the commission may hold meetings, hearings, or proceedings at any other place designated by it.

The commission shall report in writing to the governor on or before the thirty-first day of August of each year. The report shall contain a summary of the commissions's proceedings during the preceding fiscal year, a detailed and itemized statement of all revenue received and all expenditures made by or on behalf of the commission, such other information as it may deem necessary or useful, and any additional information which may be requested by the governor. The fiscal year of the commission shall conform to the fiscal year of the state.

An office shall be established and maintained by the commission in the City of Charleston. In addition, the commission may establish and maintain such other offices within the state as it may deem necessary and expedient.

Section 5. Director of Aeronautics, Appointment, Qualifications, Compensation, Powers and Duties; Administrative and Other Assistants, Their Powers and Duties. A director of Aeronautics shall be appointed by the commission, who shall serve for an indefinite term at the pleasure of the commission. He shall be appointed with due regard to his fitness, by aeronautical education and by knowledge of and recent practical experience in aeronautics, for the efficient dispatch of the powers and duties vested in and imposed upon him by this article. He shall hold or have held a federal commercial pilot's license. He shall devote his entire time to the duties of his office as required and prescribed by this article, and shall not be actively engaged or employed in any other business, vocation or employment, nor shall he have any pecuniary interest in, or any stock in, or bonds of, any civil aeronautical enterprise. He shall receive such compensation as the commission may determine, which said

compensation shall, however, conform in general to the compensation received by persons occupying positions of similar importance and responsibility with other agencies of this state. He shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties. The director shall be the executive officer of the commission and under its supervision shall administer the provisions of this article and the rules, regulations and orders established thereunder, and all other laws of the state relative to aeronautics. The director shall attend, but not vote, at all meetings of the commission. He shall act as secretary of the commission and shall be in charge of its offices and responsible to the commission for the preparation of reports and the collection and dissemination of data and other public information relating to aeronautics. At the direction of the commission he shall, together with the chairman of the commission, execute all contracts entered into by the commission which are legally authorized and for which funds are provided in any appropriations act. The commission, may by written order filed in its office, delegate to the director any of the powers or duties vested or imposed upon it by this article. Such delegated powers and duties may be exercised by such director in the name of the commission. The commission may also employ such administrative, engineering, technical and clerical assistance as may be required. The director and such other assistants may, under the supervision of the commission, insofar as is reasonably possible, make available the engineering and other technical services of the commission, without charge to any

municipality, and with or without charge to any other person desiring them, in connection with the construction, maintenance or operation, or proposed construction, maintenance or operation of any airport. The commission, the Director, and such other assistants as may be designated by the commission shall see that the state and federal laws governing aviation and the rules and regulations of the commission are carried out. They shall have police powers and may make arrests for the violation of this article, or the rules and regulations of the commission.

Section 6. State Financial Assistance for Municipal Airports.

The commission, out of any appropriation made to it by the legislature or out of any funds at its disposal, may make funds available by grant or otherwise to municipalities for the planning, acquisition, construction, improvement, maintenance, or operation of airports owned or operated or to be owned or operated by such municipalities. Acceptance of any moneys so made available to any municipality shall constitute consent by the recipient that a reasonable use of such airport may be made, upon request of the commission, by the United States government, the state, or any of their respective agencies, including the state aeronautics commission and the national guard of West Virginia for state purposes related or incidental to aeronautics. Such financial assistance may be furnished in connection with federal or other financial aid for the same purpose.



Section 7. Federal Aid.

(a) The commission is authorized to cooperate with the government of the United States, and any agency or department thereof, in the planning, acquisition, construction, improvement, maintenance and operation of airports and other air navigation facilities in this state, and is authorized to accept federal aid either outright or by way of matching the same in whole or in part as may be required, and when funds for matching are available to the commission, and to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal moneys upon such airports and other air navigation facilities.

