

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5414

59th Legislature
2005 Regular Session

Passed by the Senate April 24, 2005
YEAS 38 NAYS 4

President of the Senate

Passed by the House April 24, 2005
YEAS 95 NAYS 1

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5414** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5414

AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

State of Washington **59th Legislature** **2005 Regular Session**

By Senate Committee on Transportation (originally sponsored by
Senators Haugen and Swecker)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to aviation fees and taxes; amending RCW 47.68.230,
2 82.42.020, and 82.42.030; reenacting and amending RCW 47.68.240;
3 repealing RCW 47.68.233, 47.68.234, and 47.68.236; prescribing
4 penalties; providing an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 47.68.230 and 1993 c 208 s 5 are each amended to read
7 as follows:

8 It shall be unlawful for any person to operate or cause or
9 authorize to be operated any civil aircraft within this state unless
10 such aircraft has an appropriate effective certificate, permit, or
11 license issued by the United States, if such certificate, permit, or
12 license is required by the United States, and a current registration
13 certificate issued by the secretary of transportation, if registration
14 of the aircraft with the department of transportation is required by
15 this chapter. It shall be unlawful for any person to engage in
16 aeronautics as an airman or airwoman in the state unless the person has
17 an appropriate effective airman or airwoman certificate, permit,
18 rating, or license issued by the United States authorizing him or her
19 to engage in the particular class of aeronautics in which he or she is

1 engaged, if such certificate, permit, rating, or license is required by
2 the United States (~~(and a current airman's or airwoman's registration~~
3 ~~certificate issued by the department of transportation as required by~~
4 ~~RCW 47.68.233 or 47.68.234)~~).

5 Where a certificate, permit, rating, or license is required for an
6 airman or airwoman by the United States (~~(or by RCW 47.68.233 or~~
7 ~~47.68.234)~~), it shall be kept in his or her personal possession when he
8 or she is operating within the state. Where a certificate, permit, or
9 license is required by the United States or by this chapter for an
10 aircraft, it shall be carried in the aircraft at all times while the
11 aircraft is operating in the state and shall be conspicuously posted in
12 the aircraft where it may be readily seen by passengers or inspectors.
13 Such certificates shall be presented for inspection upon the demand of
14 any peace officer, or any other officer of the state or of a
15 municipality or member, official, or employee of the department of
16 transportation authorized pursuant to this chapter to enforce the
17 aeronautics laws, or any official, manager, or person in charge of any
18 airport, or upon the reasonable request of any person.

19 **Sec. 2.** RCW 47.68.240 and 2003 c 375 s 3 and 2003 c 53 s 265 are
20 each reenacted and amended to read as follows:

21 (1) Except as provided in subsection (2) of this section, any
22 person violating any of the provisions of this chapter, or any of the
23 rules, regulations, or orders issued pursuant thereto, is guilty of a
24 misdemeanor.

25 (2)(a) Any person violating any of the provisions of RCW 47.68.220,
26 47.68.230, or 47.68.255 is guilty of a gross misdemeanor.

27 (b) In addition to, or in lieu of, the penalties provided in this
28 section, or as a condition to the suspension of a sentence which may be
29 imposed pursuant thereto, for violations of RCW 47.68.220 and
30 47.68.230, the court in its discretion may prohibit the violator from
31 operating an aircraft within the state for such period as it may
32 determine but not to exceed one year. Violation of the duly imposed
33 prohibition of the court may be treated as a separate offense under
34 this section or as a contempt of court.

35 (3) In addition to the provisions of (~~(subsection[s] (1) [and~~
36 ~~(2)])~~) subsections (1) and (2) of this section, failure to register an

1 aircraft, as required by this chapter is subject to the following civil
2 penalties:

3 (a) If the aircraft registration is sixty days to one hundred
4 nineteen days past due, the civil penalty is one hundred dollars.

5 (b) If the aircraft registration is one hundred twenty days to one
6 hundred eighty days past due, the civil penalty is two hundred dollars.

7 (c) If the aircraft registration is over one hundred eighty days
8 past due, the civil penalty is four hundred dollars.

9 ~~(4) ((In addition to the provisions in subsection[s] (1) [and (2)]
10 of this section, failure to register as a pilot, airman, or airwoman,
11 as required by this chapter, is subject to a civil penalty of four
12 times the fees that are due. If the pilot registration is sixty days
13 past due, the pilot, airman, or airwoman is subject to the [a] civil
14 penalty of four times the fees that are due.~~

15 ~~(5))~~ The revenue from penalties prescribed in subsection (3) of
16 this section must be deposited into the aeronautics account under RCW
17 82.42.090. ~~((The revenue from penalties prescribed in subsection (4)
18 of this section must be deposited into the aircraft search and rescue,
19 safety, and education account under RCW 47.68.236.))~~

20 **Sec. 3.** RCW 82.42.020 and 2003 c 375 s 5 are each amended to read
21 as follows:

