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HOUSE BILL 1562

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State of Washington                      56th Legislature                      1999 Regular Session

By Representatives Scott, Mulliken and G. Chandler

Read first time 01/28/1999. Referred to Committee on Transportation.

1            AN ACT Relating to the adoption of regulations by airport operators  
2 for airport rental, use, and collection of charges; and amending RCW  
3 14.08.122.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            **Sec. 1.** RCW 14.08.122 and 1987 c 254 s 2 are each amended to read  
6 as follows:

7            An airport operator may adopt all regulations necessary for rental  
8 and use of airport facilities and for the expeditious collection of  
9 airport charges. The regulations may also establish procedures for the  
10 enforcement of these regulations by the airport operator. The  
11 regulations shall include the following:

12            (1) Procedures authorizing airport personnel to take reasonable  
13 measures including, but not limited to, the use of chains, ropes, and  
14 locks to secure aircraft within the airport facility so that the  
15 aircraft are in the possession and control of the airport operator and  
16 cannot be removed from the airport. These procedures may be used if an  
17 owner hangaring or parking an aircraft at the airport fails, after  
18 being notified that charges are owing and of the owner's right to  
19 contest that such charges are owing, to pay the airport charges owed

1 (~~and the account is at least sixty days delinquent~~) or to commence  
2 legal proceedings. Notification shall be by registered mail to the  
3 owner at his or her last known address. In the case of a transient  
4 aircraft, or where no address was furnished by the owner, the airport  
5 operator need not give such notice prior to securing the aircraft. At  
6 the time of securing the aircraft, an authorized airport employee shall  
7 attach to the aircraft a readily visible notice and shall make a  
8 reasonable attempt to send a copy of the notice to the owner at his or  
9 her last known address by registered mail, return receipt requested,  
10 and ((a)) an additional copy of the notice by first class mail. The  
11 notice shall be of a reasonable size and shall contain the following  
12 information:

- 13 (a) The date and time the notice was attached;
- 14 (b) A reasonable description of the aircraft;
- 15 (c) The identity of the authorized employee;
- 16 (d) The amount of airport charges owing;
- 17 (e) A statement that if the account is not paid in full within
- 18 (~~one hundred eighty~~) ninety days from the time the notice was
- 19 attached the aircraft may be sold at public auction to satisfy the
- 20 airport charges;
- 21 (f) (~~The time and place of sale;~~
- 22 (~~g~~)) A statement of the owner's right to commence legal
- 23 proceedings to contest the charges owing and to have the aircraft
- 24 released upon posting of an adequate cash bond or other security; and
- 25 (~~h~~)) (g) The address and telephone number where additional
- 26 information may be obtained concerning the release of the aircraft.

27 (2) Procedures authorizing airport personnel at their discretion to

28 (~~place~~) move aircraft (~~in~~) to an area within the airport operator's

29 control or for storage with private persons under the airport

30 operator's control as bailees of the airport facility. (~~Reasonable~~)

31 Costs of any such procedure shall be paid by the aircraft's owner.

32 (3) If an aircraft is secured under subsection (1) of this section

33 or moved under conditions authorized ((under)) by subsection (2) of

34 this section the owner who is obligated for hangaring or parking or

35 other airport charges may regain possession of the aircraft by:

- 36 (a) Making arrangements satisfactory with the airport operator for
- 37 the immediate removal of the aircraft from the airport's hangar, or
- 38 making arrangements for authorized parking; and

1 (b) By making payment to the airport operator of all airport  
2 charges or by posting with the airport operator a sufficient cash bond  
3 or other security acceptable to such operator, to be held in trust by  
4 the airport operator pending written agreement of the parties with  
5 respect to payment by the aircraft owner of the amount owing, or  
6 pending resolution of charges in a civil action in a court of competent  
7 jurisdiction. Upon written agreement or judicial resolution, the trust  
8 shall terminate and the airport operator shall receive so much of the  
9 bond or other security as is necessary to satisfy the agreement, or any  
10 judgment, costs, and interest as may be awarded to the airport  
11 operator. The balance shall be refunded immediately to the owner at  
12 the owner's last known address by registered mail, return receipt  
13 requested. The airport operator shall send to the owner by first class  
14 mail a notice that the balance of funds was forwarded to him or her by  
15 registered mail, return receipt requested.