(b) The commission is authorized to accept, receive, and receipt for federal moneys and other moneys, either public or private, for and in behalf of this state, or any municipality thereof, for the planning, acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities, whether such work is to be done by the state or by such municipality, or jointly, aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder, and it is hereby designated as the agency of the state, and is authorized to and may act as agent of any municipality of this state upon the request of such municipality, in accepting, receiving and receipting for such moneys in its behalf for airports or other airnavigation facility purposes, and in contracting for the planning, acquisition, construction,

improvement, maintenance, or operation of airports or other air navigation facilities, financed either in whole or in part by federal moneys; and any such municipality is authorized to and may, and the state hereby does designate the commission as its agent for such purposes and any such municipality may enter into an agreement with the commission prescribing the terms and conditions of such agency in accordance with federal laws, rules and regulations and with this article. Such moneys as are paid over by the United States government shall be retained by the state or paid over to said municipalities under such terms and conditions as may be imposed by the United States government in making such grants.

(c) All contracts for the planning, acquisition, construction, improvement, maintenance, and operation of airports, or other air navigation facilities made by the commission, either as the agent of the state or as the agent of any municipality therein, shall be made pursuant to the laws of this state governing the making of like contracts: PROVIDED, HOWEVER, That where the planning, acquisition, construction, improvement, maintenance, and operation of any airport or other air navigation facility is financed wholly or partially with federal moneys, the commission, as agent of the state or of any municipality thereof, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other state law to the contrary.

(d) All moneys accepted for disbursement by the commission

pursuant to this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purposes for which the same were made available, shall be expended in accordance with federal laws and regulations and with this article. The commission is authorized, whether acting for this state or as the agent of any municipality therein, when requested by the United States government or any agency or department thereof, or when requested by the state or municipality for which the money has been made available, to disburse such moneys for the designated purposes, but this shall not preclude any other authorized method of disbursement.

(e) The state or any municipality therein is authorized to cooperate with the government of the United States, and any agency or department thereof, in the acquisition, construction, improvement, maintenance and operation of airports and other air navigation facilities in this state, and is authorized to accept federal aid, either by way of outright grant or by matching the same in whole or in part as may be required, and to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal moneys upon such airports and other navigation facilities.

(f) No political subdivision of this state, whether acting alone or jointly with another political subdivision or with the state, shall submit to the administrator of civil aeronautics of the

United State any project application under the provisions of section nine-a of the act of Congress approved on the thirteenth day of May, one thousand nine hundred forty-six, being public law three hundred seventy-seven, seventy-ninth Congress, known and hereinafter designated as the "Federal Airport Act", or any amendment thereof, unless the project and the project application have been first approved by the commission. No such political subdivision shall directly accept, receive, receipt for, or disburse any funds granted by the United States under the federal airport act, but it shall designate the commission as its agent in its behalf to accept, receive, receipt for and disburse such funds. It shall enter into an agreement with the commission prescribing the term and conditions of such agency in accordance with federal laws, rules and regulations and applicable laws of this state. Such moneys as are paid over by the United States government shall be retained by the state or paid over to the municipality under such terms and conditions as may be imposed by the United States government in making such grant.

Section 8. State Airports, Establishment and Operation. The commission is authorized to on behalf of and in the name of the state, out of appropriations and other moneys made available for such purposes, to plan, establish, construct, maintain, and operate airports and air navigation facilities within the state. For such purposes the commission may, by purchase, gift, devise, lease, condemnation, or otherwise, acquire such property, real or personal, as is necessary to permit safe and efficient operation of the airports and air navigation facilities. In like manner, the commission may

acquire existing airports and air navigation facilities: PROVIDED, HOWEVER, That it shall not acquire or take over any airport or air navigation facility owned or controlled by a municipality of this or any other state without the consent of such municipality. The commission may by sale, lease, or otherwise, dispose of any such property, airport, air navigation facility, or portion thereof or interest therein. Such disposal by lease shall be made pursuant to the terms of chapter eight, article eleven, section six of the code of West Virginia. Such disposal by sale or otherwise shall be in accordance with the laws of this state governing the disposition of other property of the state, except that in the case of disposal to any municipality or state government or the United States for aeronautical purposes incident thereto the sale or other disposal may be effected in such manner and upon such terms as the commission may deem in the best interest of the state.

