

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1562

Chapter 302, Laws of 1999

56th Legislature
1999 Regular Session

AIRPORT OPERATORS--CHARGES AND TAXES

EFFECTIVE DATE: 7/25/99

Passed by the House April 23, 1999
Yeas 89 Nays 7

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 12, 1999
Yeas 42 Nays 3

BRAD OWEN
President of the Senate

Approved May 13, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1562** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 13, 1999 - 3:52 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1562

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Scott, Mulliken and G. Chandler)

Read first time 02/25/1999.

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, 47.68.250, and 82.48.100.

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 an aircraft
4 where an owner's address cannot be determined or obtained after
5 reasonable effort, the airport operator need not give such notice prior
6 to securing the aircraft. At the time of securing the aircraft, an
7 authorized airport employee shall attach to the aircraft a readily
8 visible notice and shall make a reasonable attempt to send a copy of
9 the notice to the owner at his or her last known address by registered
10 mail, return receipt requested, and ((a)) an additional copy of the
11 notice by first class mail. The notice shall be of a reasonable size
12 and shall contain the following 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.

4 **Sec. 2.** RCW 47.68.250 and 1998 c 188 s 1 are each amended to read
5 as follows:

6 Every aircraft shall be registered with the department for each
7 calendar year in which the aircraft is operated or is based within this
8 state. A fee of (~~four~~) eight dollars shall be charged for each such
9 registration and each annual renewal thereof.

10 Possession of the appropriate effective federal certificate,
11 permit, rating, or license relating to ownership and airworthiness of
12 the aircraft, and payment of the excise tax imposed by Title 82 RCW for
13 the privilege of using the aircraft within this state during the year
14 for which the registration is sought, and payment of the registration
15 fee required by this section shall be the only requisites for
16 registration of an aircraft under this section.

17 The registration fee imposed by this section shall be payable to
18 and collected by the secretary. The fee for any calendar year must be
19 paid during the month of January, and shall be collected by the
20 secretary at the time of the collection by him or her of the said
21 excise tax. If the secretary is satisfied that the requirements for
22 registration of the aircraft have been met, he or she shall thereupon
23 issue to the owner of the aircraft a certificate of registration
24 therefor. The secretary shall pay to the state treasurer the
25 registration fees collected under this section, which registration fees
26 shall be credited to the aeronautics account in the transportation
27 fund.

28 It shall not be necessary for the registrant to provide the
29 secretary with originals or copies of federal certificates, permits,
30 ratings, or licenses. The secretary shall issue certificates of
31 registration, or such other evidences of registration or payment of
32 fees as he or she may deem proper; and in connection therewith may
33 prescribe requirements for the possession and exhibition of such
34 certificates or other evidences.

35 The provisions of this section shall not apply to:

36 (1) An aircraft owned by and used exclusively in the service of any
37 government or any political subdivision thereof, including the
38 government of the United States, any state, territory, or possession of

1 the United States, or the District of Columbia, which is not engaged in
2 carrying persons or property for commercial purposes;

3 (2) An aircraft registered under the laws of a foreign country;

4 (3) An aircraft which is owned by a nonresident and registered in
5 another state: PROVIDED, That if said aircraft shall remain in and/or
6 be based in this state for a period of ninety days or longer it shall
7 not be exempt under this section;

8 (4) An aircraft engaged principally in commercial flying
9 constituting an act of interstate or foreign commerce;

10 (5) An aircraft owned by the commercial manufacturer thereof while
11 being operated for test or experimental purposes, or for the purpose of
12 training crews for purchasers of the aircraft;

13 (6) An aircraft being held for sale, exchange, delivery, test, or
14 demonstration purposes solely as stock in trade of an aircraft dealer
15 licensed under Title 14 RCW;

16 (7) An aircraft based within the state that is in an unairworthy
17 condition, is not operated within the registration period, and has
18 obtained a written exemption issued by the secretary.

19 The secretary shall be notified within one week of any change in
20 ownership of a registered aircraft. The notification shall contain the
21 N, NC, NR, NL, or NX number of the aircraft, the full name and address
22 of the former owner, and the full name and address of the new owner.
23 For failure to so notify the secretary, the registration of that
24 aircraft may be canceled by the secretary, subject to reinstatement
25 upon application and payment of a reinstatement fee of ten dollars by
26 the new owner.

27 A municipality or port district that owns, operates, or leases an
28 airport, as defined in RCW 47.68.020, with the intent to operate, shall
29 require from an aircraft owner proof of aircraft registration or proof
30 of intent to register an aircraft as a condition of leasing or selling
31 tiedown or hangar space for an aircraft. The airport shall inform the
32 lessee or purchaser of the tiedown or hangar space of the state law
33 requiring registration and direct the person to comply with the state
34 law if the person has not already done so. The airport may lease or
35 sell tiedown or hangar space to owners of nonregistered aircraft after
36 presenting them with the appropriate state registration forms. It is
37 then the responsibility of the lessee or purchaser to register the
38 aircraft. The airport shall report to the department's aviation

1 division at the end of each month, the names, addresses, and "N"
2 numbers of those aircraft owners not yet registered.

3 **Sec. 3.** RCW 82.48.100 and 1965 ex.s. c 173 s 28 are each amended
4 to read as follows:

5 This chapter shall not apply to:

6 Aircraft owned by and used exclusively in the service of any
7 government or any political subdivision thereof, including the
8 government of the United States, any state, territory, or possession of
9 the United States, or the District of Columbia, which are not engaged
10 in carrying persons or property for commercial purposes;

11 Aircraft registered under the laws of a foreign country;

12 Aircraft which are owned by a nonresident and registered in another
13 state: PROVIDED, That if any such aircraft shall remain in and/or be
14 based in this state for a period of ninety days or longer it shall not
15 be exempt under this section;

16 Aircraft engaged principally in commercial flying which constitutes
17 interstate or foreign commerce; and aircraft owned by the manufacturer
18 thereof while being operated for test or experimental purposes, or for
19 the purpose of training crews for purchasers of the aircraft;

20 Aircraft being held for sale, exchange, delivery, test, or
21 demonstration purposes solely as stock in trade of an aircraft dealer
22 licensed under Title 14 RCW;

23 Aircraft owned by a nonresident of this state if the aircraft is
24 kept at an airport in this state and that airport is jointly owned or
25 operated by a municipal corporation or other governmental entity of
26 this state and a municipal corporation or other governmental entity of
27 another state, and the owner or operator of the aircraft provides the
28 department with proof that the owner or operator has paid all taxes,
29 license fees, and registration fees required by the state in which the
30 owner or operator resides.

Passed the House April 23, 1999.

Passed the Senate April 12, 1999.

Approved by the Governor May 13, 1999.

Filed in Office of Secretary of State May 13, 1999.