22 There is hereby levied, and there shall be collected by every
23 distributor of aircraft fuel, an excise tax at the rate of ~~((ten))~~
24 eleven cents on each gallon of aircraft fuel sold, delivered, or used
25 in this state: PROVIDED HOWEVER, That such aircraft fuel excise tax
26 shall not apply to fuel for aircraft that both operate from a private,
27 non-state-funded airfield during at least ninety-five percent of the
28 aircraft's normal use and are used principally for the application of
29 pesticides, herbicides, or other agricultural chemicals and shall not
30 apply to fuel for emergency medical air transport entities: PROVIDED
31 FURTHER, That there shall be collected from every consumer or user of
32 aircraft fuel either the use tax imposed by RCW 82.12.020, as amended,
33 or the retail sales tax imposed by RCW 82.08.020, as amended,
34 collection procedure to be as prescribed by law and/or rule or
35 regulation of the department of revenue. The taxes imposed by this
36 chapter shall be collected and paid to the state but once in respect to
37 any aircraft fuel.

1 The tax required by this chapter, to be collected by the seller, is
2 held in trust by the seller until paid to the department, and a seller
3 who appropriates or converts the tax collected to his or her own use or
4 to any use other than the payment of the tax to the extent that the
5 money required to be collected is not available for payment on the due
6 date as prescribed in this chapter is guilty of a felony, or gross
7 misdemeanor in accordance with the theft and anticipatory provisions of
8 Title 9A RCW. A person, partnership, corporation, or corporate officer
9 who fails to collect the tax imposed by this section, or who has
10 collected the tax and fails to pay it to the department in the manner
11 prescribed by this chapter, is personally liable to the state for the
12 amount of the tax.

13 **Sec. 4.** RCW 82.42.030 and 1989 c 193 s 4 are each amended to read
14 as follows:

15 (1) The provision of RCW 82.42.020 imposing the payment of an
16 excise tax on each gallon of aircraft fuel sold, delivered or used in
17 this state shall not apply to aircraft fuel sold for export, nor to
18 aircraft fuel used for the following purposes: ~~((+1+))~~ (a) The
19 operation of aircraft when such use is by any air carrier or
20 supplemental air carrier operating under a certificate of public
21 convenience and necessity under the provisions of the Federal Aviation
22 Act of 1958, Public Law 85-726, as amended; ~~((+2+))~~ (b) the operation
23 of aircraft for testing or experimental purposes; ~~((+3+))~~ (c) the
24 operation of aircraft when such operation is for the training of crews
25 in Washington state for purchasers of aircraft who are certified air
26 carriers; and ~~((+4+))~~ (d) the operation of aircraft in the operations
27 of a local service commuter: PROVIDED, That the director's
28 determination as to a particular activity for which aircraft fuel is
29 used as being an exemption under this section, or otherwise, shall be
30 final.

31 (2) To claim an exemption on account of sales by a licensed
32 distributor of aircraft fuel for export, the purchaser shall obtain
33 from the selling distributor, and such selling distributor must furnish
34 the purchaser, an invoice giving such details of the sale for export as
35 the director may require, copies of which shall be furnished the
36 department and the entity of the state or foreign jurisdiction of

1 destination which is charged by the laws of that state or foreign
2 jurisdiction with the control or monitoring or both, of the sales or
3 movement of aircraft fuel in that state or foreign jurisdiction.

4 (3) For the purposes of this section, "air carrier" means an
5 airline, air cargo carrier, air taxi, air commuter, or air charter
6 operator, that provides routine air service to the general public for
7 compensation or hire, and operates at least fifteen round-trips per
8 week between two or more points and publishes flight schedules which
9 specify the times, days of the week, and points between which it
10 operates. Where it is doubtful that an operation is for "compensation
11 or hire," the test applied is whether the air service is merely
12 incidental to the person's other business or is, in itself, a major
13 enterprise for profit.

14 NEW SECTION. Sec. 5. The following acts or parts of acts are each
15 repealed:

16 (1) RCW 47.68.233 (Registration of pilots--Certificates--Fees--
17 Exemptions--Use of fees) and 2003 c 375 s 1, 2003 c 53 s 263, 2000 c
18 176 s 1, 1987 c 220 s 2, 1984 c 7 s 355, 1983 c 3 s 143, & 1967 c 207
19 s 2;

20 (2) RCW 47.68.234 (Registration of airman and airwoman) and 2003 c
21 375 s 2, 2003 c 53 s 264, & 1993 c 208 s 3; and

22 (3) RCW 47.68.236 (Aircraft search and rescue, safety, and
23 education account) and 1995 c 170 s 4, 1991 sp.s. c 13 s 38, 1985 c 57
24 s 63, 1983 c 3 s 144, & 1967 c 207 s 3.

25 NEW SECTION. Sec. 6. This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 July 1, 2005.

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