Nothing contained in this article shall be construed to limit any right, power or authority of the state or a municipality to regulate airport hazards by zoning.

The commission may exercise any powers granted by this section jointly with any municipalities or agencies of the state government, with other states or their municipalities, or with the United States.

In the condemnation of property authorized by this section, the commission shall proceed in the name of the state in the manner provided by chapter fifty-four, code of West Virginia, one thousand nine hundred thirty-one.

Section 9. State Airways. The commission may designate, design, and

establish, expand, or modify a state airways system which will best serve the interest of the state. It may chart such airways system and arrange for publication of such maps, charts, notices and bulletins relating to such airways as may be required in the public interest.

The system shall be supplementary to and coordinated in design and operation with the federal airways system. It may include all types of air navigation facilities, whether publicly or privately owned, provided that such facilities conform to federal safety standards.

Section 10. Public Purpose of Activities. The acquisition of any lands or interests therein pursuant to this article, the planning, acquisition, establishment, construction, improvement, maintenance and operation of airports and air navigation facilities, whether by the state separately or jointly with any municipalities, and the exercise of any other powers herein granted to the commission are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity. All lands and other property and privileges acquired and used by or on behalf of the state in the manner and for the purposes enumerated in this article shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

Section 11. Operation of Aircraft While Intoxicated; Penalty.

No person shall operate an aircraft in the air over, or on the ground or water within this state while intoxicated or under the influence of intoxicating liquor, drugs or narcotics; nor shall the owner of such aircraft, knowingly permit the same to be so operated by a

a person who is intoxicated, or under the influence of intoxicating liquor, drugs, or narcotics.

A person violating any of the provisions of this section shall, for the first offense, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by confinement in jail for not more than one year, or both. For a second and subsequent offense, he shall be guilty of a felony and upon conviction thereof shall be confined in the penitentiary not less than one nor more than three years. Any person who, while intoxicated, or under the influence of intoxicating liquor, drugs, or narcotics operates an aircraft, and while so operating the aircraft, does serious bodily injury to another, shall be guilty of felonious assault, and upon conviction thereof shall, for the first offense be punished at the discretion of the court, either by confinement in the penitentiary for not less than one nor more than five years or by confinement in jail for not more than one year and by a fine of not more than five hundred dollars. For a second and subsequent such offense, he shall be guilty of a felony and upon conviction thereof shall be punished by confinement in the penitentiary for not less than one nor more than five years.

Section 12. Operation of Aircraft at Low Altitude or in Careless and Reckless Manner; Penalty. No person shall operate

an aircraft at an altitude of less than one thousand feet over any city, town, or village, or public gathering elsewhere, except at a duly established airport or when necessary to make a safe and proper landing or take-off in an emergency or at a duly established airport.

No person shall operate an aircraft in the air over, or on the ground or water within this state in a careless and reckless manner in wilful or wanton disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger or be likely to endanger any person or property.

A person violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars or by confinement in jail for not more than one year, or both.

Section 13. Unauthorized Taking or Operation of Aircraft; Penalty.

No person, other than the duly authorized agent, servant or employee of the owner thereof, shall take, without the knowledge and consent of the owner, and operate within this state any aircraft owned by another. Any person who, wilfully and without the knowledge or consent of the owner or person in lawful charge thereof, and with the intent to deprive such owner or person in lawful charge of the possession or use thereof, either temporarily or permanently, shall take possession of, enter and operate, or otherwise take and use, any aircraft belonging to another or in his lawful possession; and any person who shall assist, aid and abet, or be present for the purpose and with the intent to assist, aid or abet, another person in such taking possession of, entering and operating, or otherwise taking and using any such aircraft; and any person who shall receive, buy, conceal, or otherwise dispose of any such aircraft knowing the same to have been stolen or taken without the knowledge or consent of the owner or



person in lawful charge thereof, shall be deemed guilty of a felony, and upon conviction thereof, shall be fined not less than two hundred nor more than five thousand dollars and confined in the penitentiary for not less than two nor more than ten years.

