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**HOUSE BILL 2766**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Mead, Slatter, Dent, Klippert, and Ortiz-Self; by request of Department of Transportation

AN ACT Relating to establishing an air operations branch; amending RCW 47.68.380 and 47.68.020; and adding a new section to chapter 47.68 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 47.68 RCW to read as follows:

The aviation division of the department shall plan, train, and function as the air operations branch. The aviation division executes the air operations branch incident command system responsibility for a governor declaration of emergency pursuant to RCW 43.06.210 as part of the emergency management division of the state military department's emergency operations center response. The air operations branch director reports to the state's emergency operations center once activated. The aviation division director, or his or her designee, shall act as the air operations branch director. As the senior state aviation official, the duties of the air operations branch director in preparation of, response to, and recovery for an incident include:

(1) Prioritizing deployment and employment of air assets available to the state in accordance with the priorities of the director of the emergency management division of the state military department;

(2) Assessing the ongoing needs and capabilities of aviation emergency response within the state to include both manned and unmanned aircraft;

(3) Training and composition of the air operations branch staff and other associated aviation support personnel in accordance with the incident command system;

(4) Coordinating with state and federal agencies expected to contribute to the staffing of the air operations branch;

(5) Identifying, assessing, and assisting airfields likely to support an aviation response;

(6) Coordinating a public outreach program;

(7) Maintaining operational control over air and support assets for the incident or coordinating the employment and support for air operation resources;

(8) Requesting additional aviation resources, as required, through the emergency management division of the state military department; and

(9) Undertaking other aviation emergency response coordination duties that are deemed appropriate by the director of the emergency management division and the air operations branch director.

**Sec.**  RCW 47.68.380 and 2008 c 34 s 1 are each amended to read as follows:

(1) The ((~~aviation division of the~~)) department is responsible for the conduct and management of all aerial search and rescue within the state. This includes search and rescue efforts involving aircraft and airships. The ((~~division~~)) department is also responsible for search and rescue activities involving electronic emergency signaling devices such as emergency locater transmitters (ELT's) and emergency position indicating radio beacons (EPIRB's).

(2) An act or omission by any person registered with the ((~~aviation division of the~~)) department for the purpose of engaging in aerial search and rescue activities, while engaged in such activities, shall not impose any liability on the department or the person for civil damages resulting from the act or omission. However, the immunity provided under this subsection shall not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct. For the purpose of this subsection, "aerial search and rescue activities" includes, but is not limited to, training and training-related activities, but does not include appropriate search and rescue activities conducted under the authority of RCW 38.52.400.

**Sec.**  RCW 47.68.020 and 1993 c 208 s 4 are each amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Aeronautics" means the science and art of flight and 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 air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

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

(3) "Airport" means any area of land or water which is used, 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 right-of-way, together with all airport buildings and facilities located thereon.

(4) "Department" means the state department of transportation.

(5) "Secretary" means the state secretary of transportation.

(6) "State" or "this state" means the state of Washington.

(7) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, 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.

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

(9) "Airman or airwoman" 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, airframes, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher or air-traffic control tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, airframes, 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 the person.

(10) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics, but excludes any instructor in a public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, while in the performance of his or her duties at such school, university, or institution.

(11) "Air school" means any person who advertises, represents, or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward; but excludes any public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work.

(12) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(13) "Municipal" means pertaining to a municipality, and "municipality" means any county, city, town, authority, district, or other political subdivision or public corporation of this state.

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

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

(16) "Air operations branch" means an organization created in accordance with the incident command system to perform aviation emergency response.

(17) "Air operations branch director" means the aviation division director or his or her designee.

(18) "Aviation division" means the aeronautics division of the department of transportation.

(19) "Unmanned aircraft" means an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

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