16 (4) If an aircraft parked or hangared at an airport is abandoned,  
17 the airport operator may authorize the public sale of the aircraft by  
18 authorized personnel to the highest and best bidder for cash as  
19 follows:

20 (a) If an aircraft has been secured by the airport operator under  
21 subsection (1) of this section and is not released to the owner under  
22 the bonding provisions of this section within ~~((one hundred eighty))~~  
23 ninety days after notifying or attempting to notify the owner under  
24 subsection (1) of this section, or in all other cases, for ~~((one~~  
25 ~~hundred eighty))~~ ninety days after the airport operator secures the  
26 aircraft, the aircraft shall be conclusively presumed to have been  
27 abandoned by the owner;

28 (b) Before the aircraft is sold, the owner of the aircraft shall be  
29 given at least twenty days' notice of sale by registered mail, return  
30 receipt requested, if the name and address of the owner are known, and  
31 the notice of sale shall be published at least once, more than ten but  
32 less than twenty days before the sale, in a newspaper of general  
33 circulation in the county in which the airport is located. The notice  
34 shall include the name of the aircraft, if any, its aircraft  
35 identification number, the last known owner and address, the time and  
36 place of sale, the amount of airport charges that will be owing at the  
37 time of sale, a reasonable description of the aircraft to be sold and  
38 a statement that the airport operator may bid all or part of its  
39 airport charges at the sale and may become a purchaser at the sale;

1       (c) Before the aircraft is sold, any person seeking to redeem an  
2 impounded aircraft under this section may commence a lawsuit in the  
3 superior court of the county in which the aircraft was impounded, to  
4 contest the validity of the impoundment or the amount of airport  
5 charges owing. Such lawsuit must be commenced within ten days of the  
6 date the notification was provided under subsection (1) of this  
7 section, or the right to a hearing is waived and the owner is liable  
8 for any airport charges owing the airport operator. In the event of  
9 litigation, the prevailing party is entitled to reasonable attorneys'  
10 fees and costs;

11       (d) The proceeds of a sale under this section shall first be  
12 applied to payment of airport charges owed. The balance, if any, shall  
13 be deposited with the department of revenue to be held in trust for the  
14 owner or owners and lienholders for a period of one year. If more than  
15 one owner appears on the aircraft title, and/or if any liens appear on  
16 the title, the department must, if a claim is made, interplead the  
17 balance into a court of competent jurisdiction for distribution. The  
18 department may release the balance to the legal owner provided that the  
19 claim is made within one year of sale and only one legal owner and no  
20 lienholders appear on the title. If no valid claim is made within one  
21 year of the date of sale, the excess funds from the sale shall be  
22 deposited in the aircraft search and rescue, safety, and education  
23 account created in RCW 47.68.236. If the sale is for a sum less than  
24 the applicable airport charges, the airport operator is entitled to  
25 assert a claim against the aircraft owner or owners for the deficiency;

26       (e) In the event that no one purchases the aircraft at a sale, or  
27 that the aircraft is not removed from the premises or other  
28 arrangements are not made within ten days of the sale, title to the  
29 aircraft shall revert to the airport operator.

30       (5) The regulations authorized under this section shall be  
31 enforceable only if:

32       (a) The airport operator has had its tariff and/or regulations,  
33 including any and all regulations authorizing the impoundment of an  
34 aircraft that is the subject of delinquent airport charges,  
35 conspicuously posted at the airport manager's office at all times.

36       (b) All impounding remedies available to the airport operator are  
37 included in any written contract for airport charges between an airport  
38 operator and an aircraft owner; and

1        (~~(6)~~) (c) All rules and regulations authorized under this section  
2 are adopted either pursuant to chapter 34.05 RCW, or by resolution of  
3 the appropriate legislative authority, as applicable.

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