Section 14. Federal License Required for Operation of Aircraft.

No person shall operate or cause or authorize to be operated any aircraft within this state unless such aircraft has an appropriate effective certificate, permit or license issued by the United States, if such certificate, permit or license issued is required by the United States; nor shall any person engage in aeronautics as an airman in this state unless he has an appropriate effective airman certificate, permit, rating or license issued by the United States authorizing him to engage in the particular class of aeronautics in which he is engaged, if such certificate, permit, rating or license is required by the United States.

Where a certificate, permit, rating or license is required for an airman by the United States, it shall be kept in his personal possession when he is operating within this state and shall be presented for inspection upon the demand of any peace officer, or any other officer of the state or of a municipality or member, official, or employee of the commission authorized under this article to enforce the aeronautics law of this state, or any official, manager, or person in charge of any airport upon which the airman shall land, or upon the reasonable request of any other person. Where a certificate, permit or license is required by the United States for an aircraft, it shall be carried in the air-

craft at all times while the aircraft is operating in the state, shall be conspicuously posted in the aircraft where it may readily be seen by passengers or inspectors, and shall be presented for inspection upon the demand of any peace officer, or any other officer of the state or of a municipality or member, official or employee of the commission authorized under this article to enforce the aeronautics laws of this state, or any official, manager or person in charge of any airport upon which the aircraft shall land, or upon the reasonable request of any person.

Section 15. Licensing of Air Schools and Aeronautics Instructors.

The commission is authorized to provide for the licensing of air schools and of aeronautics instructors. For each license of an air school it may charge a fee not exceeding twenty dollars, and for each license of an aeronautics instructor it may charge a fee not exceeding five dollars.

The commission may refuse to issue or may suspend or revoke temporarily or permanently, any license of an air school or aeronautics instructor required pursuant to this section when it shall reasonably determine, upon notice and opportunity of hearing, that such air school or aeronautics instructor is not qualified. In arriving at such determination the commission shall consider, among other things, whether the school or instructor has violated the provisions of any statute of this state or the United States relating to aeronautics or the rules and regulations promulgated pursuant thereto, or whether the aeronautics instructor or any aeronautics

instructor of the air school is addicted to the use of narcotics or other habit-forming drugs or to the excessive use of intoxicating liquor or has made any false statements of a material nature in connection with an application to the commission under this article, or has been guilty of conduct dangerous to the public safety or to the safety of those engaged in aeronautics.

It shall be unlawful for a person to operate an air school or for any aeronautics instructor to give instruction in aeronautics without an appropriate license as may be duly required by rule or regulation promulgated under the provisions of this section: PROVIDED, FURTHER, That it shall be unlawful for any aeronautics instructor to give instruction in flying unless such instructor has an appropriate effective instructor's rating, certificate, permit, or license as a flight instructor issued by the United States.

Section 16. Certificates for Airport Sites; Licensing Airports.

The commission is authorized to provide for the approval of airport sites and the issuance of certificates of such approvals. No charge shall be made for any such approval, and certificates of such an approval shall be issued without charge to all persons requesting them. Upon the promulgation of a rule or regulation providing for such approvals, any municipality or person desiring or planning to construct or establish an airport may, prior to the acquisition of the site or prior to the construction or establishment of the proposed airport, make application to the commission for approval of the site. The commission shall with reasonable dispatch grant approval of a site

if it is satisfied: (1) that the site is adequate for the proposed airport; (2) that such proposed airport, if constructed or established, will conform to minimum standards of safety; (3) that safe air traffic patterns could be worked out for such proposed airport and for all existing airports and approved airport sites in its vicinity; and (4) that such airport is reasonably necessary to provide adequate aeronautics facilities for the public or any person having need therefor. An approval of a site may be granted subject to any reasonable conditions which the commission may deem necessary to effectuate the purposes of this section, and shall remain in effect, unless sooner revoked by the commission, until a license for an airport located on the approved site has been issued pursuant to the provisions of this section. The commission may, after notice and opportunity for hearing to holders of certificates of approval, revoke such approval when it shall reasonably determine: (1) that there has been an abandonment of the site as an airport site; or (2) that there has been a failure within a time prescribed, or if no time was prescribed, within a reasonable time, to develop the site as an airport or to comply with the conditions of the approval; or (3) that because of change of physical, legal or other conditions or circumstances the site is no longer usable and necessary for the aeronautical purposes for which the approval was granted.

The commission is authorized to provide for the licensing of airports and the periodic renewal of such licenses. It may charge license fees not exceeding twenty-five dollars for each original license,

and not exceeding ten dollars for each renewal thereof. Upon the promulgation of a rule or regulation providing for such licensing, the commission shall with reasonable dispatch, upon receipt of an application for an original license and the payment of the duly required fee therefor, issue an appropriate license if a certificate of approval has previously been issued and has not been cancelled by the commission, or where no such certificate has been issued if it is satisfied that the airport conforms to the standards established herein for the issuance of a certificate of approval. All licenses shall be renewable at such reasonable periodic intervals and upon payment of such fees as may be prescribed by the commission. Licenses and renewals thereof may be issued subject to any reasonable conditions that the commission may deem necessary to effectuate the purposes of this section. The commission may, after notice and opportunity for hearing to the licensee, revoke or suspend any license or renewal thereof, or refuse to issue a renewal, when it shall reasonably determine: (1) that there has been an abandonment of the airport as such; or (2) that there has been a failure to comply with the conditions of the license or renewal thereof; or (3) that because of change of physical, legal or other conditions or circumstances the airport has become either unsafe or unusable for the aeronautical purpose for which the license or renewal was issued. It shall be unlawful for any municipality, or officer or employee thereof, or any person to operate an airport without an appropriate license for such, as may be duly required by rule or regulation issued pursuant

to this section.

Every licensed airport in this state shall employ an airport manager, who shall be licensed by the commission upon application showing that the person applying for such license is qualified by training and experience to properly perform the duties of airport manager.

In connection with the grant of approval of a proposed airport site or the issuance of an airport license the commission may, on its own motion or upon the request of an affected or interested person, hold a hearing open to the public as provided in section seventeen of this article: PROVIDED, HOWEVER, That the provisions of this section shall not apply to airports owned or operated by the United States. The commission may, from time to time, to the extent necessary, exempt any other class of airports, pursuant to a reasonable classification or grouping, from any rule or regulation promulgated under this section from any requirement of such a rule or regulation, if it finds that the application of such rules, regulation or requirement would be an undue burden on such class and is not required in the interest of public safety.

Section 17. Investigations, Hearings; Power to Subpoena Witnesses; Self-crimination. The commission, any member thereof, the director or any officer or employee of the commission designated by it, shall have the power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of this article and the rules, regulations and orders of the commission, and concerning accidents in aeronautics within this state. Hearings shall be open

to the public and, except as provided in section twenty-two, shall be held upon such call or notice as the commission shall deem advisable. Each member of the commission, the director and every officer or employee of the commission designated by it to hold any inquiry, investigation or hearing shall have the power to administer oaths and affirmations, certify to all officials acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books and documents. In case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the commission or its authorized representative may invoke the aid of any circuit court of this state. The court shall thereupon order such person to comply with the requirements of the subpoena order or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as a contempt thereof. A claim that any such testimony or evidence may tend to incriminate the person giving the same shall not excuse witness from testifying, but such witness shall not be prosecuted for any offense concerning which he is compelled hereunder to testify.

Subject to the foregoing provision, the commission may in its discretion make available to appropriate federal, state and municipal agencies information and material developed in the course of its investigations and hearings.

Section 18. Disposition of Fees. All fees or other moneys collected by said commission under the provisions of this article shall be paid into the state treasury in the manner provided in article two,

chapter twelve of the Code of West Virginia, and shall be carried in a separate account and be used and expended only for the purpose of carrying out the provisions of this article. The fees or other moneys so paid into the state treasury shall constitute and be treated as an excepted fund, and all of the provisions of section two of said article two, chapter twelve of the said Code, applicable to the funds therein excepted from the general provisions for the deposit and payment of state funds, shall be applicable to the fund derived from collections made pursuant to the provisions of this article.

Section 19. Federal-State Joint Hearings, Reciprocal Services, Accident Reporting. The commission is authorized to confer with or to hold joint hearings with any agency of this state or the United States in connection with any matter arising under this article, or relating to the sound development of aeronautics.

The commission is authorized to avail itself of the cooperation, services, records and facilities of the agencies of the United States as fully as may be practicable in the administration and enforcement of this article. The commission shall furnish to the agencies of the United States its cooperation, services, records and facilities, insofar as may be practicable.

The commission shall report to the appropriate agency of the United States all accidents in aeronautics in this state of which it is informed, and shall in so far as is practicable preserve, protect and prevent the removal of the component parts of any aircraft involved in an accident being investigated by it for such reasonable time as may be necessary to give the federal agency adequate opportunity



to institute an investigation.

Section 20. Enforcement of Aeronautics Laws. It shall be the duty of the commission, its members, the director, officers and such employees of the commission as may be designated by it, and every state and municipal officer charged with the enforcement of state and municipal laws, to enforce and assist in the enforcement of this article and of all rules, regulations and orders issued pursuant thereto and of all other laws of this state relating to aeronautics; and in that connection each of the aforesaid persons is authorized to inspect and examine at reasonable hours any aircraft, the credentials of any airman or other person engaged in aeronautics required by the laws of this state or of the United States to have in his possession credentials evidencing his authority or permission to engage in aeronautics, any premises, and the buildings and other structures thereon, where airports, air navigation facilities, air schools, or other aeronautical activities are operated or conducted. In aid of the enforcement of this article, the rules, regulations, and orders issued pursuant thereto and of all other laws of the state relating to aeronautics general police powers are hereby conferred upon the commission, each of its members, the director, and such other officers and employees of the commission as may be designated by it to exercise such powers.

The commission is authorized in the name of the state to enforce the provisions of this article and the rules, regulations and orders issued pursuant thereto by injunction or other legal process in

the courts of this state.

Section 21. Use of State and Municipal Facilities and Services.

In carrying out the provisions of this article the commission may use the facilities and services of other agencies of the state and of the municipalities of the state to the utmost extent possible, and such agencies and municipalities are authorized and directed to make available their facilities and services.

Section 22. Commission Orders, Notices and Opportunity for Hearings.

Every order of the commission requiring performance of certain acts or compliance with certain requirements and any denial or revocation of an approval, certificate or license shall set forth the reasons and shall state the acts to be done or requirements to be met before approval by the commission will be given or the approval, license or certificate granted or restored or the order modified or changed. Orders issued by the commission pursuant to the provisions of this article shall be served upon the persons affected either by registered mail or in the manner provided by chapter fifty-six, article two, section one, code of one thousand nine hundred thirty-one. In every case where notice and opportunity for hearing are required under the provisions of this article, the order of the commission shall, on not less than ten days' notice, specify a time when and place where the person affected may be heard, or the time within which he may request hearing, and such order shall become effective upon the expiration of the time for exercising such opportunity for hearing unless a hearing is held or requested within the time provided, in

which case the order shall be suspended until the commission shall affirm, disaffirm or modify such order after hearing held or default by the person affected.

Section 23. Judicial Review of Commission's Action. Any person aggrieved by any final order of the commission shall have the right to a judicial review of the action of the commission, upon certiorari by the circuit court of Kanawha County, West Virginia. The granting of such review, upon certiorari, shall be within the sound discretion of the judge of the said circuit court. A petition for such review must be filed with the said court, or with the judge thereof in vacation, within a period of thirty days from the date of entry of the final order complained of. An appeal from any final order entered by the said circuit court upon granting such writ of certiorari may be had by application to the supreme court of appeals of West Virginia for a writ of error and supersedeas. Such application to the supreme court of appeals shall be made within thirty days of the entry of the order appealed from by the said circuit court: PROVIDED, HOWEVER, That when either the circuit court or the supreme court of appeals has taken jurisdiction of any such case, such court may, in its sound discretion, refuse a stay of execution or supersedeas to the order of the commission or any portion thereof during the time that the case is pending before the said court, if the court is of the opinion that the order of the commission or a part of such order is reasonable and has been issued for the protection of the public safety.

Section 24. Penalties for Violation of Provisions of this Article.

Any person violating any of the provisions of this article, for which the penalty is not otherwise provided, or any of the rules, regulations or orders issued pursuant thereto, shall be punishable by a fine of not more than five hundred dollars or by imprisonment for not more than thirty days or both.

For any violation of sections eleven and twelve of this article, in addition to the penalties provided by the said sections, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, the court in its discretion may prohibit the violator from operating aircraft within the state for such period as it may determine, but not to exceed one year. Violation of the duly imposed prohibition of the court may be treated as a separate offense under this section or as a contempt of court. In no event shall this section be construed as a warrant for the court or any other agency or person to take away, impound, hold or mark any federal airman or aircraft certificate, permit, rating or license.

Section 25. Exchange of Violations Information. The commission is authorized to report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violations of sections eleven, twelve and fourteen of this article and all penalties, of which it has knowledge, imposed upon airmen or the owners or operators of aircraft for violations of the law of this state relating to aeronautics or for violations of the rules, regulations or orders of the commission. The commission is authorized to receive

reports of penalties and other data from agencies of the federal government and other states and, when necessary, to enter into agreements with federal agencies and the agencies of other states governing the delivery, receipt, exchange, and use of reports and data. The commission may make the reports and data of the federal agencies, the agencies of other states, and the courts of this state available, with or without request therefor, to any and all courts of this state, and to any officer of the state or of a municipality authorized to enforce the aeronautics laws of this state.

Section 26. Severability. If any provision of this article or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of this article which can be given effect without the invalid provisions of application, and to this end the provisions of this article are declared to be severable.

Section 27. Repeal. All articles or parts of articles inconsistent with the provisions of this article are hereby repealed.

Section 28. Short Title. This article may be cited as the "State Aeronautics Commission Act".

NOTE: In addition to the provisions of the "State Aeronautics Commission Act", printed above in its entirety, The Official Code of West Virginia, 1931, as amended, contains the following provisions which pertain to aeronautics:

1. Ch. 8, Art. 11, secs. 1 to 8, relating to the establishment, operation, and maintenance of airports by counties and municipi-

palties of this state; and providing for the construction, operation, and maintenance of airports in this state by municipalities of adjoining states.

2. Ch. 11, Art. 14, sec. 20, providing for the refund of state gasoline tax paid on gasoline used as a motor fuel in airplanes or other aircraft.

3. Ch. 17, Art. 2A, sec. 9 (18), relating to the authority of the State Road Commissioner as a member of the Aeronautics Commission.

4. Ch. 24, Art. 2, Sec. 1, giving the Public Service Commission jurisdiction over the common carriage of passengers or goods by air.

(No change was made in the "State Aeronautics Commission Act" or in any of the statutes referred to in the foregoing note, by the 1949 Legislature.)